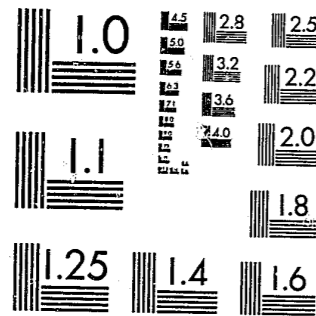


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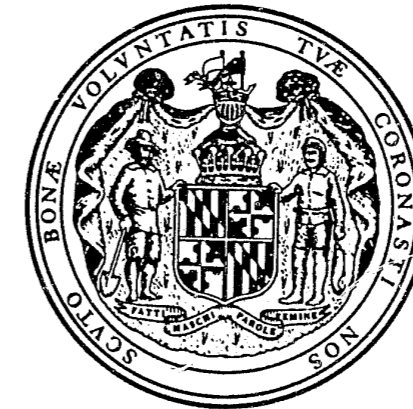
# REPEAT OFFENDER PROGRAM EXPERIMENT

## ROPE

### GUIDELINES AND PROGRAMMATIC ALTERNATIVES

by

Maryland's Repeat Offender Task Force



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ND CRIMINAL JUSTICE COORDINATING COUNCIL

The Honorable Harry R. Hughes, Governor

SEPTEMBER 1982

REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE):

GUIDELINES AND PROGRAMMATIC ALTERNATIVES

by

Maryland Repeat Offender Task Force

Sally F. Familton

and

Kai R. Martensen,

principal authors

U.S. Department of Justice  
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 Mr. Henry P. Turner, Citizen of Talbot County.

Staff

Ms. Catherine H. Conly, Maryland Criminal Justice Coordinating Council;  
 Mr. David H. Cordle, Anne Arundel County State's Attorney's Office;  
 Mr. Eric Ebling, Maryland Juvenile Services Administration;  
 Ms. Sally F. Familton, Maryland Criminal Justice Coordinating Council;  
 Mr. Gregory J. Leyko, Maryland Department of Public Safety and Correctional Services;  
 Mr. Kai R. Martensen, Baltimore County Police Department;  
 Mr. Robert N. McQuay, Maryland Juvenile Services Administration;

Editor

Ms. Rebecca P. Gowen, Ph.D.

TABLE OF CONTENTS

	<u>Page</u>
Acknowledgements . . . . .	vii
Letters of Introduction . . . . .	ix
Abstract . . . . .	xiii
Executive Summary . . . . .	xv
I. ROPE BACKGROUND AND RESEARCH FINDINGS . . . . .	1
A. Background . . . . .	1
B. Research Findings . . . . .	4
Notes . . . . .	7
II. ROPE CONCEPT AND GUIDELINES . . . . .	11
A. ROPE Design Rationale . . . . .	11
B. ROPE Approach Rationale and Intent . . . . .	13
C. ROPE Requirements . . . . .	18
Notes . . . . .	24
III. PROGRAMMATIC ALTERNATIVES TO MEET ROPE	
OPERATIONAL OBJECTIVES . . . . .	27
A. Identification, Apprehension, and Adjudication . . . . .	27
B. Conviction and/or Finding of Delinquency . . . . .	32
C. Sentencing and Disposition . . . . .	38
D. Correctional and Treatment Programs . . . . .	45
Notes . . . . .	51
IV. PROGRAMMATIC ALTERNATIVES TO MEET ROPE	
SUPPORTING OBJECTIVES . . . . .	55
A. Information Availability and Timeliness . . . . .	55
B. Legal Challenges . . . . .	62
Notes . . . . .	68



	<u>Page</u>
V. ROPE EVALUATION . . . . .	73
A. Program Planning and Evaluation . . . . .	73
B. Program Effectiveness . . . . .	73
C. Summary . . . . .	77
Notes . . . . .	77
VI. CONCLUSION: ROPE PLANNING AND IMPLEMENTATION . . . .	79
A. State-level Action. . . . .	79
B. Local ROPE Planning Efforts . . . . .	81
 APPENDICES	
A. Repeat Offender Definitions . . . . .	85
B. Repeat Offender Program Resources . . . . .	91
C. Existing Youth Programs . . . . .	98
D. Existing Adult Correctional Programs. . . . .	106
E. Issues in Response to the ROPE Concept. . . . .	108
 BIBLIOGRAPHY. . . . .	 115

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Errors or omissions in this report are, of course, the responsibilities of the principal authors.

S.F.F.

K.R.M.

September 1982

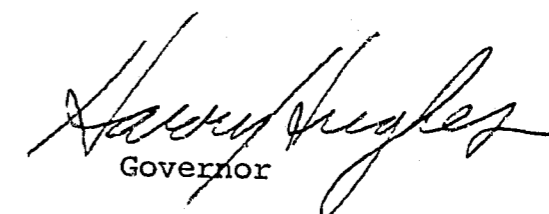


HARRY HUGHES  
GOVERNOR

STATE OF MARYLAND  
EXECUTIVE DEPARTMENT  
ANNAPOLIS, MARYLAND 21404

The Repeat Offender Program Experiment (ROPE), formulated by the Maryland Criminal Justice Coordinating Council, is a well-developed effort to coordinate state and local justice agencies to respond to the serious problem of repeat offenders. Through ROPE, juvenile justice and criminal justice agencies are placing emphasis on more effective ways to identify, apprehend, adjudicate, confine, and treat the repeat offender. Law enforcement officials, prosecutors, judges, correctional officers, probation and parole officers, and juvenile justice authorities are working together to protect the public, to meet the needs of victims of serious offenses, and to ensure a well-coordinated justice system in Maryland.

With ROPE, Maryland has embarked upon a reasoned and challenging approach to the problem of repeat offenders. The ROPE effort has my full support and I look forward to significant reductions in crime by repeat offenders.

  
Governor



HARRY HUGHES  
GOVERNOR  
NATHANIEL E. KOSSACK  
CHAIRMAN

EXECUTIVE DEPARTMENT  
MARYLAND CRIMINAL JUSTICE COORDINATING COUNCIL  
SUITE 700, ONE INVESTMENT PLACE  
TOWSON, MARYLAND 21204-4182  
(301) 321-3636 - TTY FOR THE DEAF 486-0677

RICHARD W. FRIEDMAN  
EXECUTIVE DIRECTOR

Throughout the United States, attention has increasingly focused on crime, the trauma of crime victims, and the administration of our nation's criminal justice system. Public agencies, elected officials, and private citizens are demonstrating their concern about these problems and demanding a solution. Needless to say, if a simple and immediate solution to crime and delinquency existed, we would already have witnessed a reduction in the fear in our community and an efficiently operating justice system.

The Maryland Criminal Justice Coordinating Council recognized the complexities of the crime problem and decided to make the repeat offender issue one of its priorities. We established a Repeat Offender Task Force composed of all components of the justice system and private citizens. After a year of research and extensive consultation with Maryland justice agencies, the Repeat Offender Task Force has proposed a program -- the Repeat Offender Program Experiment (ROPE) -- which, when implemented by individual jurisdictions, holds a promise of reducing the number of repeat offenders and increasing the frequency with which they are incapacitated.

As stated in its title, however, ROPE remains an experiment. While all aspects of its design and approach are supported by research findings and the demands of realities, the success of the experiment still depends on numerous issues that cannot be anticipated. Nevertheless, if the requirements of the ROPE concept are met as outlined in this document, it is likely that ROPE can significantly reduce crime, improve our criminal and juvenile justice responses to the problem, and improve the safety of our citizens throughout the State.

Cornelius J. Behan  
Chairman, Repeat Offender Task Force  
Chief, Baltimore County Police Department

Nathaniel E. Kossack  
Chairman

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#### ABSTRACT

The Maryland Criminal Justice Coordinating Council and its Repeat Offender Task Force have designed a unique and experimental program to reduce serious delinquent and criminal activity by repeat offenders. The Repeat Offender Program Experiment (ROPE) is intended to improve the way adult and juvenile repeat offenders are apprehended, prosecuted/petitioned, convicted/adjudicated, sentenced/disposed, and incarcerated/committed through a concentrated and coordinated effort by state and local justice agencies. This program includes all parts of the juvenile and criminal justice systems: law enforcement, prosecution, defense counsel, courts, local jails, juvenile authority, parole and probation, and corrections.

The ROPE concept depends on the willingness of elected and appointed officials and justice system administrators to establish local Repeat Offender Steering Councils, composed of state and local justice system officials. These Councils develop coordinated approaches for handling repeat offenders by planning, implementing, monitoring, and evaluating comprehensive repeat offender programs consistent with ROPE guidelines.

In the planning phase, the local Steering Councils establish target populations (as dictated by each jurisdiction's repeat offender problem) and objectives consonant with those outlined in this report. These objectives fall into four operational areas and two support areas and should be adapted to the unique needs of each jurisdiction:

- Identification, apprehension and adjudication;
- Conviction and/or finding of delinquency;
- Sentencing and disposition;
- Correctional and treatment programs;
- Timeliness/availability of information; and
- Legal issues.

This report explains these objectives and the rationale underlying the ROPE concept, details a number of model programs that can be used to accomplish the objectives, and provides a bibliography and resource-contact listing for those interested in learning more about specific program components.

## EXECUTIVE SUMMARY

### BACKGROUND AND RESEARCH FINDINGS

The Maryland Criminal Justice Coordinating Council created the Repeat Offender Task Force in September 1980. The Task Force's mission statement was adopted as follows:

The Repeat Offender Task Force's purpose is to study the administration of justice activities concerning juveniles and adults who are identified as repeat offenders, to prepare recommendations to improve the system's response to this crime/delinquency problem, and to reduce the adverse impact of repeat offenders upon Maryland citizens.

Chief Cornelius J. Behan was appointed Chairman of the Task Force, whose other members represent a cross-section of the criminal justice system, jurisdictions, and geographic areas.

The Task Force directed staff to:

- Review major research efforts (e.g., Rand studies, INSLAW Briefing Papers, etc.);
- Identify programs across the nation aimed at repeat offenders;
- Collect data on a variety of offender populations in Maryland; and
- Examine print media responses to criminal/juvenile\* justice issues, especially those concerning incidents of repetitive criminality/delinquency.

Research showed that:

- A small number of criminals/delinquents accounts for a substantial percentage of offenses committed;

\*Throughout this report, careful attention has been paid to the differences in terminology as applied to adults and juveniles in the justice system. When referring to offenders who may be either adult or juvenile, the following terms will be used: arrested/committed; prosecuted/petitioned; convicted/adjudicated (or found delinquent); sentenced/disposed; incarcerated/committed. The term "defendant/respondant" will also be used. This terminology is derived from the Baltimore County Police Department's Juvenile Model Manual for Maryland.

- Repeat offenders are extremely active during their juvenile and young adult lives, with the frequency of offenses committed diminishing after young adulthood;
- Maryland's repeat offender problem appears to be similar to that of other states across the nation;
- Nationally, several programs have been successfully directed at the repeat offender, most notably prosecutors' career criminal programs;
- Repeat offender programs are usually focused on one segment of the repeat offender problem and are usually isolated within one agency, which tends to limit the impact on the repeat offender problem as a whole.

#### REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE) CONCEPT AND GUIDELINES

##### ROPE Design

Comprehensive Participation. ROPEs, as implemented by participating jurisdictions, should involve most, if not all, of the components (local and state) of the criminal and juvenile justice systems, from those agencies responsible for repeat offender identification and apprehension to those responsible for repeat offender rehabilitation and return to society.

Adaptable Objectives and Implementation. Each participating jurisdiction will be allowed to adapt ROPE's objectives and to decide upon ways to incorporate programmatic alternatives into its ROPE according to local repeat offender problems and other local constraints and concerns.

Flexible Design of Program "Mix". Each participating jurisdiction should select the combination of ROPE program models best suited to individual needs and resources from the broad range of sample models provided by the Task Force.

Sufficient Planning Time and Assistance. Provision will be made for sufficient planning (start-up) time--up to a year--to ensure the viability of the proposed ROPEs. The Council and the Task Force will be available for technical assistance and intend to provide thorough support and guidance to participating jurisdictions.

##### ROPE Rationale And Intent

ROPE has two goals, which have been delineated into four major operational objectives and two supporting objectives.

##### ROPE Goals.

- To bring attention to the problem of repeat offenders in Maryland, by developing experimental programs which will focus on manageably-sized groups of repeat offenders in individual jurisdictions through the commitment of the requisite components of the criminal and juvenile justice systems.
- To contribute to greater public safety, by increasing the likelihood that those persons identified as repeat offenders will be apprehended, convicted/adjudicated, sentenced/disposed, incarcerated/committed in a secure institution, and provided correctional or treatment programming which will tend to deter future incidence of criminal/delinquent behavior.

##### ROPE Objectives.

- Identification, apprehension, and adjudication
  - To enable law enforcement officers and/or juvenile authority intake officers to identify accurately those adults and/or juveniles defined by the jurisdiction as repeat offenders.
  - To effect apprehension of repeat offenders, according to proper procedure and processing, in cases having a high probability of court conviction and/or finding of delinquency.
  - To examine the law and use of the provision of waiver to adult criminal court for those juveniles defined by the jurisdiction as repeat offenders, and to modify or increase its use for such offenders if warranted.
  - To provide thorough and complete preparation and presentation to the courts through written reports and testimony.
- Conviction and/or finding of delinquency
  - To increase the overall rate of conviction and/or finding of delinquency for repeat offenders.
  - To increase the overall rate of conviction and/or finding of delinquency for the most serious charges lodged against repeat offenders.
  - To reduce the scope of plea negotiations for adult repeat offenders.
- Sentencing and disposition
  - To increase the overall rate of incarceration/commitment for repeat offenders.

-- To increase the average length of incarceration/commitment (time served) for repeat offenders.

• Correctional and treatment programs

-- To allocate correctional/institutional space for repeat offenders, and to allocate rehabilitative resources for repeat offenders intended to reduce the likelihood of future criminal/delinquent behavior.

-- To increase the security level at which repeat offenders are maintained, and to increase time served in higher security.

-- To employ a variety of treatment and case management approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and aftercare services, as well as community resources, upon repeat offenders.

• Information availability and timeliness

-- To assure that accurate and complete information is available to decision-makers at each step as repeat offender cases are processed, particularly with regard to prior criminal/delinquency history, prior institutional history, and victim impact information.

-- To enable law enforcement officers and/or juvenile authority intake officers to identify rapidly adult and/or juvenile repeat offenders.

-- To reduce the amount of time required to prosecute and/or adjudicate repeat offender cases.

-- To reduce the amount of time required to dispose of repeat offender cases.

• Legal challenges

-- To assure that procedures used by police, prosecutors, juvenile authorities, courts, correctional and treatment personnel to improve the processing of repeat offenders are consistent with constitutional safeguards.

ROPE Perspective.

• ROPE is NOT a cure-all--ROPE IS an experiment.

• ROPE is NOT intended to supplant existing criminal/juvenile justice programs, such as diversion programs. ROPE IS intended to supplement these programs, in recognition of the fact that there exists a population of repeat offenders whose activities must be diminished and upon whom attention and treatment

must be focused for the protection of Maryland citizens.

• ROPE is NOT intended to undermine existing adult and juvenile rights under the law. ROPE IS intended to seek out alternative handling of identified repeat offenders to minimize adverse affect upon Maryland citizens.

ROPE Requirements

Coordination: Repeat Offender Steering Councils. Because the need for coordination among participating agencies (local and state) in each jurisdiction is so critical to the success of ROPE, Repeat Offender Steering Councils should be established to ensure continuing executive commitments, and to plan, monitor, "troubleshoot", and evaluate ROPE.

Executive Commitment. From the outset, elected and appointed officials and justice executives must make active commitments to the concept of ROPE and to their local ROPE program, and should participate in all policy, program, and resource decisions.

Target Population. Each Repeat Offender Steering Council should define its own specific target population according to its own repeat offender problem. However, the Task Force recommends that the target population selected should conform to the following parameters:

- Person is between the ages of 16 and 24;
- Person has some combination of prior frequency and seriousness of criminal/delinquent behavior;
- Person's instant offense is a selected, targeted offense.

The target population should be carefully defined to produce a manageably-sized population (i.e., case-load); a too-large or too-small target population will defeat the purpose of ROPE.

Time Frame. Each ROPE will run (operationally, excluding planning/start-up time) no less than three years for juveniles and no less than five years for adults. (This time frame, however, will not be adequate for determining the efficacy of the correctional/institutional aspect of ROPE.) The Task Force recommends the adoption of some reasonable termination point beyond which ROPE is either adopted statewide, rejected, or substantially modified.

Innovative/Creative Use of Resources. Recognizing that new resources may not be readily forthcoming, each jurisdiction should



seek to commit itself to ROPE through the realignment of resources, changes in policies and procedures, or other strategies that will ensure ROPE's support.

#### PROGRAMMATIC ALTERNATIVES TO MEET ROPE OPERATIONAL OBJECTIVES

##### Identification, Apprehension, and Adjudication

The key elements in this objective area of ROPE are: identification of repeat offenders; apprehension of repeat offenders; and enhancement of cases involving repeat offenders, including close coordination between law enforcement agencies and prosecutors.

A law enforcement agency can approach the repeat offender problem in two ways: identify repeat offenders and remain alert to the recurrence of criminal/delinquent activity; or wait until a person is apprehended for the selected offense and then check criminal/delinquency history records for evidence of repeat offender status.

Law enforcement agencies could also create a special unit to monitor (surveil) closely targeted repeat offenders and try to increase the frequency with which they are apprehended (e.g., New York City Career Criminal Apprehension Unit). Law enforcement agencies involved with the Integrated Criminal Apprehension Program (ICAP) could modify their program by placing emphasis on the detection, apprehension, and prosecution of the serious repeat offender (e.g., California's Career Criminal Apprehension Program).

In case enhancement, law enforcement agencies develop special procedures for use by police detectives and prosecutors to build solid cases, thus increasing the likelihood that targeted repeat offenders will be convicted/adjudicated. Some agencies have established special units which take over the follow-up investigations and case building activities whenever a targeted repeat offender is apprehended (e.g., New York City's Career Criminal Investigation Program).

##### Conviction and/or Finding of Delinquency

The key elements in this objective area of ROPE are:

- Notification: a system of direct police referrals of cases meeting repeat offender criteria;
- Vertical prosecution: one prosecutor has responsibility for a case from beginning to end;
- Limited plea-bargaining: convictions are sought on the top felony charges and/or counts and pleas to lesser charges are strictly limited;

- Coordination: close working relationships are maintained among law enforcement agencies, juvenile authorities, and corrections; and
- Re-examination of the handling of juvenile repeat offender cases.

Special career criminal units can be established within prosecutor's offices, wherein specific prosecutors and resources are assigned to targeted repeat offender cases. The selection criteria for repeat offenders remain the most important aspect of career criminal programs.

The handling of juvenile repeat offender cases by prosecutors could also be re-examined for more vigorous case-building in cases involving recognized juvenile repeat offenders (e.g., Baltimore City State's Attorney's Juvenile Habitual Offender Unit).

##### Sentencing and Disposition

The key elements in this objective area of ROPE are: sentencing guidelines; pre-sentence/disposition investigation reports; and post-conviction/adjudication (pre-sentence/disposition) detention.

The Task Force has not uncovered any comprehensive program that covers this programmatic area, although nearly all prosecutor's career criminal programs have reported increased rates of incarceration/commitment and most have reported an increased average length of sentence/disposition.

The Maryland Sentencing Guidelines Project, now operating in four jurisdictions, does not restrict a judge's power or discretion to sentence an offender. It does require that the judge explain in writing if the sentence falls outside the guidelines. Beyond this experiment, in adult repeat offender cases, judges tend to impose sentences based more upon the defendant's characteristics and the criminal act itself than upon the charge leading to conviction.

Pre-sentence investigation reports could be improved, not only by more thorough preparation but also by the addition of police and victim input.

The Maryland Repeat Offender Task Force endorses the use of post-conviction/adjudication (pre-sentencing/disposition) detention as a component of ROPE for the reasons expressed by the Federal Attorney General's Task Force on Violent Crime.

##### Correctional and Treatment Programs

The key elements of this objective area of ROPE are: to make institutional space for juvenile and adult repeat offenders a priority; to make maximum individual space available for long-term

repeat offenders; and developing institutional and community programs focused on successful rehabilitation of repeat offenders.

If judges are to give priority to repeat offender incarceration/commitment, it is necessary to provide institutional space for repeat offenders; alternatives to incarceration/commitment should be confined to non-repeat offenders. The usefulness of such alternatives for non-repeat offenders as a method for making available the institutional space and resources needed for repeat offenders should be carefully examined.

Citizen concerns about repeat offenders and the need to incarcerate/commit these offenders are of the greatest significance and demand response. However, responsible public officials, while assuring that incarceration space is available for these offenders, must simultaneously explicitly address the fact that correctional institutions are extremely costly resources.

The Repeat Offender Task Force suggests that the policy recommendations of National Institute of Justice study (1981) which showed long-term inmates are adversely affected by overcrowding and/or doublecelling and recommends single cells of at least 50 square feet, be considered by ROPE jurisdictions.

A number of repeat offender rehabilitation alternatives are open to jurisdictions, including intervention in small, closed residential centers; community supervision programs; comprehensive drug and alcohol programs; contracting with the private sector for vocational training and/or aftercare services (e.g., job training, placement, etc.); and others.

#### PROGRAMMATIC ALTERNATIVES TO MEET ROPE SUPPORTING OBJECTIVES

##### Information Availability and Timeliness

A key component of ROPE is complete, accurate, and timely information. The need for information begins with the initial effort to identify persons who meet the repeat offender definition, and continues throughout for feedback, monitoring, and decision-making purposes. Information is needed for case-building (prosecution), pre-sentence/disposition investigation, diagnostic, and classification purposes. The ROPE concept recommends working to enhance existing state and local justice information systems, including juvenile delinquency history records.

##### Legal Challenges

Jurisdictions must be cognizant of the legal implications of ROPE. There have been a number of constitutional challenges to existing prosecutor's career criminal programs, but these programs have been successfully upheld by the courts. It is recommended

that ROPE jurisdictions establish a review process by which proposed programs and components undergo legal scrutiny during planning.

#### ROPE EVALUATION

Each ROPE will be evaluated by its Repeat Offender Steering Council and the Maryland Criminal Justice Coordinating Council at program conclusion from three primary points of view:

- How ROPE was developed, implemented, and operated;
- What effect the ROPE program had on the clients, the community, and the criminal and juvenile justice systems; and
- Whether the jurisdiction's ROPE should be continued, rejected, or modified in some basic way.

#### CONCLUSION: ROPE PLANNING AND IMPLEMENTATION

To date, Maryland's efforts to begin planning ROPEs in five major jurisdictions have been successful, primarily because these jurisdictions have adhered to the principles of coordination and executive commitment prescribed in this report. The manner in which these initial planning efforts have been conducted may be instructive to other jurisdictions interested in the ROPE concept.

CHAPTER I. ROPE BACKGROUND AND RESEARCH FINDINGS

A. BACKGROUND

Maryland Criminal Justice Coordinating Council

The Maryland Criminal Justice Coordinating Council originated by Executive Order on June 30, 1967 as the Governor's Commission on Law Enforcement and the Administration of Justice. The Commission's mandate was to collect and analyze criminal justice information, coordinate programs, evaluate crime control efforts, and develop new approaches to resolving Maryland's crime and delinquency problems. As a result of the Federal Omnibus Crime Control and Safe Streets Act (as amended) and other concerns, the composition and functions of the Commission were revised by successive Executive Orders in 1969, 1971, 1975, and 1978. On February 4, 1982, the Commission's title was changed by Executive Order to the Maryland Criminal Justice Coordinating Council. This order reaffirmed the Council as the single state agency responsible for providing leadership in policy development, planning, implementation, evaluation, and coordination for all activities in Maryland concerning juvenile and criminal justice agencies, delinquency prevention and crime control, and the administration of justice.

In its fourteen-year history, the Council and its professional staff have developed substantial expertise in the fields of criminal and juvenile justice planning and program development, grants management and monitoring, and programmatic evaluation of crime and delinquency control programs.

One consequence of the Council's long-term involvement with the operation of a grants program has been the development of its credibility in efforts to coordinate departmental, agency, and statewide improvements to Maryland's justice system. Council projects have reached into every jurisdiction (subdivision) in Maryland and touched every level of the state's criminal and juvenile justice infrastructure. The development of the District Court and Public Defender's Office, the organization of the Police and Correctional Training Commissions, and the state's foresighted efforts on the deinstitutionalization of "status offenders" are all accomplishments in which the Council played a significant part in the past.

The Council is comprised of professionals from the Maryland criminal and juvenile justice systems as well as concerned citizens. It includes both state and local officials, and members of the judiciary and Maryland General Assembly.

In response to Governor Harry R. Hughes' charge that it assume a leadership role in justice policy development and coordination, the Council adopted four priorities for crime and delinquency control on July 31, 1980:

- The repeat offender;
- Crime and delinquency prevention;
- Institutional conditions; and
- Increasing the criminal and juvenile justice systems' accountability to the public.

In September 1980, the Repeat Offender Task Force was created to address the first priority listed above.

#### Maryland Repeat Offender Task Force

The Maryland Repeat Offender Task Force, chaired by Cornelius J. Behan, Chief of the Baltimore County Police Department, is a ten-member body representing a cross-section of the Maryland justice system and Maryland jurisdictions. Members include:

- The Honorable Warren B. Duckett, Jr., State's Attorney, Anne Arundel County;
- Dr. Arnett Gaston, Director, Prince George's County Detention Center;
- Mr. Eddie Harrison, Justice Resources, Inc., Baltimore City;
- The Honorable N. Paul Joyner, Board of County Commissioners, Snow Hill;
- Mr. William J. Kunkel, Chairman, Maryland Parole Commission;
- Mr. Emory Plitt, Office of the Maryland Attorney General;
- The Honorable George B. Rasin, Jr., Chief Judge, Maryland Second Judicial Circuit;
- Mrs. Jackie Roberson, citizen of Howard County; and
- Mr. Henry P. Turner, citizen of Talbot County.

At the Task Force's first meeting in December 1980, the following mission statement was adopted:

The Repeat Offender Task Force's purpose is to study the administration of justice activities concerning juveniles and adults who are identified as repeat offenders, to prepare recommendations to improve the system's response to this crime/delinquency problem, and to reduce the adverse impact of repeat offenders upon Maryland citizens.

The Task Force immediately began to develop a program of research

and analysis focusing on the repeat offender problem. By the September 1981 Task Force meeting, it was determined that sufficient background work had been completed to allow preparation of a concept paper outlining an experimental program directed at repeat offenders. The concept paper was presented at the Task Force's November 1981 meeting and, upon discussion and modification, was submitted to the Council under the title "Experimental Program for Repeat Offenders: A Concept Paper". The content of that concept paper, retitled "Repeat Offender Program Experiment (ROPE): Guidelines and Programmatic Alternatives", is contained in this report; only editorial modifications and corrections have been made to the original document.

#### Research Methodology And Constraints

The Task Force was provided staff from the Council, as well as staff from several of the Task Force's participating members' agencies. The Task Force initially directed staff to focus on research and analysis efforts in three major areas:

- determining a definition of the "repeat offender";<sup>1</sup>
- identifying intervention strategies aimed at repeat offenders in Maryland and across the nation; and
- identifying the special characteristics of adult and juvenile repeat offenders.

To accomplish this, staff reviewed recent major research efforts completed by Rand Corporation, INSLAW, Mitre Corporation, the National Juvenile Justice Assessment Center, the United States Attorney General's Task Force on Violent Crime, as well as other research studies published in the justice field.<sup>2</sup> Staff also surveyed print media over a period of time in order to monitor media and public perceptions of--and reactions to--incidents of repetitive criminality/delinquency. Data on a variety of offender populations in Maryland were simultaneously collected in an effort to gauge the magnitude of Maryland's repeat offender problem. The results of this research and consequent analysis provide the basis for the design and intent of the Repeat Offender Program Experiment (ROPE).

It should be pointed out that staff research was conducted under a number of constraints, which should be held in mind throughout and particularly when evaluating the results of the research reported later in this chapter. Staff were not assigned full-time to repeat offender research; hence, the literature search was not exhaustive, nor was it possible to replicate published studies to validate their applicability in Maryland. Also, great difficulty was experienced in formulating workable and acceptable definitions of adult and juvenile repeat offenders to be targeted by ROPE. It was for this reason that a number of alternative definitions of repeat offenders has been included in this report (Appendix A),

and that ROPE's design provides for substantial jurisdictional independence in defining target populations of repeat offenders.

## B. RESEARCH FINDINGS

### National Problem and Programs

Numerous investigations of recidivism, regardless of the definition of that term, indicate that a small group of offenders commit a large portion of all offenses committed.<sup>4</sup> Hence, this group of offenders is responsible for a significant amount of the burden that is placed on community and justice resources.

Offender Age. Many studies suggest that the most serious adult offenders are those who establish a pattern of repeated offending early in their juvenile careers and continue that pattern into adulthood.<sup>5</sup> This research indicates that repeat offenders more frequently commit crimes early in their adolescence than they do in adulthood.<sup>6</sup> In fact, several studies indicate that chronic criminal/delinquent activity "peaks" between the ages of 16 and 23.<sup>7</sup> Although criminal activity tapers off with maturity because the likelihood of incarceration increases as offenders age,<sup>8</sup> there is also some support for the contention that offenders may outgrow frequent criminal behavior.<sup>9</sup> Despite this evidence, criminal sentencing policies generally maximize sanctions for older offenders;<sup>10</sup> and some contend that the artificial distinction that the justice system makes between juveniles and adults results in a disservice to public safety.<sup>11</sup>

Identification of Repeat Offenders and Prediction of Recidivism. Identification of repeat offenders is a difficult problem,<sup>12</sup> both because the definition of recidivism is so variable,<sup>12</sup> and because the data that are used to describe recidivism are frequently flawed.<sup>13</sup> In particular, juvenile record information is often unavailable, particularly for purposes of offender processing.<sup>14</sup> Furthermore, the offense patterns of many offenders seem to defy early criminological notions of typology.<sup>15</sup> That is, offenders are more likely to diversify their criminal activity than to repeatedly commit the same crime.<sup>16</sup>

Prediction of recidivism has been the concentrated endeavor of many investigators over the last 50 years.<sup>17</sup> Definitions, methodologies, and approaches (psychological and statistical) have varied but the results of most studies indicate that recidivism prediction is often imprecise.<sup>18</sup> The problem remains one of false positives, i.e., those who are predicted to recidivate but do not, or false negatives, i.e., those who recidivate but are not predicted to recidivate. To some extent, recent studies have allayed concerns about the accuracy of prediction by arguing that the use

of empirically-based prediction equations can improve the accuracy of selecting defendants/respondants for special prosecution.<sup>19</sup> The implication is that statistically-based techniques can lead to consistency in decision-making and make policy decisions more measurable, thereby contributing to the control of those decisions.

A core of descriptive variables has emerged from these investigations of career offenders. It includes prior contact with the criminal/juvenile justice systems, offense type, employment status, drug and alcohol abuse, and age.<sup>20</sup>

Calculating the Effect of Incapacitation. Estimates of the benefits of targeting and incapacitating repeat offenders have been determined for state and federal offenders using both self-reported and official information.<sup>21</sup> Most efforts involve estimating the rates at which offenders commit certain types of offenses. These calculations are made using information about offense type, offender's prior record, age, and time "at risk". The offense-rate information is then utilized to produce estimates of the amount of increased targeting and incapacitation necessary to significantly reduce the repeat offender burden on justice and community resources.<sup>22</sup> For purposes of these calculations, incapacitation is the presumed goal of any programmatic attempts to process repeat offenders differently from non-repeat offenders, although there may be other program goals such as rehabilitation and deterrence that are not addressed by these strategies.

Repeat Offender Programs. Assuming that it is increasingly possible to accurately identify repeat offenders, predict their patterns of recidivism, and determine the benefits of incapacitating them, the problem remains of operationalizing in a criminal/juvenile justice setting the knowledge that has accumulated. The goal of most repeat offender programs is to maximize the number of repeat offenders processed and improve processing strategies in order to incapacitate more of the most serious offenders.

Although some police efforts do exist,<sup>23</sup> responsibility for assuring the aforementioned goal has rested largely with prosecutors whose effectiveness has been hampered by difficulties in developing repeat offender programs which, by their nature, diverge dramatically from standard office procedures.<sup>24</sup> Repeat offender processing strategies are also implicit in the parole and sentencing guidelines used in the judicial, corrections, and parole arenas.

Yet, "the state of career criminal programs is one of considerable imbalance among the sectors of the criminal justice system."<sup>25</sup> The implications of this statement are that in order to have successful programs: (1) decision-makers in the entire justice system must be willing to agree to a definition of what



constitutes a repeat offender; (2) agencies must share information in a timely and accurate fashion; (3) the roles of key decision-makers and their tactics for processing repeat offenders must be established and agreed to by program participants in all phases of the system; and (4) the adult and juvenile components of the justice system at both state and local levels must cooperate and coordinate their activities to develop and implement new approaches to target and process repeat offenders.

#### Maryland's Problem And Programs

The Problem. What do Maryland's data show about the repeat offender problem? Maryland's Task Force not only reviewed the findings of national career criminal research but also examined available information about the state's career offender problem. The state's information currently rests on "best guess" estimates of the magnitude of the population and some data that are maintained by Baltimore City's State's Attorney's Juvenile Habitual Offender Program. These combined data indicate that Maryland's problem is comparable to the national problem but definitive estimates will only be possible with improved data.

The main data problem is the absence of readily available individual-level or aggregate data that reflect prior history information. Hence, it is not possible to calculate easily the portion of the general offender population (at any processing stage) comprised by repeat offenders. With continuing improvements in Maryland's automated tracking systems, however, these kinds of estimates should become more feasible in the future.

In view of these data constraints, the Task Force reviewed a range of estimates from a number of sources. The combined information indicated that a small group of juveniles and adults chronically commit offenses that are severe enough to warrant special, more rigorous processing than they currently receive. The experience of Baltimore City's State's Attorney's Habitual Juvenile Offender Program highlights this point. During the 10-month period from September 1980 through June 1981,<sup>26</sup> the unit processed 685 habitual juvenile offenders, which represents 11% of all juveniles processed in Baltimore during that time.<sup>27</sup> The unit processes juveniles who meet at least one of four criteria (see Appendix A for the criteria used). Of the 685 juveniles processed, 24.6% met two of the four criteria, 9% met three, and 7.6% met all four.

Repeat Offender Programs. Current efforts to process repeat offenders differently from other offenders are not similar across jurisdictions. In addition to the Juvenile Habitual Offender program mentioned above, Maryland has other career criminal programs located in prosecutor's offices. Baltimore City has an adult program that operates in conjunction with the city's police

department, and Montgomery County has a well defined program. Anne Arundel and Prince George's Counties also have repeat offender prosecution strategies.

The Division of Corrections does not currently provide specialized programs for repeat offenders. It does place offenders with extensive criminal histories in the Penitentiary or the Correctional Institution at Hagerstown. The Parole Commission also includes prior record as a factor in its guidelines for release.

Maryland's State's Attorneys have had limited results using Maryland's Habitual Offender Statute (Mandatory Sentences for Crimes of Violence, Annotated Code of Maryland, Article 27, Section 643B, as amended) and generally indicate that few offenders are convicted in accordance with the statute's provisions. The statute is used infrequently for several reasons. In the course of research for this report, a telephone survey of major prosecutor's offices in Maryland indicated that many repeat offender cases do not successfully meet the statutory criteria or that prosecutors find it is not the most suitable way to obtain a conviction. Further, it is difficult to qualify cases under the statute if one or more of the previous offenses occurred in a jurisdiction outside of Maryland. Finally, Maryland's Habitual Offender Statute applies only to previous adult convictions: as a result, the age at which an offender qualifies for application of the statute often occurs after the age of peak delinquent or criminal activity (according to the research literature). The infrequency with which Maryland prosecutors use the statute appears to be paralleled by other states, most notably California, where prosecutors rarely formally charge offenders with habitual offender status.<sup>28</sup>

#### NOTES

1. In this report, the term "repeat offender" subsumes other terms including "habitual offender", "recidivist", and "career criminal".
2. See the Bibliography for specific references.
3. Waldo and Griswold provide an excellent review of the problem of defining recidivism. Definitions vary according to the level of offender penetration into the system, sources of data, methods of analysis, crime type, and length of follow-up. See Gordon Waldo and David Griswold, "Issues in the Measurement of Recidivism", in Lee Sechrest, Susan White, and Elizabeth Brown (eds.), The Rehabilitation of Criminal Offenders: Problems and Prospects (Washington, D.C., 1979), 225-251.
4. Mark A. Peterson et al., Doing Crime: A Survey of California Prison Inmates (Rand Corporation, 1980); Kristen M. Williams,

The Scope and Prediction of Recidivism (INSLAW, 1979).

1. Barbara Boland, "Fighting Crime: The Problem of Adolescents", The Journal of Criminal Law and Criminology, 71 no. 2 (1980), 4-57; James J. Collins, Jr., Offender Careers and Restraint: Probabilities and Policy Implications (LEAA, 1977); Barbara Boland and James Q. Wilson, "Age, Crime, and Punishment", Public Interest (1978), 22-34; Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago, 1979).
2. Alfred Blumstein and Jacqueline Cohen, "Estimating Individual Crime Rates from Arrest Records", The Journal of Criminal Law and Criminology, 70 no. 4 (1979), 561-585.
3. Peter W. Greenwood, Joan R. Petersilia, and Franklin E. Zimring, Age, Crime, and Sanctions: The Transition from Juvenile to Adult Court (Rand Corporation, 1980); Franklin Zimring, "American Youth Violence: Issues and Trends", in Norval Morris and Michael Tonry (eds.), Crime and Justice: An Annual Review of Research (Chicago, 1979), 67-107; Marvin E. Wolfgang et al. (supra, note 5); Boland and Wilson (supra, note 5).
4. Boland (supra, note 5), 94.
5. Boland (supra, note 5), 94.
6. Joan R. Petersilia, "Career Criminal Research: A Review of Recent Evidence", in Norval Morris and Michael Tonry (eds.), Crime and Justice: An Annual Review of Research (Chicago, 1980).
7. Barry C. Feld, "Legislative Policies Toward the Serious Juvenile Offender", Crime and Delinquency (Hackensack, NJ, 1981).
8. Waldo and Griswold (supra, note 1).
9. Alfred Blumstein and Richard C. Larson, "Models of a Total Criminal Justice System", Operations Research, 17 no. 2 (1979), 217-219; William Rhodes et al., Developing Criteria for Identifying Career Criminals (INSLAW, 1982), 11-14.
10. Boland (supra, note 5), 95.
11. Don C. Gibbons, "Offender Typologies: Two Decades Later", British Journal of Criminology, 12 no. 2 (1975), 140-156. As a forerunner in the construction of criminal typologies, Gibbons suggests that there has been little empirical support for current typologies.
12. Rhodes et al. (supra, note 13), 18.

13. George B. Vold, Prediction Methods and Parole (Liverpool, 1932); Lloyd Ohlin, Selection for Parole (New York, 1951); Daniel Glaser, "A Reconsideration of Some Parole Prediction Factors", American Sociological Review, 19 (1954), 335-341, and "The Efficacy of Alternative Approaches to Parole Prediction", American Sociological Review, 20 (1955), 283-287; Herman Mannheim and Leslie Wilkins, Prediction Methods in Relation to Borstal Training (London, 1955); F. H. McClintock, M. A. Walker, and N. C. Savill, Attendance Centers (London, 1961); Don Gottfredson, Kelley B. Ballard, and L. Lane, Association Analysis in a Prison Sample and Prediction of Parole Performance (Institute for the Study of Crime and Delinquency, 1963); Don Gottfredson and Kelley B. Ballard, The Validity of Two Parole Prediction Scales: An Eight Year Follow-up Study (Institute for the Study of Crime and Delinquency, 1965); Frances Simon, Prediction Methods in Criminology (London, 1971); Peter Hoffmann and James L. Beck, "Parole Decision-Making: A Salient Factor Score", Journal of Criminal Justice, 2 no. 3 (1974), 195-206; Peter Hoffmann, Barbara Stone-Meierhoffer, and James L. Beck, Salient Factor Score and Release Behavior: Three Validation Samples (United States Parole Commission Research Unit, Report No. 15, 1978).
14. John Monahan, "The Prediction of Violent Criminal Behavior: A Methodological Critique and Prospectus", in Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin (eds.), Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates (Washington, D.C., 1978), 244-269.
15. Kristen M. Williams, "Selection Criteria for Career Criminal Programs", The Journal of Criminal Law and Criminology, 71 no. 2 (1980), 89-93. Williams specifies the following key variables: prior record (adult and juvenile, including prior convictions/adjudications), recentness of criminal involvement, type of crime, employment, drug use, and alcohol use.
16. Williams (supra, note 19), 92.
17. Rhodes et al. (supra, note 13); Peter W. Greenwood, Rand Research on Criminal Careers: Progress to Date (Rand Corporation, 1979).
18. Rhodes et al. (supra, note 13), 65.
19. Joan Petersilia and Marvin Lavin, Targeting Career Criminals: A Developing Criminal Justice Strategy (Rand Corporation, 1978), 3.
20. Petersilia and Lavin (supra, note 23), 4; James Dimm, Phil Pacheco, and Cindy Noe, Report of the Survey of Local Career Criminal Programs (INSLAW, 1981).



25. Petersilia and Lavin (supra, note 23), 3.
26. Baltimore City State's Attorney's Juvenile Habitual Offender Unit, grant application to the Maryland Criminal Justice Coordinating Council (August 3, 1981), 17.
27. This percentage was calculated using information from the Maryland Juvenile Services Administration about the total number of juveniles formally processed in Baltimore City during the 10-month period from September 1980 through June 1981 and data maintained by Baltimore City's State Attorney's Juvenile Habitual Offender Unit.
28. Joan Petersilia, Peter Greenwood, and Marvin Lavin, Criminal Careers of Habitual Felons (Rand Corporation, 1977), viii.

## CHAPTER II. ROPE CONCEPT AND GUIDELINES

### A. ROPE DESIGN RATIONALE

Early in the Repeat Offender Task Force discussions, it was agreed that the Task Force should, after research and fact-finding, recommend some form of repeat offender program. A number of programs were identified during the research phase which directly address the repeat offender problem. The most developed programs were prosecutors' career criminal programs. A few police departments, and to a lesser degree the courts, had specific repeat offender programs. Correctional agencies did not have specific programs exclusively directed at repeat offenders. The juvenile justice community, on the other hand, has developed program concepts aimed at the serious, chronic, and violent juvenile offenders.

A difficulty associated with specifically recommending any one of these programs was lack of data as to success in achieving stated goals. A number of programs reported specific activities, successes, and results, but few could illustrate that repeat offenders were apprehended more frequently, incapacitated for longer terms, or successfully rehabilitated, or what effect, if any, these programs had on crime control. The problem underlying these programs is fragmentation, i.e., they are usually limited to one component of the justice system, with programmatic success dependent totally on that one agency and its administration.

A recent trend is state-supported repeat offender programs. Both California and New York are supporting prosecutor and police career criminal programs through enabling legislation and appropriations to local jurisdictions. The advantage of this approach is that programs can be more uniform and more effectively evaluated. However, these statewide efforts tend to continue the fragmented approach. Recognizing this disadvantage, New York has recently been requiring for its career criminal programs formal agreements between the police department and the prosecutor's office.

#### Comprehensiveness

A primary consideration given to developing a repeat offender program in Maryland was the need to involve all the disciplines (components) of the adult and juvenile justice systems. Focusing a repeat offender program only on the adult prosecution portion of the system has limited long-term impact, particularly if the correctional components are not prepared to handle these offenders.

Each justice component can assist and derive benefits from the participation of other justice components in a comprehensive repeat offender program such as ROPE. For example, police agen-

cies can offer such assistance as:

- Providing the prosecutor with early identification of repeat offenders, complete and accurate criminal and delinquent history information, thorough case preparation, etc.;
- Providing the courts with appropriate documentation for pre-sentence reports and similar information to the correctional/institutional system's reception/diagnostic unit;
- Providing the probation/parole agents with monitoring assistance and information-sharing about repeat offenders who are in the community and take action (e.g., serve warrants) on violators.

The most noticeable limitation of most prosecutor's career criminal programs is their concentration on adults. The Task Force, relying on information gleaned from repeat offender studies, decided that any effective repeat offender program must be directed at both adults and juveniles. The ages of highest criminal/delinquent activity by repeat offenders (16-24)<sup>1</sup> suggest the program must also actively identify and handle repeat juvenile offenders. This decision was further reinforced by the fact that several police departments and prosecutor's offices which already have adult career criminal programs are planning program expansion to include juvenile repeat offenders.

The Task Force is aware that recommending programmatic coordination between agencies is risky because of the limited success justice agencies have had with this approach. If the coordinated approach is to succeed, it will be necessary to obtain the support of all executive officers of the involved agencies.

#### Adaptability and Flexibility

The differences among jurisdictions within Maryland suggested that an inflexible and highly structured ROPE program or the application of one definition of repeat offenders to all Maryland jurisdictions would not be appropriate. Planning and structuring a successful ROPE needs to address differences among jurisdictions with regard to a variety of such factors as:

- Population size and criminal/delinquent activity;
- Philosophy and administrative policy;
- Existing resources and operating procedures; and
- Changeability and acceptability.

(An example of the need to be flexible occurred during one Task Force meeting when the Chief of Juvenile Courts Division

[Baltimore City State's Attorney's office] pointed out that if his office used the Task Force definition for repeat offenders [see Appendix A] they would be deluged with cases, which would greatly reduce their present effectiveness.)

The Task Force decided that each jurisdiction should be allowed to identify its repeat offender problems and needs and, based on its own analysis, decide upon the mechanisms to be incorporated into its own ROPE, giving due consideration to local concerns and constraints. Each jurisdiction should select the combination of repeat offender program models best suited to its identified needs and resources or, alternatively, develop its own innovative program.

#### Planning

The ROPE design rationale described above will require a substantial planning effort on the part of local and state criminal and juvenile justice agencies. The Task Force's role was to conduct preliminary problem identification and perform the initial analysis of existing repeat offender programs. This report provides the basis for each jurisdiction to conduct the needed planning.

Each jurisdiction which participates in ROPE needs to have sufficient time to do the necessary "front-end" planning. This front-end planning will require up to a year to ensure that:

- The extent of the repeat offender problem is known;
- The existing shortcomings in the handling of repeat offenders by the criminal and juvenile systems are identified;
- The different justice components can work together toward common goals and objectives;
- The implementation planning for the ROPE operational programs is completed; and
- The supporting issues of information availability and legal challenges have been addressed.

The Repeat Offender Task Force and staff will be available to the local ROPE jurisdictions for technical assistance, support, and guidance.

#### B. ROPE APPROACH RATIONALE AND INTENT

The Task Force's decision not to recommend a specific, single, statewide repeat offender intervention program (e.g., a prosecutor's career criminal program) or a single repeat offender definition--but instead to recommend a comprehensive,

individualized jurisdiction-based ROPE--required a non-traditional approach on the part of the Task Force. The Task Force decided to establish specific goals and objectives that would direct the jurisdictions in their ROPE planning and implementation efforts. The Task Force initially identified the objectives of its effort as:

- To direct attention to the repeat offender problem in Maryland and to the action planned in response to that problem.
- To develop a workable program that could apply (and evaluate in a controlled situation) some of the identified intervention strategies used in other jurisdictions.
- To obtain a commitment, on a voluntary basis, from criminal and juvenile justice agencies to direct resources toward the repeat offender problem.

#### Goals and Objectives

The ROPE goals and objectives subsequently formulated were a natural expansion of the Task Force's formal mission statement "to study the administration of justice activities concerning juveniles and adults who are identified as repeat offenders, to prepare recommendations to improve the system's response to this crime/delinquency problem, and to reduce the adverse impact of repeat offenders upon Maryland citizens." The two ROPE goals are:

- To bring attention to the problem of repeat offenders in Maryland, by developing experimental programs in individual jurisdictions through the commitment of the requisite components of the criminal/juvenile justice system, which will focus on manageably-sized groups of repeat offenders; and
- To contribute to greater public safety by increasing the likelihood that those identified as repeat offenders will be apprehended, convicted/found delinquent, sentenced/disposed, incarcerated/committed in a secure facility, and provided correctional or treatment programs which will tend to deter future incidence of criminal/delinquent behavior.

The principal rationale underlying these goals was to reduce victimization by repeat offenders through improvements in the existing criminal and juvenile justice systems, and to encourage programs that reduce the possibility of repeat offenders committing further offenses.

Based on these goals, the Task Force identified specific objectives for ROPE. To focus on objectives instead of meeting a mandated programmatic structure will allow a jurisdiction to

tailor its program modules to meet its needs--as long as the program modules meet these ROPE objectives. Having standardized operational and supporting objectives and sub-objectives allows for better evaluation of ROPE.

#### ROPE's Operational Objectives and Sub-objectives.

##### • Identification, Apprehension, and Adjudication

- To enable law enforcement officers and/or juvenile authority intake officers to identify accurately those adults and/or juveniles defined by the jurisdiction as repeat offenders.
- To effect apprehension of repeat offenders, according to proper procedure and processing, in cases having a high probability of court conviction and/or finding of delinquency.
- To examine the law and use of the provision of waiver to adult criminal court for those juveniles defined by the jurisdiction as repeat offenders, and to modify or increase its use for such offenders if warranted.
- To provide thorough and complete preparation and presentation to the courts through written reports and testimony.

##### • Conviction and/or Finding of Delinquency

- To increase the overall rate of conviction and/or finding of delinquency for repeat offenders.
- To increase the overall rate of conviction and/or finding of delinquency for the most serious charges lodged against repeat offenders.
- To reduce the scope of plea negotiations for adult repeat offenders.

##### • Sentencing and Disposition

- To increase the overall rate of incarceration/commitment for repeat offenders.
- To increase the average length of incarceration/commitment (time served) for repeat offenders.

##### • Correctional and Treatment Programs

- To allocate correctional/institutional space for repeat offenders, and to allocate rehabilitative resources for repeat offenders intended to reduce the likelihood of future criminal/delinquent behavior.
- To increase the security level at which repeat offenders are maintained, and to increase time served in higher security.

- To employ a variety of treatment and case management approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and aftercare services as well as community resources, upon repeat offenders.

During the development of the ROPE concept, several additional issues were identified which were seen as critical to the success of ROPE. Therefore, it was necessary to include these issues as supporting objectives that should also be addressed by each jurisdiction.

#### ROPE's Supporting Objectives and Sub-objectives.

- Information Availability and Timeliness
  - To assure that accurate and complete information is available to decision-makers at each step as repeat offender cases are processed, particularly with regard to prior criminal/delinquent history; prior institutional history; and victim impact information.
  - To enable law enforcement officers and/or juvenile authority intake officers to identify rapidly adult and/or juvenile repeat offenders.
  - To reduce the amount of time required to prosecute and/or adjudicate repeat offender cases.
  - To reduce the amount of time required to dispose of repeat offender cases.
- Legal Challenges
  - To assure that procedures used by police, prosecutors, juvenile authorities, courts, correctional, and treatment personnel to improve the processing of repeat offenders are consistent with constitutional safeguards.

The Task Force believes that any jurisdiction wanting to implement ROPE could use any mix of program models (see Chapters III and IV) as long as these programs addressed the objectives and sub-objectives listed above. This concept allows a jurisdiction to identify what it needs to be achieved and how it can be achieved. The Task Force would then be able to evaluate these programs on their success in achieving ROPE's objectives. Further, the ROPE concept is planned to be handled as a fairly extensive operational experiment. The Task Force agreed that ROPE should have the following characteristics:

- It should be of manageable size. A total statewide effort would be very difficult to develop, implement, and control. The concept of an experimental program

suggests a controlled and limited, yet comprehensive, approach.

- It should be targeted at a small, select group of criminal/delinquent offenders. Concentrating on too large a population would dilute the various agencies' resources and, therefore, the program would be less effective in meeting ROPE objectives.
- It should involve most of the components of the criminal and juvenile justice system. Involving disciplines beyond law enforcement or prosecution alone should result in greater commitment of key officials and, hopefully, a greater impact on the repeat offender problem.

Another aspect of ROPE is that jurisdictions will probably have to implement their programs with existing resources. During the development of the ROPE concept, it was anticipated that no new monies would be available, particularly federal and state grants. A jurisdiction would have to accomplish implementation of ROPE through realignment of resources, changing existing operations, and/or increases in operational budgets.

#### Perspective

To completely understand the ROPE concept, one must remember it was developed out of the verified premise that the present criminal and juvenile justice systems are not specifically geared to handle repeat offenders. The Task Force mission was directed at those persons who are already repeat offenders, not preventing persons from becoming repeat offenders.

ROPE Is Not A Cure-all. The ROPE concept was formulated from the research findings and the limited existing programs aimed at repeat offenders. ROPE attempts to build from these experiences and plug the gaps that exist. The program is an experiment. It will take time to plan its design and implementation. It will take time to operate the various programs. Finally, it will also take time to evaluate the results. By adopting the ROPE concept, a jurisdiction acknowledges that repeat offenders constitute a problem that should be given special attention.

ROPE Will Not Supplant Existing Programs. ROPE should be considered as supplementing existing criminal and juvenile justice programs, not supplanting them. Existing programs, such as diversion, must remain. It is anticipated that, through ROPE programs, the existing criminal and juvenile justice systems will operate more efficiently and, hopefully, more effectively because a significant minority of the criminal population will be dealt with separately.

ROPE Will Not Undermine Individual Rights. ROPE is not intended to (nor will) undermine the constitutional rights of those identified as adult and juvenile repeat offenders. ROPE is intended to seek out alternative handling of identified repeat offenders to minimize the further victimization of Maryland citizens. The very term "repeat offender" implies that the person has already been involved with the justice system, often several times, and has not been rehabilitated by the experience. ROPE is intended to tighten up jurisdictional policy, procedures, programs and, if necessary, lead to new legislation for more effective handling of repeat offenders.

### C. ROPE REQUIREMENTS

In addition to adherence to ROPE goals and objectives and design elements as discussed above, five additional requirements were identified for program development. These requirements, which must be met by a jurisdiction during the ROPE planning process and prior to program implementation, are:

- Coordination;
- Executive commitment;
- Target population and definition;
- Planning and development time frame; and
- Creative use of resources.

#### Coordination

No concept is more critical to ROPE than that of coordination. A high degree of planned cooperation and communication among all participating agencies is essential. One of the major weaknesses of career criminal programs, for example, is their lack of integration with all major parts of the justice system.<sup>2</sup> In developing ROPE, every effort has been made to assure that this shortcoming is not replicated.

Improved coordination among most, if not all, components of the justice system is a critical factor in ROPE. To function effectively, there must be particularly close working relationships among law enforcement agencies, juvenile authorities, and prosecutors. This coordination will help assure that successful referral, notification and investigative processes are in effect in the apprehension and prosecution parts of the system.

The courts must be involved and highly cooperative as well. It is likely that jurisdictions will want to install priority scheduling procedures to expedite repeat offender case disposition. Separate trial sessions, arraignment courts, or trial courts may be

desirable. Since, of course, scheduling criminal and delinquency cases before the courts must comply with the constitutional standards of due process and speedy trial rules, specialized repeat offender processing may have implications for the handling of non-repeat offender cases. Court administrators and defense counsel must be involved in planning. Another part of this coordinated approach should be the investigation by prosecutors of statutory or other limitations on highlighting a repeat offender's delinquent or criminal history early in the adjudicatory process.

Although it may represent a later stage of activity, there must be close coordination with corrections agencies, including parole and other aftercare services. For example, in some states having career criminal programs, prosecutors may attend parole hearings to provide information on a case which he or she previously prosecuted. Some method for assuring that written statements are available to local jails and the state correctional and parole authorities may be appropriate.

Coordination is also required because changes in procedures in one part of the system will have a "ripple" effect upon other parts. For example, local jurisdictions in Maryland participating in ROPE planning have expressed concern about the possibility that a jurisdiction's ROPE (once implemented) might increase the number of repeat offenders adjudicated and confined in state institutions and thus further impinge on already-overcrowded facilities. It is for exactly this sort of reason that representatives of the state juvenile and corrections agencies must be completely involved early in ROPE planning efforts.

#### Executive Commitment

A second integral part of ROPE is the requirement that top-level commitment be provided by chief executives, state agency heads, the judiciary, legislature, local department heads, and local criminal justice coordinators. This commitment must occur at the outset and continue throughout.

The way each executive or agency representative displays his or her commitment to ROPE will be determined by the agency's role in the planning and development process and that individual's functions within the agency. Top-level commitment, however, assures that all personnel within an agency understand that ROPE is a priority which requires that decisions made within any unit or department be consistent with the agency's commitment to ROPE.

Executive commitment will be provided more readily if the planning process is structured from the beginning to include officials whose support is required and representatives of key agencies who have ready access to decision-makers. A highly participatory planning process is recommended, using well-organized meetings with structured agendas that outline decisions to be made and

provide necessary staff direction. Maryland's methods for obtaining the necessary executive commitment at both the state and local levels may be instructive and are described in Chapter VI.

#### Target Population And Definition

At the outset of its work, the Maryland Repeat Offender Task Force attempted to establish one consistent definition of repeat offender which bridged both juvenile and adult offender populations. This was found not possible. And, although working definitions of juvenile and adult repeat offenders were ultimately developed (see Appendix A), the Task Force came to the conclusion that no one definition was uniformly applicable to all jurisdictions. As a corollary to this decision, the Task Force recognized that any approach to the problem of repeat offender definition is, in large measure, one that must occur at the local level (although it is imperative that state-level justice agencies also play a role).

This decision regarding jurisdictional discretion in defining a suitable repeat offender target population has the support of research findings:

"...Allowing for local autonomy in defining the target population appears to have aided in program acceptance, implementation, diffusion, and institutionalization. . . . None of the prosecutors' offices participating in the career criminal programs utilized information derived from research in other jurisdictions. . . . [W]ere information on target populations or definitions from other jurisdictions available, it is not clear that it would have been used. Most jurisdictions appeared to appreciate the opportunity to define for themselves the characteristics of those defendants to receive special attention."<sup>3</sup>

Permitting jurisdictional discretion over target populations and definition(s) appears even more significant in an effort such as ROPE, wherein a greater number of agencies and individuals are involved than in a prosecutor's career criminal program.

However, the Task Force also realized that ROPE cannot be directed at all persons who recidivate. The sheer number of repeat offenders would defeat any chance of mounting a meaningful program. Therefore, ROPE must focus on a target population of meaningful size of repeat offenders who exhibit a propensity to continue committing a great number of serious offenses. Research has indicated a number of characteristics of those persons who commit a substantial number of offenses (the so-called "intensives"<sup>4</sup>). Additionally, the Task Force wanted to address the issue of "fear of crime", by targeting offenders who commit the types of offenses that create the most fear in citizens.

Thus, in the interest of achieving some commonality of effort, the

Task Force, in turning its working definitions of target repeat offender populations over to local jurisdictions, has prescribed a series of guidelines--five major characteristics that should be considered in identifying target populations--to which local jurisdictions must adhere. These are:

- Age;
- Type of offense committed (instant and prior);
- Number of prior offenses committed within a given time frame;
- Prior involvement with the justice system; and
- Contributing factors.

Age. Several studies indicate that chronic and serious delinquent/criminal activity "peaks" between ages 16 and 24.<sup>5</sup> These studies and others all suggest that a relatively small subset of the offender population accounts for a disproportionate amount of total criminal and delinquent activity. Generally, the number of offenses committed rather than the nature of the offense types serves to identify such a group.

Despite research documenting career criminal development to include "desistance" (reduction in criminal activity) occurring as an individual reaches his or her late 20's, criminal sentencing policies generally tend to maximize sanctions for older offenders.<sup>6</sup> Given the strong correlation between age and criminal/delinquent activity with the rates of repeat offenses peaking in mid-adolescence, it has been suggested that the "artificial distinction between juveniles and adults has resulted in a disservice to public safety."<sup>7</sup>

The Task Force's recommendation is to focus upon a manageably-sized group of repeat offenders which includes those within the 16-24 age group. Moving outside these boundaries may be warranted in certain circumstances, but the jurisdiction which includes offenders either younger than 16 or older than 24 should be able to explain and justify its decision to do so.

Type of Offense Committed (Instant and Prior). There are no standard lists of offenses that should be included in the repeat offender definition which readily identify a suitable target population. The U.S. Attorney General's Task Force on Violent Crime also had difficulty with definitions:

"Though we were charged with offering recommendations concerning violent crime, we quickly came to the realization that the distinction between violent and non-violent offenders, clear in principle, is difficult



to maintain in practice. We have therefore adopted the custom of referring in this report, to serious crime, by which we mean violent crime (murder, forcible rape, robbery, and aggravated assault) and those other serious offenses--such as arson, drug trafficking, weapons offenses, and household burglaries--that may or may not lead to injury."<sup>8</sup>

Instant Offense. Most jurisdictions will wish to specify the type of offenses (e.g., serious felonies) that qualify a person to be handled as a repeat offender. The specific instant offenses warranting arrest of repeat offenders will vary, given the law enforcement ROPE enhancements employed by a jurisdiction.

Prior Offense. The LEAA Career Criminal programs stipulated that a minimum of one prior felony conviction is necessary for an offender's inclusion in the program. ROPE proposes to give jurisdictions a great deal of flexibility in targeting prior criminal activity.

(Note: a jurisdiction should also consider age and offense frequency when reviewing prior criminal and delinquent history.)

#### Number of Prior Offenses Committed within Given Time-Frame.

As with the type of offense committed, there are no standards regarding frequency and recentness of criminal/delinquent activity. A jurisdiction should keep in mind during ROPE planning that official criminal history records substantially underrepresent the frequency of criminal/delinquent activity. Studies using self-reports indicate that highly active repeat offenders, who are not incapacitated can commit over 60 offenses per year.<sup>10</sup>

Jurisdictions should also consider the length of time between the instant offense and the last prior formal contact with the criminal or juvenile justice system when considering the frequency of criminal/delinquent behavior.

Prior Involvement with the Justice System. This criterion may cause the most controversy. Generally, prior convictions by themselves do not seem to be very good predictors of recidivism. This results because age interacts with criminality: if a person is old enough to have several prior convictions, he is old enough to have reduced his propensity toward crime.<sup>11</sup>

Use of this criterion is even more controversial when dealing with juveniles. There are basic philosophical differences between the juvenile and adult systems. Maryland generally reflects the national picture: (1) large numbers of cases fall out at intake, (2) there is little relationship between the type of

handling and the delinquent act, and (3) a substantial number of filings do not result in formal sanctions.<sup>12</sup>

Contributing Factors. Jurisdictions may also wish to consider whether the repeat offender uses drugs, is armed during the commission of the offense, or commits the offense against strangers. Drug use is a factor noted in national studies. "Those who start crime at an early age, who used drugs as they matured, and who had established a record of prior convictions, committed the most crime."<sup>13</sup> The Task Force recommends that a person who meets the other criteria listed above and also has a history of drug abuse must receive appropriate attention. This attention should include apprehension, rapid adjudication, and a treatment program for the drug abuse problem.

Considering citizen's fear of crime, the Task Force also recommends that specific attention be given to those repeat offenders who use weapons during the commission of the instant offense and that consideration be given as to whether or not the offense is directed at a stranger. The Task Force's definition (see Appendix A) excludes "domestic" violence and emphasizes fear-producing delinquent or criminal acts.

#### Planning and Development Time-Frame

As discussed in Chapter VI, a comprehensive planning process at the local jurisdiction level is envisioned before ROPE may be started. In Maryland, planning efforts in five jurisdictions will be at least seven months in duration, and in several instances local ROPE planning time is expected to be a full year in length.

Additionally, some start-up time may be necessary and should be built into program planning and development. This would occur at the conclusion of the planning process and would permit the necessary resource allocation and personnel and budgeting decisions (which must occur internally to agencies) to be made prior to the ROPE "trial" period.

Following completion of the planning process, the Task Force suggests as a trial period that actual ROPE programs should operate no less than three years for those efforts concerning juvenile repeat offenders, and no less than five years for program components concerning adult repeat offenders. If a ROPE is developed which handles both juvenile and adult repeat offenders, the five-year guideline is recommended.

This time-frame applies to the initial ROPE processing stages, including all apprehension, adjudication, and disposition elements. It is not intended to be inclusive of the entire term an offender is sentenced/committed to a correctional/institutional facility. For offenders sentenced/disposed under ROPE early



during program operation, some portion of their sentence/commitment will, however, be served during the 3- or 5-year ROPE "trial" period.

Although this time-frame is intended to accommodate ROPE evaluation, only those pre-corrections elements will be able to be thoroughly documented and studied within the ROPE trial period. A complete ROPE evaluation which includes corrections, parole, probation, and aftercare will not be possible during the 3- or 5-year trial period. The Task Force believes there needs to be some reasonable termination point, stated at the outset, at which the experimental program be considered for total statewide adoption, scrapped, or substantially modified.

#### Creative Use of Resources

In developing ROPE, the Task Force was cognizant of limitations upon public agency budgets at both state and local levels. Further, it is apparent that the recommendations found in the Attorney General's Task Force on Violent Crime: Final Report will not be supported with infusions of new federal funds to assist state and local governments in fighting crime, i.e., new monies should not be expected to fund efforts such as ROPE. For this reason, it is recommended that each jurisdiction seek to commit itself to a ROPE program through the realignment of resources, changes in internal agency policies and procedures, and other strategies. It may be necessary to reallocate available resources within justice agencies at both the local and state levels to assure adequate support is given to ROPE.

It is implicit in the ROPE concept that existing correctional resources first be allocated to incarcerate/commit serious violent repeat offenders. The Task Force believes that the full resources of the justice system, at both state and local levels, must be brought to bear upon repeat offenders. The ROPE concept hinges on careful priority-setting and allocation of existing resources. It is the Task Force's opinion that even more can be done about the problem of repeat offenders through use of innovative and effective programs such as those discussed in Chapter III and IV.

#### NOTES

1. Peter Greenwood, Joan Petersilia, and Franklin Zimring, Age, Crime, and Sanctions: The Transition from Juvenile to Adult Court (Rand Corporation, 1980); Franklin Zimring, "American Youth Violence: Issues and Trends", in Norval Morris and Michael Tonry (eds.), Crime and Justice: An Annual Review of Research (Chicago, 1979), 67-107; Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago, 1979); Barbara Boland and James Q. Wilson, "Age, Crime and Punishment", Public Interest (1978), 22-34.

2. Eleanor Chelimsky and Judith J. Dahmann, Career Criminal Program National Evaluation Final Report (National Institute of Justice, 1981), 155.
3. Eleanor Chelimsky and Judith Dahmann, "The Mitre Corporation's National Evaluation of the Career Criminal Program: A Discussion of the Findings", The Journal of Criminal Law and Criminology, 71 no. 2 (1980), 103.
4. Joan Petersilia, Peter Greenwood, and M. Lavin, Criminal Careers of Habitual Felons (Rand Corporation, 1977), x-xii.
5. See note 1 (supra).
6. Joan Petersilia, "Career Criminal Research: A Review of Recent Evidence", in Norval Morris and Michael Tonry (eds.), Crime and Justice: An Annual Review of Research (Chicago, 1980), 361.
7. Barry C. Feld, "Legislative Policies Toward the Serious Juvenile Offender", Crime and Delinquency (Hackensack, N.J., 1981), 511-512.
8. United States Department of Justice, Attorney General's Task Force on Violent Crime: Final Report (1981), 2.
9. Chelimsky and Dahmann (supra, note 2), 64.
10. Mark A. Peterson et al., Doing Crime: A Survey of California Prison Inmates (Rand Corporation, 1980), vii.
11. Kristen Williams, The Scope and Prediction of Recidivism (INSLAW, 1979), 20, 48.
12. Maryland Department of Health and Mental Hygiene, Juvenile Services Administration Annual Statistical Report - 1981 Fiscal Year, Division of Research, Planning and Alternative Funding, Research and Analysis (1982).
13. Peter W. Greenwood, Statement Prepared for the Subcommittee on Crime of the House Committee on the Judiciary (Rand Corporation, 1981), 4.

CHAPTER III. PROGRAMMATIC ALTERNATIVES TO MEET ROPE  
OPERATIONAL OBJECTIVES

This section further explains ROPE's objectives and describes some operational programs that have been implemented or planned to meet these objectives. This is not an exhaustive list of programs, however. In addition, those programs identified below may or may not be appropriate to a specific jurisdiction because of such factors as resources, authority, management and operational philosophies, organizational structure, operating policies and procedures, politics, and readiness to accept change.

More specific information regarding some of these programs can be obtained from the persons identified in the program resource list in Appendix B.

A. IDENTIFICATION, APPREHENSION, AND ADJUDICATION

An important aspect of ROPE is the successful identification, apprehension, and adjudication of repeat offenders. This area specifically affects law enforcement agencies, which must also closely coordinate with prosecutors and juvenile authority intake officers. There have been several programs developed and implemented by law enforcement agencies with this general objective in mind. Probably the most common efforts are the "case enhancement" programs. In these, police officers are asked to review their cases to ensure the legal sufficiency of the charges placed against repeat offenders. When deficiencies are identified, investigators are assigned to attempt to correct the case's problem(s).

Sub-Objectives.

- To enable law enforcement officers and/or juvenile authority intake officers to identify accurately those adults and/or juveniles defined by the jurisdiction as repeat offenders.
- To effect apprehension of repeat offenders, according to proper procedure and processing, in cases having a high probability of court conviction and/or finding of delinquency.
- To examine the law and use of the provision of waiver to adult criminal court for those juveniles defined by the jurisdiction as repeat offenders, and to modify or increase its use for such offenders if warranted.
- To provide thorough and complete preparation and presentation to the courts through written reports and testimony.

Programmatic Overview. Among the approaches available to a law enforcement agency concentrating on apprehending repeat offenders are two generic strategies:

(1) The first approach is to identify a repeat offender population and remain alert to a recurrence of criminal/delinquent activity by members of this group. Apprehension in these instances should be "quality", i.e., cases supported by sufficient evidence to give high probability of conviction/finding of delinquency in court.

(2) In the second approach, following apprehension of a possible repeat offender suspected of committing a previously-targeted offense, the law enforcement officer must rapidly check history records to determine if the person in custody should be handled as a repeat offender. This approach requires that officers have ready access to both criminal and delinquent history records. For larger jurisdictions, it is imperative that these records be stored in a computer for ready access at a number of locations.

Law enforcement agencies wishing to implement an active and successful repeat offender program should consider the creation of a special unit which can employ its resources in either of the two strategies noted above. Officers assigned to this unit should work closely with legal counsel and/or be given specialized training in legal issues, including probable cause, search-and-seizure, evidentiary rules, etc. This would help ensure a sound legal basis for repeat offender apprehension and cases brought to court, and would simultaneously lessen instances of cases being "thrown out" or deteriorating.

The key elements in this area of ROPE are:

- Identification of repeat offenders;
- Apprehension of repeat offenders;
- Enhancement of cases involving repeat offenders; and
- Coordination between law enforcement agencies and prosecutors.

#### Identification of Repeat Offenders

An integral part of this programmatic area is the rapid identification of a repeat offender. The law enforcement agency should have procedures whereby repeat offenders can be identified as such in a timely fashion. Both juvenile and adult records need to be made readily available for this purpose.

One technique is preparing a list of persons who already meet the repeat offender definition. This pre-determination (targeting) is

necessary if the agency uses the surveillance-and-apprehension approach to the repeat offender problem. Examples of this technique follow:

- The New York City Police Department's Career Criminal Monitoring Unit (CCMU) "is responsible for identification of career criminals currently at large in the community who, by virtue of their established criminal history records, are appropriate subjects for aggressive application of police/prosecutor concentrated resources."<sup>1</sup>
- Several police departments, which have modified their Integrated Criminal Apprehension Program (ICAP) to target career criminals, have their crime analyst(s) prepare dossiers on these targeted persons for dissemination to special units and/or field personnel. The means by which a repeat offender list may be compiled can vary:
  - Colorado Springs (Colorado) Police Department establishes a list of repeat offenders (who meet their definition) based on current street activity (e.g., field interrogation reports, offense reports, etc.);
  - Stockton (California) Police Department receives input of names of repeat offenders from parole officers.
- The Chicago Police Department is now developing a computerized name file of persons identified by their Career Criminal Mission Teams.
- New York City Police Department's Robbery Identification Program, based on the premise that the most active repeat offenders commit crimes close to their neighborhood, provides mug shots and descriptive information of these repeat offenders to the officer working the neighborhood.

The most common identification technique is to search criminal history records each time a person is arrested for a specified crime. The information system must allow for rapid retrieval so the case can be flagged for the attention of the prosecutor or transferred to a specially-assigned investigative unit for follow-up action. Some law enforcement agencies with established adult repeat offender programs are now expanding the record search to include juvenile delinquency records.

Law enforcement agencies usually have established criteria for determining who qualifies as a repeat offender. One method used is a point system, i.e., various points are assigned for different crimes, and the offender is labeled "repeat offender" if he meets or exceeds the minimum points. Some systems add points for crimes committed with dangerous weapons. Usually there is a cutoff point (e.g., 10 years) on calculation of points from the criminal history record.

### Surveillance/Apprehension

Law enforcement agencies which opt for surveillance and apprehension of repeat offenders should establish a specialized unit trained in, and equipped for, surveillance techniques. Officers assigned to this unit must (1) be highly motivated, (2) know how to operate in undercover or covert roles, and (3) be thoroughly knowledgeable of the legal constraints regulating reasonable cause, search-and-seizure, etc. Two examples of formal surveillance programs are:

- South Bay Career Criminal Apprehension Program, which is one of California's statewide ICAP jurisdictions, includes a multi-jurisdictional strike team. This surveillance and undercover team has also established a centralized crime analysis data base and operation to provide better intelligence information on targeted career criminals.
- Detectives in the New York City Police Department's Career Criminal Apprehension Unit, which is part of the city's Felony Augmentation Program, place the most serious habitual offenders under public surveillance in order to interrupt the crime before its commission. While surveillance is very time-consuming and expensive, the Apprehension Unit has found it has been instrumental in having some targeted career criminals receive their first felony convictions, and many of these defendants have received their first jail sentence as a result of their arrest.

### Case Enhancement

The purpose of case enhancement is to eliminate the reasons felony arrests can fail to lead to prosecution and conviction/finding of delinquency:

- Poor arrests.
- Weak cases.
- Plea-bargaining.

One technique used to ensure the development of the strongest case possible is the establishment of a specialized unit such as New York City's Career Criminal Investigation Unit, whose detectives are ". . . responsible for immediate post-arrest case-building of targeted career criminals and post-arraignment investigation as needed or as requested by the prosecutor."<sup>2</sup>

The investigators assigned to case enhancement must be schooled in preparing the strongest cases possible. In some agencies, there are specific guidelines for investigators to follow. Primarily,

these investigators are responsible for securing evidence, locating witnesses, and ensuring the rapid completion of all necessary procedural steps necessary to aid in case prosecution.

Many cases fail because of witness problems. Case enhancement investigators should work closely with key witnesses, encouraging their cooperation with the prosecutors and ensuring they are available for court appearances. This effort can be further aided if a victim/witness assistance unit is available and actively involved in ROPE.

Some law enforcement agencies which have directed their ICAP programs to repeat offenders have applied Managing Criminal Investigation (MCI) and Managing Patrol Operations (MPO) principles to ensure strong case preparation. An example of this approach is seen in the California Career Criminal Apprehension Program (C-CAP).

- Investigative Management: "The C-CAP model centers on improved investigative functioning through more structured planning and decision-making. A more structured approach to investigations-management improves distribution of cases and caseloads, increases use of formal solvability factors<sup>3</sup> and case-screening, and/or improves closure rates. All of these factors can increase attention to the more 'serious' cases, including those involving career criminals."<sup>4</sup>
- Patrol Management: "Within the C-CAP concept, the patrol division has the most direct responsibility for achieving the major objectives of the program. Whether the program ultimately increases the number and proportion of career criminals and felony offenders apprehended, and preliminary indications suggest it has, will largely be the responsibility of patrol. The patrol management component provides patrol managers with methods (e.g., geographic and temporal allocation of patrol personnel, directed patrol options, management of service calls) which will enable them to more effectively structure patrol time in order to accomplish specific patrol objectives."<sup>5</sup>

One objective within patrol management is improving the quality of case preparation. The C-CAP model identifies five principal means:

- Revision of crime/offense reports;
- Use of solvability factors;
- Improved field investigations manual;
- Training; and
- Expanded role of patrol in preliminary investigation.

### Coordination with Prosecutors

The efficacy of any law enforcement program aimed at repeat offenders rests in large part with prosecutors. Prosecutors must assist police investigators by offering methods to upgrade the quality of repeat offender cases. They must also give these cases priority and special prosecutorial effort, and not yield to plea-bargaining or court delays.

A number of police agencies have established working relationships with prosecutors, particularly those prosecutor's offices having career criminal programs. Some examples include:

- New York City Police Department Career Criminal Investigation Unit's detectives meet routinely with the assistant prosecutors assigned to the District Attorney's Career Criminal Bureau.
- Racine (Wisconsin) Police Department, through their ICAP grant, funded a special prosecutor position to handle the department's repeat offender cases.
- Both New York's and California's statewide career criminal programs stress the establishment and maintenance of a formal coordinating process between police and prosecutors for repeat offender cases.
- While not a specific career criminal program, Baltimore City (Maryland) Police Department and the State's Attorney's Offices' have long-established coordinated procedures to improve the quality of investigations, and resulting testimony, to be presented before the criminal courts for major felony cases.

A repeat offender who is already in the criminal/juvenile justice system (e.g., bail, escape, community supervision, etc.) at the time of the instant crime should be immediately removed from the community. In cases where the repeat offender is on some form of community supervision (e.g., probation, parole), the police, prosecutor, and supervising agent should take immediate steps to start revocation procedures and, at the same time, to proceed aggressively with the new case.

### B. CONVICTION AND/OR FINDING OF DELINQUENCY

The most common and highly developed repeat offender programs are in this programmatic area. The principal effort has been career criminal programs. These programs were developed because repeat offenders were not receiving special prosecutorial action. Without such attention, the repeat offender can benefit from the clogged court dockets, long delays, and inadequate prosecutorial resources that characterize many jurisdictions. The result:

- Dismissals and inappropriate charge reductions due to insufficient case preparation and dilution of case strength over time;
- Increased risk of pre-trial recidivism as a result of long delays between indictment and trial;
- Decreased public confidence in a system that allows repeat offenders to escape swift and stringent punishment for their offenses.<sup>6</sup>

In 1974, LEAA began to solicit proposals for establishing within prosecutor's offices specialized prosecution units aimed at career criminals.

"The central tenet of the program is to focus law enforcement and prosecutive resources to increase the probability of early identification, enhanced investigation, priority prosecution, conviction on most serious charges, and lengthy incarceration of individuals who have repeatedly demonstrated a propensity to commit violent crimes. Focusing resources usually involves forming a team of senior prosecutors who, because of reduced case loads, can concentrate extraordinary efforts in adjudicating their cases."

Since 1975, over 45 jurisdictions have received LEAA discretionary funds to implement career criminal units. By 1980, over 100 prosecutor's offices across the country had instituted some form of career criminal program. Both California and New York have instituted statewide career criminal prosecutor's programs. California's program was established through enacting a state statute and providing state appropriations.

In Maryland, several State's Attorney's Offices have implemented career criminal programs or have specialized efforts directed at adult and juvenile repeat offenders.

### Sub-Objectives.

- To increase the overall rate of conviction and/or finding of delinquency for repeat offenders.
- To increase the overall rate of conviction and/or finding of delinquency for the most serious charges lodged against repeat offenders.
- To reduce the scope of plea negotiation for adult repeat offenders.

Programmatic Overview. Special career criminal units are established within prosecutor's offices. Specific prosecutors and

resources are assigned to targeted repeat offender cases. The key features of a career criminal program include:

- Notification--a system of direct police referrals of cases meeting repeat offender criteria.
- Vertical prosecution--one prosecutor has responsibility for a case from beginning to end.
- Limited plea-bargaining--convictions are sought on the top felony charges and/or counts; pleas to lesser charges are strictly limited.
- Coordination--a close working relationship is developed among law enforcement agencies, courts, and corrections.

A more detailed explanation of the basic concepts underlying the establishment and operation of career criminal programs can be found in the thirteen "Briefing Papers" prepared by INSLAW.

#### Selection Criteria<sup>8</sup>

The diverse nature of local crime problems in different jurisdictions precludes standardizing selection criteria for career criminal programs. The selection process is perhaps the most important aspect of the career criminal program. Criteria too stringent may allow repeat offenders to remain on the streets during their most active years. Criteria too broad will create a burdensome case load which will dilute available resources while tending to lead prosecutors back to their traditional office procedures, i.e., non-vertical case handling.

Some jurisdictions have focused their selection criteria exclusively on the prior record of the defendant; others have used a combination of criminal/delinquent history and crime-type criteria. Many programs have successfully developed numerical rating forms with precise scoring criteria. Such criteria are significant because they standardize, for that jurisdiction, the way in which similar issues are handled by the special prosecution unit. At minimum, the following three factors should be considered in determining whether a defendant/respondant should be handled as a repeat offender:

- The nature of the present (instant) offense--does it meet the jurisdiction's criteria?
- The previous criminal/delinquent history--does it meet the jurisdiction's criteria?
- The "strength" of the case.

#### Early Identification and Intake

The goal of identification procedures is to determine quickly whether the person apprehended meets the selection criteria and therefore should be taken to court by the prosecutor's career criminal unit. Some prosecutor's offices have attorneys assigned to this unit on call for law enforcement officers 24 hours a day; some attorneys are even actually stationed at the precincts to help identify repeat offenders at the time of apprehension.

The selection procedure, devised to identify those cases which will have the greatest probability of conviction and/or finding of delinquency, should be applied as early as possible in the process. It may be desirable to provide a brief "checklist" of these criteria to law enforcement and juvenile authority intake officers, so that expeditious handling of such cases can begin as early as possible.

#### Vertical Prosecution

Although subject to a jurisdiction's discretion, vertical prosecution is the cornerstone of successful career criminal programs. Vertical prosecution simply means that one prosecutor has responsibility for all phases of a case, from its initiation to final disposition--and even to parole or pardon hearings or aftercare proceedings. This (1) facilitates thorough case preparation, (2) encourages a beneficial rapport with victims and witnesses (police and civilian), (3) reduces duplication of effort that can occur when different attorneys handle different stages of a case, and (4) promotes better handling of appeals. Implicit in the concept of vertical prosecution is a case load substantially lighter than traditional in prosecutor's offices.

#### Limited Plea-Bargaining

The practice of plea-bargaining should be curtailed or at least be very limited and carefully supervised. The prosecutor in each jurisdiction determines the appropriate policy. One jurisdiction described its policy this way: "No frivolous plea-bargaining is permitted. Once a case is accepted for prosecution, it is expected that that case will go to trial as charged or a plea of guilty 'as charged' will be entered."<sup>9</sup>

- San Diego County District Attorney's Office's Major Violator Unit (MVU) was one of the first projects funded by LEAA's National Career Criminal Program in 1975. The MVU initially targeted on robberies. In the MVU's first four years of operation, it had significant success:<sup>10</sup>

- Of 450 defendants processed, 431 (96%) were convicted without a reduction in the charge against them.
- Incarceration rates for convicted felons rose from an



- already high rate of 95.3% to 100%.
- State prison commitments among those incarcerated were 92.5% for MVU defendants compared to 77.1% for career criminal defendants in a baseline period before the project was implemented.
  - MVU defendants received average sentences (excluding life sentences) of 8.8 years, compared to 4.3 years for career criminal defendants in the pre-project period.
  - Despite restrictions on plea-bargaining, the unit's cases were processed almost as quickly as those in the baseline period--an average of 101 days from arrest to disposition compared to the previous 95 days.

#### Coordination

To function successfully, career criminal program staff must develop close working relationships with other agencies.

Law Enforcement Agencies. Direct police referral of cases is one way police and prosecutors work together. This coordination of effort extends to the investigative process wherein police investigators and attorneys have frequent contact regarding evidence-collection and prosecutorial strategy.

Courts. Working with the courts, some jurisdictions have established continuance and scheduling practices that afford swift disposition of career criminal cases. Such cases can be given priority on the docket, or special judges can be assigned to hear them.

- In Cook County (Chicago), three repeat offender courts have been established to handle these cases. These courts have moved cases more quickly (e.g., fewer continuances, less time between continuances, cases "pushed" to trial, etc.), and have provided less opportunity for cases to lose their strength over time.
- Prince George's County (Maryland) Juvenile Court has an experimental program to dispose of juvenile cases more rapidly. The preliminary results of the program indicate there has been a significant decrease in the time between initial court appearance and disposition, and a significant increase in the number of cases waived to criminal court.

Prosecutors can also work with the judiciary through bail hearings and sentencing/ disposition. Prosecutors can make the defendant's/respondant's prior record available at the time of bail hearing. They can also highlight the offenders'

criminal/delinquent histories and emphasize the possible applicability of habitual offender statutes.

Victim/Witness Assistance. A critical component of a successful program for handling repeat offenders is establishing victim/witness assistance and ensuring that accurate information is provided by victims and witnesses. Although most of these programs are affiliated with prosecutor's offices, successful victim/witness assistance units could be located in police departments, court clerks' offices, or other locations.

Information which will enhance the preparation of a case must be provided in a thorough, timely, and accurate manner. A victim/witness assistance unit can aid in this effort. While the other objectives of victim/witness assistance programs are not inconsequential--e.g., providing a forum for the victim/witness to "ventilate"--they are not of critical importance to career criminal programs. The emphasis on victim/witness assistance in this context is to increase the probability of conviction or finding of delinquency and appropriate sentencing or disposition.

Correctional Agencies. Some programs track career criminals after sentencing and commitment (disposition). Good working relationships among agencies such as corrections, juvenile authorities, and probation and parole will result in prompt notification of appropriate authorities whenever an incarcerated or detained offender is considered for parole or early release, so that opposition, as appropriate, may be expressed.

#### Juvenile Case Handling

The role of the prosecutor in juvenile cases is undergoing change. Several states are strengthening the prosecutor's role in juvenile cases.

- Based on a model developed by the Marion County (Indianapolis) District Attorney's office in 1979, Indiana legislature gave district attorneys virtually the same powers in juvenile court as they have always exercised in adult court. The prosecution took charge of screening all arrests involving offenses that would be criminal if the juvenile were an adult, determining the nature of the charges, and preparing all cases for judicial hearings.<sup>11</sup>

Prosecutors and juvenile authority intake officers need to work out a program of identifying those juveniles who meet the repeat offender definition and ensuring the appropriate processing of these cases. Jurisdictions need to establish some form of case screening (e.g., felony review unit) whereby cases involving juveniles who meet the repeat offender definition can be checked for legal and evidentiary sufficiency and the best possible case



presented to the intake officer.

- Baltimore County (Maryland) Police Department has now institutionalized its Juvenile Case Review Unit after a successful three-year grant resulted in a substantial reduction of the dismissal rate of cases referred to Juvenile Services Administration intake officers and an improvement in the petition rate for serious delinquent acts.

One model repeat offender program directed at juveniles is the Baltimore City State's Attorney's Juvenile Habitual Offender Unit. The unit's law clerk works with the Baltimore City Police Department's Youth Division to determine if any of the juveniles who have been referred to intake and who have lengthy records of delinquency meet the criteria of an habitual offender. (See Appendix A for their operational definition of "habitual juvenile offenders".) The unit maintains close contact with Maryland's Juvenile Services Administration staff to monitor its handling of habitual offender cases. Once habitual offenders are received by the State's Attorney, the program's prosecutors vigorously pursue the cases to ensure each case is well-prepared and to avoid unnecessary postponements or dismissals. Some of the key elements of this program include:

- Contacting the Judge or Master who ordered probation in cases where offenders have committed new offenses, to raise the possibility of holding a violation-of-probation hearing.
- Contacting victims (in appropriate cases) to ensure that they understand their right to appeal juvenile authority intake decisions to deny petitions.
- Working with a Baltimore City inter-agency committee on chronic juvenile offenders.
- Applying a set of minimum intake standards for the state's juvenile authority, which guide intake officers' discretion in handling juveniles who have extensive prior delinquent records.
- Developing strategies to reduce the number of informational deficiencies in official police reports, by meeting with the head of the Baltimore City Police Staff Review Section.
- Providing both in-service and pre-service training to police officers in elements of juvenile law and critical elements of offense reports.

#### C. SENTENCING AND DISPOSITION

Implicit in the ROPE concept is the need to give priority to the incapacitation of repeat offenders who are found to be a sub-

stantial risk to the community. As discussed in Appendix E, Task Force staff grappled with the serious issues concerning incapacitation, or long-term incarceration, and its effect upon subsequent rearrests, reconvictions, and reincarcerations. It is acknowledged that a link between use of incarceration and "crime rates", such as comparative data on rearrests, has not been established to date in the research literature.

On the other hand, it cannot be disputed that secure confinement will prevent further offenses committed by repeat offenders while they are incarcerated. This limited deterrence effect of selective incapacitation is the foundation for ROPE's policy orientation with regard to preventive detention of repeat offenders in secure correctional/institutional facilities.

The Attorney General's Task Force on Violent Crime endorsed the use of sentencing guidelines to support incapacitation of certain types of serious and violent offenders. The Attorney General's Task Force on Violent Crime: Final Report refers to four purposes of sentencing drawn from the proposed Federal Criminal Code of the 96th Congress:

- The need to afford adequate deterrence to criminal conduct;
- The need to protect the public from further crimes of the defendant;
- The need to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment; and
- The need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.<sup>12</sup>

The Task Force on Violent Crime goes on to state that sentencing guidelines should be established at the federal level so that "all classes of offenses committed by all categories of offenders" will be treated consistently."<sup>13</sup>

Traditionally, a common response to the repeat offenders issue has been to enact laws stipulating mandatory sentences. Repeat or habitual offender statutes, such as "two-time loser" or "three-time loser" laws, are in use by many states.

Maryland has several subsequent offender provisions including those governing controlled dangerous substances, driving without a license, and driving while intoxicated. Maryland's habitual offender statute is typical of subsequent offender statutes throughout the country. It establishes specific mandatory sentences for a subsequent conviction for a "crime of violence" as defined in the Code. As noted earlier (Chapter II), the infrequency with which such statutes are successfully used characterizes Maryland as well as other states such as California.<sup>14</sup>

Sub-Objectives.

- To increase the overall rate of incarceration/commitment for repeat offenders.
- To increase the average length of incarceration/commitment (time served) for repeat offenders.

Programmatic Overview. Task Force research has not uncovered any comprehensive program that covers this programmatic area. However, there are several efforts that can be instituted to assist in meeting these objectives. These efforts include:

- Establishment of sentencing/disposition guidelines;
- Pre-sentence/disposition investigation reports;
- Post-conviction/adjudication (pre-sentence/disposition) detention.

Nearly all prosecutors' career criminal programs have reported increases in the rate of incarceration for career criminal offenders. Most of these programs have also reported increases in the average length of sentences given to the career criminals handled. Evaluations indicate that these offenders tend to be convicted/found delinquent on more charges than non-career criminals/respondants due to the prosecutors' adherence to a strict "no-plea bargain" policy. The longer terms given defendants or respondents sentenced/adjudicated under career criminal programs are most frequently attributed to adherence to this policy.<sup>15</sup>

Sentencing Guidelines

One important component in this area is designing a practical technique to reduce possible disparity (and consequent inequities) that may occur when different judges sentence similar defendants/respondants for similar offenses. Such guidelines contribute to greater consistency of sentences imposed upon offenders.

As noted in the Attorney General's Task Force on Violent Crime: Final Report,

". . . a sentencing guidelines system will not remove a judge's sentencing discretion. Instead, it will guide the judge in making his decision as to the appropriate sentence. If the judge finds that an aggravating or mitigating circumstance is present in the case that was not adequately considered in the guidelines and that should result in a sentence different from that recommended in the guidelines, the judge may sentence

the defendant outside the guidelines."<sup>16</sup>

This theme is echoed in the Maryland Sentencing Guidelines Manual:

"Variation in individual sentences does not demonstrate judicial error; to the contrary, variation in sentencing can and should indicate that judicial decision-making is sensitive to the differences that exist both in crimes and in those who commit them. Not all assaults are the same, nor are their perpetrators. A fourth-time offender differs from a first offender. A judge, familiar with the details of an individual case, can apply the law justly and equitably. However, when each judge must establish his own criteria for the use of his discretionary powers in the many cases that come before him, inconsistency and consequent inequity are sometimes inevitable."<sup>17</sup>

If a judge chooses to sentence an offender outside the guidelines, he or she is required to explain in writing the reasons for that decision.

The Maryland Sentencing Guidelines Project uses a formula (a system of points and matrix) to match up

- (1) offense characteristics (including seriousness, injury, weapon, and victim vulnerability); and
- (2) offender characteristics (such as relationship to the criminal justice system when the instant offense occurred, juvenile delinquency history, adult criminal record, prior conviction(s) for offenses against person(s), prior adult parole/probation violations, and employment record)

with an appropriate sentence.

The Maryland Project is currently in progress in four jurisdictions, but it is too early to measure results. Although the project implementation test was originally intended to be one year, the study period was extended an additional year because of the complexity of the issues surrounding the project. This additional study period will allow subsequent refinement and revision of the guidelines based on the experience and data gathered from the first year of implementation.

As stated earlier, career criminal programs have been shown to increase the length of sentence imposed upon most career criminals. However, the research literature which examines the judicial decision-making process suggests that judges impose sentences based more upon information pertaining to defendant characteristics and the criminal act itself than on the charge per se brought by the prosecutor.<sup>18</sup>

The Maryland Repeat Offender Task Force recommends use of some form of sentencing guidelines as part of ROPE. This recommendation is made because the Task Force believes greater consistency should characterize the sentencing/disposition process of repeat offenders.

#### Pre-sentence/disposition Investigation Reports

Since judges base their sentences (in part) on the defendant's/respondant's personal characteristics, a thorough and accurate pre-sentence/disposition investigation report system is a necessary element of an improved repeat offender processing capability. A feature of ROPE should be the assignment of officers, by the probation and juvenile authorities, to conduct complete pre-sentence/disposition investigations. In addition, the possibility of developing two additional pre-sentence/disposition reports from the police department and the victim should be considered.

Police Input. Traditionally, police do not become involved in the pre-sentence/disposition investigation report process in Maryland. If they do, it usually is limited to providing the probation officer or juvenile services authorities with updated criminal/delinquent history information. The ROPE approach suggests that pre-sentence/disposition investigators be encouraged to contact the police to obtain the best available information concerning the known criminal/delinquent activity of the previously convicted/adjudicated repeat offender. If the police agency has established a special unit or assigned investigators to repeat offenders' cases, pre-sentence/disposition investigators will be in an excellent position to learn the amount of criminal/delinquent activity previously attributed to the defendant or respondent in question.

Some of the points which should be included in police input to the pre-sentence investigation are:

- Known offenses committed but not charged/ petitioned on prior occasions (e.g., type, loss/injury, date(s) committed, etc.);
- Criminal/delinquent cohorts;
- Attitude of defendant/respondant towards crime, police and the justice system, and society.

Victim Input. With the advent of victim/witness assistance units, victims' needs are being recognized, considered, and attended to with greater frequency. Increasingly, victims and

witnesses are kept informed of the progress of the case in which they are involved. Even further, several programs allow a victim to prepare some form of victim impact statement.

Maryland's ROPE approach encourages the use of victim input during the sentencing and disposition of repeat offender cases. One of the procedures used by the (Maryland) Witness Information Service in Anne Arundel County asks the victim to fill out a form which identifies physical and emotional (psychological) injuries, personal losses and resulting expenses, and the effect the crime has had on the victim and victim's family. The completed form is forwarded to the Assistant State's Attorney, the judge, and the defense attorney.

In 1982, the Maryland General Assembly mandated that the Division of Parole and Probation must include a "victim impact statement" in their pre-sentence/disposition investigations for the court in order to emphasize the economic, psychological, physical, and social damages which may have resulted from an offense.

A similar impact statement should be produced in juvenile repeat offender cases and provided to prosecution, defense, and the judiciary.

#### Establishment of Specialized Repeat Offender Dockets or Courts

As reported by the National Institute of Justice, many counties have installed priority scheduling to expedite repeat offender cases.<sup>19</sup> The ROPE approach proposes the use of separate trial sessions for repeat offenders to circumvent backlogs and resultant delays which characterize many busy courts.

A further innovation has been developed by Cook County (Chicago). In 1977, this county established three specialized felony repeat offender courts which use special criteria to flag repeat offenders at arraignment and treat cases with urgency. As reported by the Supervisor of the Cook County Repeat Offender Court, the time from case filing to disposition has been cut substantially and the great majority of defendants have pleaded or have been found guilty. The constitutionality of the repeat offender courts has been challenged before the Illinois Court of Appeals and has been upheld.<sup>20</sup>

A final consideration related to giving more judicial attention to repeat offenders is that of bail hearings and pre-trial release. Maryland's Repeat Offender Task Force, in recommending better coordination among all justice system components, believes that bail and pre-trial release decisions are best handled by assuring that the judiciary are provided thorough information at each stage of court proceedings. As part of the ROPE planning process currently in progress in Baltimore City, the city's Pre-Trial Release Services Division of the Supreme Bench (Circuit Court) is working closely with all city justice agencies to improve

processing of repeat offenders. The Task Force is hopeful that useful recommendations governing bail and pre-trial release decisions will result.

#### Post-Conviction (Pre-Sentencing) Detention

The ROPE approach expects, whenever possible, that repeat offenders convicted of a crime and/or found delinquent be incarcerated/detained while awaiting sentencing/disposition and/or appealing their cases. This policy should be supported by a speedy sentencing/disposition process, where adequate resources are directed at preparing the pre-sentence/disposition investigation reports, and by a speedy appeal process, wherein the original prosecutor handles the appeal.

The Attorney General's Task Force on Violent Crime recommended strongly the modification of the Federal Bail Reform Act (18 U.S.C. 3148), which presumptively favors the release of convicted persons who are awaiting imposition or execution of sentence. The Task Force reported that:

"In our view, there are compelling reasons for abandoning the present standard which presumptively favors release of convicted persons. First, conviction, in which the defendant's guilt is established beyond a reasonable doubt, is presumptively correct at law. Therefore, while a statutory presumption in favor of release prior to an adjudication of guilt may be appropriate, it is not appropriate after conviction. Second, the adoption of a liberal release policy for convicted persons, particularly during the pendency of lengthy appeals, undermines the deterrent effect of conviction and erodes the community's confidence in the criminal justice system by permitting convicted criminals to remain free even though their guilt has been established beyond a reasonable doubt."<sup>21</sup>

The Task Force went on to suggest:

"A sound standard for post-conviction release would provide, as a general rule, that release on bail would not be presumed for convicted persons sentenced to a term of imprisonment, and that release would be available, within the discretion of the court, only to those defendants who are able to provide convincing evidence that they will not flee or pose a danger to the community and who are able to demonstrate that their appeals raise substantial questions of law or fact likely to result in reversal of conviction or an order for a new trial."<sup>22</sup>

The Maryland Repeat Offender Task Force endorses the use of post-conviction (pre-sentencing) detention as a component of ROPE for

the reasons expressed by the Attorney General's Task Force.

#### D. CORRECTIONAL AND TREATMENT PROGRAMS

As explained earlier, the ROPE concept advocates selective incapacitation, or long-term incarceration, for repeat offenders because of the limited deterrence effect which results during the period of incarceration/commitment.

Deterrence refers to the amount of crime that could be avoided by selectively incapacitating repeat offenders because crimes are not committed upon the public by incarcerated/committed offenders.<sup>23</sup> While the repeat offender is incapacitated, however, it is proposed that appropriate rehabilitative and treatment resources be made available to the maximum extent possible.

The research literature on the success with which repeat offenders are "rehabilitated", or the types of programs which appear to be most successful for repeat offenders, is exceedingly limited. Selected programs described here are not only based upon the findings of a Rand study of a small sample of career criminals in a California institution<sup>24</sup> but are also drawn from the literature on the serious and chronic juvenile offender (as guided by the federal Office of Juvenile Justice and Delinquency Prevention [OJJDP]'s Serious and Violent Juvenile Offender Initiative).

The Rand study found:

- Drug and alcohol abuse played a prominent role in a majority of criminal careers (although data were not sufficient to establish causal links). For this reason, substance-abuse treatment programs which genuinely help offenders to eliminate their drug and/or alcohol dependence are suggested as one means to reduce crime significantly.
- Voluntary job training programs are identified as constructive means for "reducing the criminal toll of repeat offenders".<sup>25</sup>

The Rand study has policy implications for justice strategies other than incapacitation and rehabilitation, most notably for deterrence of future criminal or delinquent activity after an offender returns to the street; it disputes the theory of rational criminal behavior upon which the deterrence theory is based:

"The data gave us no reason to believe that the length of a prison term affects deterrence; those [repeat offenders who] served longer sentences did not have longer periods of street time after release until the next incarceration."<sup>26</sup>

There is a lack of consensus among justice officials,

academicians, and researchers about correctional purposes and policies concerning repeat offenders. However, the Rand study does provide some basis for thinking about correctional/institutional programming for repeat offenders which may assist in reducing future criminality/delinquency.

A second aspect of this program area requires that policy makers address the decision-making processes internal to correctional/institutional agencies, including the procedures governing the classification of offenders within institutions and as they proceed towards parole.

A common complaint voiced by persons involved with career criminal programs (including staff, victims, and witnesses) is that they do not know what happens to sentenced offenders once those offenders enter the correctional system. What happens is, in fact, no different than what happens to non-repeat offenders.<sup>27</sup> Further, information about an offender's apprehension, conviction, and sentencing is frequently not available during correctional decision-making processes, neither for classification internal to the system nor for parole hearings. When it is available for the latter purpose, it is often not as complete as necessary nor presented in as timely a manner as possible.

In Maryland, while prior criminal history is taken into account in the various decisions made about adult inmates (including classification, release, and supervision), there are no programs aimed specifically at repeat offenders. A similar situation exists with Maryland's juvenile repeat offenders.

#### Subobjectives.

- To allocate correctional/institutional space for repeat offenders, and to allocate rehabilitative resources for repeat offenders intended to reduce the likelihood of future criminal/delinquent behavior.
- To increase the security level at which repeat offenders are maintained, and to increase time served in higher security.
- To employ a variety of treatment and case-management approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and aftercare services as well as community resources, upon repeat offenders.

Programmatic Overview. An institutional policy directed at repeat offenders must assure that each repeat offender's status is known to those making classification and security decisions. Criteria should be devised governing the use of sentence reduction methods such as "good time" for repeat offenders. The Task Force

recommends that repeat offenders consistently be required to serve their entire term of sentence. Further, the ROPE approach suggests that, where appropriate, there should be active opposition to parole, pardon, or early or special release status. Correctional/institutional agencies involved with ROPE must have a monitoring system so that appropriate agencies are notified of repeat offenders' status changes so that they may have input into this decision-making process.

These are among the reasons it is vital that both juvenile and adult correctional/institutional systems be involved in ROPE planning and implementation. This will allow these authorities the necessary lead time to plan the handling of repeat offenders. Programs should be developed for both institutional and community correctional efforts. Correctional officials should be made aware that police, prosecutors, and courts intend to devote the maximum effort possible to handle the youthful repeat offender more aggressively. Further, these same offenders create unique problems that must be solved by institutional officials in both the adult and juvenile systems.

More effort is necessary to employ a variety of treatment approaches and examine the success of various "mixes" of institutional and supervisory resources such as:

- Instituting comprehensive drug and alcohol abuse programs which include diagnostic, treatment, and follow-up activities;
- Contracting with the private sector for viable vocational training within institutions;
- Contracting with the local jurisdiction for institutional services;
- Contracting with the private sector for aftercare services, including job training and placement, counseling, etc.;
- Using the local jurisdiction to coordinate the various community resources.

#### Program Models

Given the previous discussion, several programs are mentioned here which may be appropriate for repeat offenders or certain subgroups of this offender population. Successful program models are chosen which appear to address the program needs raised by the Rand study or the policies of the federal OJJDP Serious and Violent Juvenile Offender Initiative. Many of these, particularly in the adult program area, may require substantial modification for application to repeat offenders.

The following program synopses include adult (criminal) corrections programs only; those treatment programs involving juveniles (delinquents) are described in Appendix C, and the following adult programs are more fully described in Appendix D. The number of program models cited for youth is greater than for adults. It is unclear whether this is because there are more programs devoted exclusively to serious juvenile offenders or because information about them is more readily available.

It should be noted that a few of the programs described are non-residential. This does not contradict ROPE's requirements concerning secure confinement of repeat offenders. Rather, these programs are included for one of two reasons. Firstly, it was felt that some programs could be adapted to more secure settings. Secondly, the ROPE concept recognizes that most offenders, including repeat offenders, will ultimately return to the community. With this in mind, it is prudent to include programs and services which will give offenders the vocational and employment skills they need to avoid criminal/delinquent behavior. Some of these may be provided more effectively in other than a secure setting or closer to the end of an offender's sentence.

- The Federal Correctional Institution (FCI) Imprisonment Model in Butner, North Carolina, informs offenders of their release dates, which has apparently encouraged them to enroll in a greater number of educational and vocational programs aimed at providing them with certifiable job skills for job-market re-entry.
- The Multiple Felony Offender Alcohol Program in Baltimore's City Hospitals is designed to offer medical and psychological treatment for adult multiple offenders with alcohol-related problems.
- The Confined Addicts Seeking Help (CASH) program at the Baltimore City Jail is a drug-free "therapeutic community" which emphasizes self-rehabilitation through the use of peer-group pressure.
- The Correctional Intake Unit, which operates out of the Baltimore City Mayor's Office of Manpower Resources (CETA), is designed to help train and locate employment for ex-drug-abusers and ex-offenders.
- The Patuxent Institution in Jessup, Maryland, provides programs for the treatment and rehabilitation of offenders who exhibit intellectual deficiencies, or who are emotionally unbalanced.

#### Prison/Detention Space

Space in adult and juvenile correctional institutions is a scarce

and expensive resource. Maryland, as well as 36 other states,<sup>28</sup> is under direct court order or involved in pending litigation regarding prison overcrowding and/or general conditions. The state of Maryland, while ranking 18th in general population, ranks 13th in prison population. Maryland's state correctional population increased 21% between December 31, 1980 and December 31, 1981;<sup>29</sup> and an additional 13% between that date and August 25, 1982 at which time 10,534 inmates were confined in state correctional institutions.

It is important that justice system decision-makers give priority to repeat offenders when making decisions about incarceration/commitment. Nationally, it is reported that some judges are pursuing alternatives to confinement and are reducing sentences because of prison overcrowding. If such actions are applied to repeat offenders they will undermine the intent of Maryland's ROPE.

In developing ROPE, the Task Force and staff recognized the possible implications of ROPE implementation upon correctional populations. The Task Force has identified secure confinement space for repeat offenders as a top priority. Simultaneously, recognizing the limitations of the correctional system, the Task Force proposes that, if necessary, alternatives to incarceration/commitment or shorter terms should be applied to other than repeat offenders.

A Rand study recently showed that, if every offender convicted of any violent or non-violent adult felony regardless of prior record were sentenced to a mandatory prison term of five years, incapacitation might lessen violent crime by as much as one-third. This policy would also increase prison population by close to 450%.<sup>30</sup>

One research paper prepared for Harvard University's Conference on Public Danger, Dangerous Offenders, and the Criminal Justice System (February 1982), suggests that for any given correctional system, there is a great deal more flexibility with regard to correctional beds than is generally acknowledged; the author presents principles for managing institutional populations based upon a "judgement that violent crime against the person is the most serious in society."<sup>31</sup> These principles include the need to assure that secure confinement space will be available for violent, chronic, serious, and repeat offenders (while simultaneously they suggest that a range of punitive sanctions, including more moderate sentence lengths, be used for other categories of offenders).

Ultimately, the author concludes, imprisonment policies are "a matter of political and social values and not the result of some divination of the logic of imprisonment."<sup>32</sup>

Correctional programs must also consider the effect on inmates of long-term incarceration. A recent finding indicates that long-



term inmates in overcrowded prisons die, commit suicide, become ill, and cause more disciplinary problems than if housed in small, private cells. Double cells had measurably greater negative effect on long-term inmates, as well as on the overall inmate population. The study suggests that an optimally-sized institution is a facility for 500 inmates housed in single cells of at least 50 square feet.<sup>33</sup>

A specific intervention program for juvenile repeat offenders has been recommended by the National Juvenile Justice Assessment Center in a study of serious juvenile delinquents:

"Intervention with hard-core, violent offenders by means of small, closed residential centers should be given careful consideration. Programs should be evolved using a number of different models but which allow comparison along similar dimensions. Apart from McEwen's Massachusetts research findings, sociologists going back to Cooley and Sutherland have agreed that the most powerful influences shaping or reshaping human behavior are asserted in small, face-to-face groups characterized by continuous, personal interaction. This wisdom should be perpetuated in intervention schemes. In addition to the dimensions of size and continuity of interaction, comparisons should include those of equality and participation."<sup>34</sup>

Inmate Characteristics. Repeat offenders, particularly those at the ages of greatest criminal/delinquent behavior (16-24), constitute a major disciplinary problem within institutions. Special programs, involving classification, facilities, and rehabilitative curricula, should be instituted for these repeat offenders within both juvenile and adult institutions.

It is of interest to note that California has a long-established correctional institutional program specifically directed at youthful offenders which includes both juveniles and adults. The California Youth Authority (CYA) has jurisdiction over youths from age 8 to age 23 (under the authority of the juvenile court) and to age 25 (under adult court jurisdiction). In July 1982, over 5,800 youth were held in these institutions; the mean age of the youthful offenders detained was 20.<sup>35</sup>

#### Community Supervision Programs

Another area needing specific program development for repeat offenders is probation and parole services. It is recommended that agencies with parole and probation authority be involved in any jurisdiction's plans for ROPE. Intake staff of the parole and probation authorities should be made aware of the offender's designation when a repeat offender is sentenced or released to its supervision. Additionally, during the initial start-up of a ROPE, parole and probation intake agents should independently screen new

intakes to assist in identifying repeat offenders. It may be desirable for local police, parole and probation, and the courts to devise coordinated strategies specifically aimed at quickly removing repeat offender parole and probation violators from the community.

Some specific attention should be given to procedures such as:

- Closely monitoring identified repeat offenders for unsatisfactory progress in observing the terms and conditions of their supervision.
- Quick action by supervising agents and judges against suspected parole or probation violators.
- Specifically designating warrants as "issued for the arrest of a repeat offender" when forwarded to police.
- Intensifying police efforts to serve warrants on parole or probation violators who have been identified as repeat offenders.
- Explaining to a repeat offender being placed on community supervision that he will receive special attention, which may deter him from violating conditions of his supervision.
- Closely coordinating with correctional institutions to ensure that required services and supervision are built into an offender's transition or release from the institution.

#### NOTES

1. New York City Police Department, Felony Augmentation Program (1981), 2.
2. New York City Police Department (supra, note 1), 2.
3. Solvability factors are the means by which investigative case management is accomplished through the incorporation of key identifying elements into an offense report. The assignment of appropriate emphasis or values to these elements leads to a calculated determination of whether the case is potentially solvable through investigative followup. Specific solvability factors generally include a significant modus operandi (M.O.), presence of witnesses, marked stolen property, etc.
4. California Office of Criminal Justice Planning, California Career Criminal Apprehension Program: Second Annual Report to the Legislature (1982), 7.
5. California Office of Criminal Justice Planning (supra, note 4), 8.

6. Office of Development, Testing, and Dissemination, Policy Brief on Career Criminal Programs (National Institute of Justice, 1980).
7. INSLAW (Career Criminal Program), Overview of the National Program (Briefing Paper No. 1, 1980), 8.
8. Kristen M. Williams, "Selection Criteria for Career Criminal Programs", The Journal of Criminal Law and Criminology, 71 no. 2 (1980), 89-93.
9. INSLAW (supra, note 7), 10.
10. For more information, contact the resource person listed in Appendix B under "Prosecution Programs".
11. INSLAW (Career Criminal Program), Recidivism Among Youth Offenders (Briefing Paper No. 5, 1980), 10.
12. United States Department of Justice, Attorney General's Task Force on Violent Crime: Final Report (1981), 57.
13. United States Department of Justice (supra, note 12), 57.
14. Joan Petersilia, Peter Greenwood, and Marvin Lavin, Criminal Careers of Habitual Felons (Rand Corporation, 1977), viii.
15. Office of Development, Testing, and Dissemination (supra, note 6), 5.
16. United States Department of Justice (supra, note 12), 57.
17. Maryland State Administrative Office of the Courts, Maryland Sentencing Guidelines Manual (1981), 1.
18. Leslie T. Wilkins et al., Sentencing Guidelines: Structuring Judicial Discretion (n.p., 1978).
19. Office of Development, Testing, and Dissemination, (supra, note 6), 3.
20. Based on conversation between Maryland Repeat Offender Task Force staff and the Supervisor of the Cook County Repeat Offender Court in October, 1981.
21. United States Department of Justice (supra, note 12), 52.
22. United States Department of Justice (supra, note 12), 52-53.
23. See Jacqueline Cohen, "The Incapacitation Effects of Imprisonment, A Critical Review of the Literature", in Alfred Blumstein, Jacquelin Cohen, and Daniel Nagin (eds.), Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates, (Washington, D.C., 1978).

24. Petersilia, Greenwood, and Lavin (supra, note 14).
25. Petersilia, Greenwood, and Lavin (supra, note 14), xiii.
26. Petersillia, Greenwood, and Lavin (supra, note 14), xiii.
27. Joan Petersilia and Marvin Lavin, Targeting Career Criminals: A Developing Criminal Justice Strategy (Rand Corporation, 1978), 11.
28. Corrections Magazine, 7 no. 3 (1982), 9.
29. Corrections Magazine (supra, note 24).
30. Joan Petersilia and Peter Greenwood, "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations", The Journal of Criminal Law and Criminology, 69, no. 4 (1978), 606, 607.
31. Michael E. Sherman, Strategic Planning and Focused Imprisonment, Papers Prepared for The Conference on Public Danger, Dangerous Offenders and the Criminal Justice System, (1982), 33.
32. Sherman (supra, note 31), 8.
33. Gavin McCain, Vern C. Cox, and Paul B. Paulus, The Effect of Prison Crowding on Inmate Behavior (National Institute of Justice, 1980), 132.
34. Charles P. Smith et al., A National Assessment of Serious Juvenile Crime and the Juvenile Justice System, Vol 1: Summary (Office of Juvenile Justice and Delinquency Prevention, 1980), 54.
35. Discussions between Repeat Offender Task Force staff and California Youth Authority staff, August 1982.

CHAPTER IV. PROGRAMMATIC ALTERNATIVES TO MEET ROPE  
SUPPORTING OBJECTIVES

To carry out successfully the programs necessary to achieve ROPE's operational objectives, one must address the issues of information availability and legal challenges. Accurate, thorough, and timely information is needed by all components of the justice system to handle repeat offenders effectively. Procedures developed to handle repeat offenders must also be consistent with constitutional safeguards.

A. INFORMATION AVAILABILITY AND TIMELINESS

A key component of ROPE is complete and accurate information. The need for information begins with the initial effort to identify persons who meet the repeat offender definition, and continues throughout the program for feedback, monitoring, and decision-making purposes.

Availability of data varies from state to state and jurisdiction to jurisdiction. Across the country (most jurisdictions would agree), adult criminal history information is more complete and readily available than juvenile delinquency history information. For example, Maryland's statewide Criminal Justice Information System (CJIS) and its supporting sub-systems--Identification Index (I/I); Arrest and Disposition Reporting (A-DR); Offender Based Statewide Correctional Information System (OBSCIS I & II); and the state's Criminal Records Central Repository (CR-CR)--provide an accurate and largely complete data base on adult offenders.

Sub-objectives.

- To assure that accurate and complete information is available to decision-makers at each step as repeat offender cases are processed, particularly with regard to prior criminal/delinquency history, prior institutional history, and victim impact information.
- To enable law enforcement officers and/or juvenile authority intake officers to identify rapidly adult and/or juvenile repeat offenders.
- To reduce the amount of time required to prosecute and/or adjudicate repeat offender cases.
- To reduce the amount of time required to dispose of repeat offender cases.

Programmatic Overview. Jurisdictions should work with existing state and local justice information systems, both automated and manual. Where possible, enhancements should be made to existing procedures and systems to ensure that more complete

delinquency and criminal history information is made readily available to the agencies involved in ROPE.

Timeliness of information is critical throughout the ROPE process. Police and prosecutors need criminal and delinquency history information immediately after the apprehension of repeat offenders. Timely case management information is needed to expedite the prosecution and adjudication of repeat offender cases. Most jurisdictions operating with the Prosecutor's Management Information System (PROMIS) will be able to identify and select repeat offender cases for preferential treatment (e.g., case assignment, calendaring, preparation of special dockets, etc.). Information can be provided to the pre-sentence/disposition investigator (e. g., probation officer) more quickly through improved cooperation and coordination among police, prosecutors, and other criminal/ juvenile justice agencies. Similar information exchange should occur at the other steps of repeat offender processing.

Another information requirement is ROPE's recordkeeping and reporting procedures. Generally, this type of information requires tracking of individual repeat offenders through the system, as well as some form of aggregate data on program performance. The key issues in this programmatic area are:

- Identification of repeat offenders.
- Instant offense information needs.
- Program performance records.

#### Identification of Repeat Offenders

The ROPE concept expects agencies within each jurisdiction to take action to ensure prior juvenile delinquency and adult criminal history information is:

- Complete;
- Understandable; and
- Easily accessible.

In a survey of prosecutors conducted by INSLAW in 1979, it was revealed that "obtaining positive identification" and "access to criminal history information" were serious concerns for career criminal programs.<sup>1</sup>

The need for positive identification for repeat offender programs was stated by INSLAW<sup>2</sup>:

- Positive identification is a necessary ingredient in obtaining criminal history information--including arrests, disposition, incarcerations, and release status if applicable;

- Once identified, the arrested person's criminal history can be retrieved;
- With criminal history information in hand, decisions can be made regarding inclusion of the arrestee in a career criminal program and whether bail or preventive detention should be sought. The speed with which these decisions are made is critical to an effectively functioning career criminal program.

Local jurisdictions should have ready access to a statewide criminal history file. This access should be rapid, preferably through the use of an automated name search file such as Maryland's Identification Index. "While a name search will not provide 'positive identification', it can provide the quickest means to positive identification (i.e., locating a fingerprint card already on file for the person)."<sup>3</sup>

The Attorney General's Task Force on Violent Crime has presented several recommendations to improve the exchange of federal, state, and local criminal history information.<sup>4</sup>

- The FBI should develop an index (similar to the prototype Interstate Identification Index [III]) with adequate computer and staff support to develop and maintain for use by all states.
- The Attorney General should propose or support legislation to provide adequate resources to states to establish central criminal history repositories required for participation in the III Program.
- The Attorney General should seek additional resources to reduce the FBI's backlog of fingerprint and name searches and to respond to these requests more promptly. State agencies responsible for the criminal history repository should take steps to fully participate in the proposed Interstate Identification Index.

Criminal History Information. In accordance with the ROPE approach, the law enforcement agency should take steps to obtain immediately the criminal history information of a person identified as a repeat offender. The requirement for speed is particularly critical when the arrest has been made. The decisions regarding bail or preventive detention require criminal history information. Criminal history information is necessary for the decision as to whether to file charges, which charges to file, whether to go to trial, etc. For example, when charging a defendant, certain states have statutes that change crimes from a misdemeanor to a felony if the defendant was previously convicted of the same crime. States having subsequent or habitual offender statutes (i.e., "two-time" or "three-time loser" laws) require some form of verification of previous convictions. The law

enforcement agency should begin to obtain this verification as soon as a person reaches repeat offender status. [Note: criminal history data is more difficult to obtain for use in determining repeat offender status if one or more of the previous offenses occurred outside of the state.]

Juvenile Delinquency Records. Previously cited research findings report that adult repeat offenders start their criminal careers as juveniles, and that juvenile records are the best means for distinguishing the most serious young adult offenders. Therefore, an important aspect of ROPE is incorporating a young adult's juvenile delinquency record as part of the determination of whether the offender meets the repeat offender definition criteria.

Juvenile records have not been readily used. For example, Maryland's Subsequent Offender Statute does not consider findings of delinquency even for the crimes of robbery and burglary.

"Logically, if juvenile records are the best means for distinguishing the most serious young adult arrestees, then such records should be made available to practitioners for use in decision-making. However, complete juvenile histories are often not available. Police, prosecutors, and judges frequently complain that they are unable to obtain prior juvenile histories on young adult defendants. When records are available, they may be difficult to obtain, incomplete, and inaccurate."<sup>5</sup>

A survey of the largest prosecutors' offices in each state to assess the quality of juvenile records revealed that the majority of prosecutors judge these records to be fair to poor. In the small number of jurisdictions who rated their records as either good or excellent, they were more likely to have:<sup>6</sup>

- Rather complete information from the police prior to the preliminary hearing;
- No legal restrictions governing the fingerprinting and photographing of juveniles;
- Few legal restrictions governing maintenance of and access to juvenile records;
- A formal career criminal prosecution program in operation;
- Pre-sentence/disposition investigation reports which include complete juvenile record information (apprehensions and dispositions); and
- Easily retrievable juvenile records stored in a central place.

The Attorney General's Task Force on Violent Crime was also concerned about juvenile crime. "Juveniles and youthful offenders not only account for the commission of disproportionate amounts of violent and other serious crime, they also are disproportionately the victims of such crime, usually at the hands of other juveniles."<sup>7</sup>

One of the Attorney General's Task Force's recommendations was that the FBI should accept fingerprint and delinquency history information of juveniles adjudicated of serious crimes in state courts and also to provide for fingerprinting and photographing of all juveniles adjudicated of serious crimes. The rationale for this recommendation was

. . . "current statutory restrictions in the procedures pertaining to adult court use of juvenile records may unnecessarily limit the ability of the court to provide appropriate sentences or set bail for juveniles tried as adults or for adults with juvenile criminal histories. Thus, an adult offender having an extensive juvenile felony record, but no prior adult record, may be sentenced as a first offender as a result of legislative mandates or policy expunging or sealing the past record. While this issue is not, per se, a federal issue, the federal system may be affected where juvenile records of individuals being prosecuted on federal crimes cannot be obtained."<sup>8</sup>

At a recent national conference, Judge John F. Mendoza (State of Nevada Eighth Judicial District Court, and President of the National Council of Juvenile & Family Court Judges) supported the concept of carrying delinquency history records past 18 if the offender shows a history of delinquent activity, and that juvenile records should be made available to the prosecutor and judge at the time the person commits his first crime as an adult.<sup>9</sup>

Jurisdictions implementing ROPE must take steps to include juvenile delinquency history information more actively in the decision-making process.

- Delinquency history information-sharing should be guided by formal written directives between the various agencies involved (e.g., police, juvenile authority, prosecutors, etc.). For example, Maryland law allows police agencies and state's attorneys to utilize Juvenile Services Administration records in the investigation and prosecution of a juvenile (Courts and Judicial Proceedings, Section 3-828). (It is not clear whether Juvenile Services Administration records could be used to produce a list of juveniles who meet a jurisdiction's criteria for repeat offenders.)

- Complete juvenile delinquency history information (including disposition) should be readily available to police and prosecutors for key prosecutorial decisions regarding young adult felons (e.g., whether to file charges or which charges to file, whether to consider chances of diversion, dismissal, or plea-bargaining, etc.).

#### Instant Offense Information Needs

The information necessary to support prosecutorial action usually comes from the police. As expressed earlier, repeat offender programs require close coordination between police and prosecutors, as opposed to the usual cooperation between the two justice components.

Chief prosecutors and career criminal program managers have identified case-building and case-enhancement as the most critical program needs. The following factors were ranked "absolutely essential" or "very important":<sup>10</sup>

- Complete/adequate evidence;
- Victim/witness cooperation;
- Good police investigation before the case is given to the prosecutor;
- Police cooperation in post-arrest investigation; and
- Adequate crime lab reports.

Law enforcement agencies should take steps to move beyond their traditional views of arrests/apprehensions and case preparation and consider the case from the perspective of prosecutors (e.g., obtaining convictions/findings of delinquency, higher evidentiary standards, etc.). One approach is to establish a case review function.

- The Washington, D. C. Metropolitan Police Department (MPD) formed a Case Review Section.

". . . The Case Review Section reviews all arrests, before they are presented to a screening attorney of the prosecutor's office, to ensure that all the necessary papers and forms are present and properly filled out and that the criminal incident has been adequately described by the arresting officer. The Section also reviews all the cases rejected by the prosecutor at screening, largely to provide feedback to arresting officers for the benefit of their performance in subsequent

arrests. As a result of this process, the section can uncover recurring police problems that might require the attention of the MPD's Training Division in either pre-service or in-service training programs. Such discoveries can also lead to the reformation of policies by the MPD or the U.S. Attorney, or both."<sup>11</sup>

In addition, the police should provide such information support to repeat offenders programs as:<sup>12</sup>

- Including in the arrest and booking procedures the immediate notification of appropriate units or persons whenever a potential repeat offender candidate is apprehended and booked.
- Expediting the positive identification of a candidate repeat offender, using local, state and FBI identification resources.
- Expediting access to criminal history information in time for arraignment and bond hearing.
- Providing complete and accurate investigation and reporting on repeat offender cases and apprehensions.

#### Program Performance Records

The final key point within ROPE's information-needs objective is recordkeeping and data reporting. The ROPE concept recommends that program managers adopt necessary reporting requirements which will help them to manage the various ROPE projects effectively. In addition to management needs, a portion of the evaluation component of ROPE must be supported by program performance and activity data.

The recordkeeping requirements have been already laid out for prosecutors.<sup>13</sup> These recordkeeping requirements are divided between tracking (cases and offenders) and aggregate statistics. Jurisdictions with the Prosecutor Management Information System (PROMIS) have the capability to perform many of these requirements.

Each component of the criminal and juvenile justice system must identify its specific information needs. For example, for prosecutors, information requirements fall into six major categories:<sup>14</sup>

- Defendant information;
- Case-tracking information;
- Witness management information;



- Charging information;
- Disposition and sentencing information; and
- Resource utilization information.

The PROMIS System can also support police operations. For example, the Washington, D.C. Metropolitan Police Department (MPD) uses PROMIS to obtain the following information:<sup>15</sup>

- Current case status and schedule of forthcoming events;
- Pending cases or recent case history of any defendant;
- Entire caseload and scheduled court time of any officer; and
- Daily case disposition reports.

"The MPD also uses the prosecutor's data for management purposes--to monitor the amount of time officers spend in court and to review the reasons given by prosecutors for rejecting cases. In addition, daily case disposition reports generated by PROMIS provide data to the police so that they may augment their criminal history records with information about convictions. These reports also give the police the opportunity to assess the performance of the department, units within the department, and individual officers in terms of convictions and [offender] conviction rates."<sup>16</sup>

#### B. LEGAL CHALLENGES

Jurisdictions must be cognizant of the legal implications of ROPE. There must be a review process by which proposed programs or program components undergo legal scrutiny. As stated earlier, ROPE will not undermine the existing legal rights of the adult or juvenile offender.

##### Sub-objective.

- To assure that procedures used by police, prosecutors, courts, correctional, and treatment personnel to improve the processing of repeat offenders are consistent with constitutional safeguards.

Programmatic Overview. Jurisdictions should anticipate that when they institute ROPE, defendants may challenge them on various constitutional grounds. Challenges to prosecutors' career criminal programs, in toto and in their various components (e.g., vertical prosecution, restrictive bail, limited plea-bargaining, etc.) have been upheld. INSLAW, in its Briefing Paper No. 6,<sup>17</sup>

discusses in depth the constitutional challenges to the career criminal program, and has been extensively used for this section of the report.

#### Career Criminal Programs In Toto

As of 1980, the validity of career criminal programs has been upheld by the courts of two states. In Massachusetts, the court denied the defendant's claim in Commonwealth v. Coyne<sup>18</sup> that his inclusion in the "Major Violator's Program" violated his due process rights:

- To be free of excessive bail;
- To be able to participate in the plea-bargaining process; and
- To receive effective assistance of counsel.

The court rested its denial upon principles of prosecutory discretion.

A more extensive analysis of a career criminal program's validity occurred in a New York case (People v. Peterson<sup>19</sup>) involving the Bronx County District Attorney's Major Offense Program. The court made the following rulings:

- There is no constitutional right to plea-bargaining.
- Program defendants are not denied equal protection of the law in light of analogous Supreme Court and lower federal court decisions on issues raised by habitual-criminal statutes and selective enforcement.
- A preliminary hearing is not constitutionally required when there has been a grand jury indictment.
- The use of special judges to hear program cases does not violate due process in view of other procedures by which prior crimes are brought to the attention of the trier of fact.

The INSLAW Briefing Paper No. 6 divides the bases for constitutional attack into due process and equal protection challenges.

#### Due Process Challenges

"Criminal defendants are constitutionally guaranteed certain minimum rights in the intent of maintaining a fair system of criminal justice."<sup>20</sup>

Accelerated Prosecution. Defendants may be expected to argue that accelerated prosecution impinges upon their right to adequate representation by counsel because the program's inherent policy of rapid prosecution may not permit sufficient time to prepare a defense.

Whether sufficient time to prepare an adequate defense has been provided is a matter squarely within trial court discretion. Generally, however, "courts do not deny due process merely because they move expeditiously."<sup>21</sup> In Eubanks v. United States, in which an appeal was taken by a defendant whose trial was set 11 days after appointment of counsel, the court stated:

"The Sixth Amendment provides that every defendant shall 'enjoy the right to a speedy and public trial'. We are not presented here with a case in which counsel was appointed a few moments before trial. . . .Nor does it appear that Eubanks was denied opportunity to confer with counsel prior to the trial date. . . .Plainly, he had ample opportunity to consult with his client. The determination as to whether there was time sufficient to permit the accused to prepare his defense is largely a matter of trial court discretion. What is a sufficient time in a particular case depends upon the circumstances, including the nature of the charge, the issues presented, counsel's familiarity with the applicable law and pertinent facts, and the availability of witnesses."<sup>22</sup>

The court in Spaulding v. United States<sup>23</sup> rejected the defendant's contention that he did not receive a fair trial because of the trial court's denial of his motion for a continuance.

"Although a career criminal program's objective of moving as expeditiously as possible toward trial is constitutionally valid, it is not without defined due process parameters. In upholding a trial court's denial of a continuance, the court in McKay v. Carberry<sup>24</sup> cautioned:

'This is of course not to say that circumstances might not arise where to deny a continuance would be a violation of due process. If there were not prejudice to the prosecution and no crowding of the Court calendar a due process argument might be made. More specifically, if the defendant could make a showing that the predicament he finds himself in on the day of trial is through no fault of his own then due process would be violated to force him to go to trial with unsatisfactory or unprepared counsel.'<sup>25</sup>

"Absent a set of circumstances similar to those described by the court in McKay, a defendant's challenge to a conviction obtained pursuant to a career criminal program would most likely prove unsuccessful. It should be noted, moreover, that a successful individual challenge notwithstanding, the program's general validity should not be questioned without a showing that the program's inherent effect denied all or most defendants their right to adequate counsel."<sup>26</sup>

Elimination of Preliminary Hearings. Some career criminal programs have eliminated the preliminary hearing in which probable cause is determined in order to accelerate the prosecution of repeat offenders. The question here is whether elimination of this stage of prosecution is constitutionally infirm when a grand jury finding of probable cause by indictment is obtained.

The Supreme Court in Gerstein v. Pugh<sup>27</sup> established that the minimum protection provided by the Fourth Amendment must include a neutral determination of probable cause. If this protection is afforded through presentment to and indictment by a grand jury, a preliminary hearing carries no additional constitutional significance. In Coleman v. Alabama,<sup>28</sup> the court noted that the preliminary hearing is not a required step and that the prosecution may seek an indictment directly from the grand jury without a preliminary hearing.

#### Exclusive Hearings.

"The streamlined procedures of many career criminal programs include the assignment of 'program' cases to judges specifically designated to hear them. When a judge possesses information that a defendant's past conduct has earned him special prosecution treatment, there is an arguable danger of prejudice. In analyzing whether this danger raises constitutional questions of fairness, it is helpful to examine other instances in a criminal trial in which a defendant's past crimes are brought to the attention of the trier of fact.

"Recidivist or habitual-criminal statutes enacted in many states prescribe harsher punishment for those defendants found guilty of a crime who have been convicted of other crimes in the past.<sup>29</sup> Although state procedures for implementing these statutes vary, they generally put contemporaneously before the jury both the question of guilt or innocence for the crime for which the defendant is charged and the question of whether he has been previously convicted of other crimes, that is, evidence of prior crimes is presented in order to 'qualify' the defendant for enhanced punishment."<sup>30</sup>

"A judge's knowledge (the jury at no point in the trial is aware of the defendant's extraordinary status) of a defendant's criminal past extends only to the fact that he has been selected for prosecution under the program. Although the Spencer<sup>31</sup> court's concession that there may be a less prejudicial procedure for prosecuting habitual criminal charges may apply equally to judicial assignments in career criminal cases, the constitutionality of the latter is not thereby affected."<sup>32</sup>

Limitations on Plea Bargaining. There is no absolute right to a plea bargain under the constitution. Recently, the Supreme Court stated: "There is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial. It is a novel argument that constitutional rights are infringed by trying the defendant rather than accepting his plea of guilty."<sup>33</sup>

#### Restrictive Bail.

"Restrictions upon, or denial of, bail for career criminal defendants can be implemented in one of two ways. First, the state legislature can specify particular crimes that will carry specific bail requirements. Second, program judges can follow prosecutory guidelines and recommendations for career criminal defendants. In either instance, the constraints could be attacked on two due process grounds."<sup>34</sup>

One challenge is based on the Eighth Amendment which states that "excessive bail shall not be required. . . ." Two leading Supreme Court cases regarding the bounds of defendants' right to bail (Stack v. Boyle<sup>35</sup> and Carlson v. Landon,<sup>36</sup>) point out that although federal statutes may mandate a right to bail and the constitution may require that bail not be excessive when the right is provided, there appears to be no absolute constitutional right to bail.

The second challenge is based on the "arbitrary" denial of bail by a trial court where the right to bail has been given under state law.

"The bounds of arbitrariness do not prohibit a state court from denying bail when it appears reasonably necessary, not only to assure a defendant's presence at trial, but to prevent violence or interference with the processes of investigation or the orderliness of trial."<sup>37</sup>

"Due process imposes few restrictions on a state's authority to exercise wide discretion in its legislative establishment of guidelines or judicial decisions in setting bail in particular cases.

Constraints upon access to bail under a career criminal program should pass constitutional muster as long as they are rationally based."<sup>38</sup>

#### Equal Protection Challenge

The ROPE concept will introduce procedures that clearly impose different handling, processing, and treatment of repeat offenders than is usually provided non-repeat offenders. When a suspect class<sup>39</sup> or fundamental right<sup>40</sup> has not been affected, the court's inquiry into determining the "compelling state interest" extends only to a possible rational basis for the state action. There have been some departure from this two-tiered approach of strict and minimal scrutiny.<sup>41</sup>

"The impact of this emergent approach upon the validity of prosecutory classification of recidivists should not be severe. There is a clear 'means-end' fit between a determination that a small number of people commit a large number of crimes and should be dealt with severely and effectively and a program of selective prosecution that is designed to streamline the criminal justice process so that delays and impediments do not frustrate that goal."<sup>42</sup>

The established repeat offender procedures, which may be a product of administrative action rather than legislative will, treat recidivists with greater severity than first offenders. The consequence of this classification is similar to what occurs in habitual-criminal statutes.

"Habitual-criminal statutes impose heavier penalties on defendants previously convicted of specified crimes. Their constitutionality has been upheld on numerous occasions by the Supreme Court in the face of a variety of challenges. In Spencer v. Texas,<sup>43</sup> the Court reiterated its longstanding position on recidivist statutes:

'No claim is made here that the recidivist statutes are themselves unconstitutional, nor could there be under our cases. Such statutes and other enhanced sentence laws and procedures designed to implement their underlying policies have been enacted in all the States and by the Federal government as well (citations omitted). Such statutes. . . have been sustained in this court on several occasions against contentions that they violate Constitutional strictures dealing with double jeopardy, ex post facto, cruel and

unusual punishment, due process, equal protection and privileges and immunities (citations omitted).'<sup>44</sup>

Prosecutors and other criminal justice administrators will have the discretion to handle similarly situated persons differently.

"Selective enforcement, however, involves differential treatment of far greater magnitude than that of selective prosecution procedures. The former permits some defendants a free exit from the criminal justice system while requiring that others face criminal charges; the latter subjects selected defendants to expedited procedures, but all defendants must ultimately answer to criminal charges. The distinction is significant because establishing the constitutional validity of the former should establish the validity of the latter."<sup>45</sup>

The courts have held that, when unlawful discrimination in the administration of criminal statutes is alleged, there is a presumption of regularity in the prosecutory decision process that must be overcome.<sup>46</sup> The prosecution is permitted to engage in "random selection"<sup>47</sup> but may not utilize this discretion for vindictive purposes.

"This constraint is equally applicable to selective prosecution procedures under a career criminal program; however, such procedures are less susceptible to such an attack than decisions of selective enforcement are because of the strict criteria used in selecting program defendants."<sup>48</sup>

#### NOTES

1. INSLAW (Career Criminal Program), Improving Procedures for Positive Identification (Briefing Paper No. 3, 1980), 1.
2. INSLAW (supra, note 1), 2.
3. INSLAW (supra, note 1), 5.
4. United States Department of Justice, Attorney General's Task Force on Violent Crime: Final Report (1981), 67-68.
5. Joan Petersilia, Juvenile Record Use in Adult Court Proceedings: A Survey of Prosecutors (Rand Corporation, 1980), 2.
6. Petersilia (supra, note 5), 16-17.
7. United States Department of Justice (supra, note 4), 81.
8. United States Department of Justice (supra, note 4), 82.
9. Speech before the conference "New Partnerships: A Response to Crime" (Washington, D.C.; September 1981), sponsored by Search Group, Inc. and the National Criminal Justice Association.
10. INSLAW (Career Criminal Program), Police-Prosecutor Coordination (Briefing Paper No. 8, 1980), 4.
11. Brian Forst et al., What Happens After Arrest?--A Court Perspective of Police Operations in the District of Columbia (INSLAW, 1977), 77.
12. INSLAW (supra, note 10), 9-10.
13. INSLAW (Career Criminal Program), Recordkeeping and Reporting Procedures (Briefing Paper No. 12, 1980).
14. INSLAW (supra, note 13), 2.
15. Forst et al. (supra, note 11), 75.
16. Forst et al. (supra, note 11), 75-76.
17. INSLAW (Career Criminal Program), Responses to Legal Challenges (Briefing Paper No. 6, 1980).
18. 372 Mass. 599, 363 N.E. 2d 256 (1977).
19. 91 Misc. 2d 407, 393 N.E. 2d 24 (1977).
20. INSLAW (supra, note 17), 1.
21. Eubanks v. United States, 336 F.2d 269,270 (9th Cir. 1964).
22. Eubanks v. United States (supra, note 21).
23. 279 F.2d 65 (9th Cir. 1960), cert. denied, 364 U.S. 887 (1960).
24. 238 F. Supp. 856, 858 (N.D. Cal. 1965).
25. INSLAW (supra, note 17), 3.
26. INSLAW (supra, note 17), 3.
27. 420 U.S. 103 (1975).
28. 399 U.S. 1 (1969).
29. See Note, Recidivist Procedures, 40 N.Y.U. L. Rev. 332 (1965). These statutes have been upheld by the Supreme Court

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**1 OF 2**

in the face of double jeopardy, ex post facto, cruel and unusual punishment, due process, equal protection, and privileges and immunities challenges. Moore v. Missouri, 159 U.S. 673 (1895); McDonald v. Massachusetts, 180 U.S. 311 (1901); Graham v. West Virginia, 224 U.S. 616 (1912); Gryger v. Burke, 334 U.S. 728 (1948); Oyler v. Boyles, 368 U.S. 448 (1962); cited in Spencer v. Texas, 385 U.S. 554, 560 (1967).

30. INSLAW (supra, note 17), 5-6.
31. Spencer v. Texas, 385 U.S. 554 (1967). Spencer is actually a decision upon three separate appeals raising the same issue.
32. INSLAW (supra, note 17), 7.
33. Weatherford v. Bursey, 429 U.S. 545, 561 (1977).
34. INSLAW (supra, note 17), 8.
35. 342 U.S. 1 (1951).
36. 342 U.S. 524, 545 (1952).
37. See Carlson v. Landon, 342 U.S. at 542; Mastrian v. Hedman, 326 F.2d at 71a.
38. INSLAW (supra, note 17), 10.
39. See Loving v. Virginia, 388 U.S. 1 (1967) [race]; Graham v. Richardson, 403 U.S. 365 (1971) [alienage]; examples of the state legislating to the detriment of a group of people.
40. See Shapiro v. Thompson, 394 U.S. 618 (1969) [right to travel]; Harper v. Virginia Board of Education, 383 U.S. 663 (1966) [right to vote]; cf. Douglas v. California, 372 U.S. 353 (1963) [access to initial criminal appeal]; examples of the state creating a classification that infringes upon certain fundamental rights.
41. See Weber v. Aetna Casualty & Surety Co., 406 U.S. 164 (1972).
42. INSLAW (supra, note 17), 12.
43. 385 U.S. 554, 559-560 (1967). See also, Oyler v. Boles, 368 U.S. 448 (1961); McDonald v. Massachusetts, 180 U.S. 311 (1901).
44. INSLAW (supra, note 17), 15.
45. INSLAW (supra, note 17), 16.
46. This presumption appears to be particularly strong in cases in

which defendants are charged with serious crimes. In the prosecutions stemming from the incident at Wounded Knee, the court stated: "In the instant case, the defendants are charged with serious and dangerous crimes. This fact enhances the presumption of prosecutorial regularity since it renders much less likely the possibility that the government was motivated by a desire to discriminate against specific individuals for their engagement in constitutionally protected activities, and much more likely that the government was properly motivated by a desire to protect society from dangerous and illegal activities." United States v. Banks, 369 F. Supp. 1245 (W.D.S.D. 1973).

47. Steele, 461 F.2d at 1152.
48. INSLAW (supra, note 17), 19.



## CHAPTER V. ROPE EVALUATION

The evaluation of ROPE must assess at least two major program dimensions:

- o The method of developing, implementing, and operating the program; and
- o The effect that the program has on its clients, the community, and the criminal and juvenile justice systems.

### A. PROGRAM PLANNING AND IMPLEMENTATION

Each program should be closely monitored so that information can be analyzed about the jurisdiction's ability to organize its resources and to establish effective links among local and state agencies, juvenile and adult processing systems, and control and support systems.

This analysis should require maintenance of a detailed account of the planning and implementation processes that will provide information about the nature of problems encountered during planning, techniques for problem-solving, and success in implementing those techniques. The account should also provide a description of the program's structure and philosophy. This account should be maintained by the jurisdiction's ROPE coordinator in addition to minutes, budget records, and other standard pieces of recorded information.

Each jurisdiction should also survey key justice program participants such as police, prosecutors, defense counsels, judges, juvenile authorities, and corrections officials to monitor their perceptions of, and reactions to, program strengths and shortcomings. The format for these surveys should be uniform across jurisdictions; the surveys should be conducted both before implementation of ROPE and at designated periods during the ROPE effort to monitor changes in attitudes.

### B. PROGRAM EFFECTIVENESS

Each jurisdiction should also evaluate ROPE's success in improving offender processing and increasing the impact of incapacitation. This type of analysis will require the collection of information about the processing of repeat offenders before and after ROPE is implemented.

The description that follows is offered as an evaluation guideline. Since variation in jurisdictional approaches to ROPE is anticipated, the steps that are outlined below may not be executed in the order described. Nevertheless, at some point jurisdictions will need to calculate the rates at which repeat offenders are processed before and during implementation of ROPE. They will also need to determine what offender and offense characteristics

will define the ROPE target population, and they will have to estimate the degree to which ROPE'S incapacitation approach improves upon current incapacitation procedures. Finally, they should institute a long-range tracking procedure that will assess recidivism levels after offenders are processed through the ROPE program.

ROPE evaluators should have three goals in mind:

- The description of repeat and non-repeat offenders;
- The production of measures that reflect the rates at which repeat offenders are processed through the system; and
- The effect of ROPE on repeat offenders' recidivism.

These goals should be considered during ROPE planning--when each jurisdiction will be generally evaluating its offender population to determine the characteristics of repeat and non-repeat offenders and assessing the degree to which the system is currently able to process repeat offenders--and later throughout ROPE implementation.

#### Data Collection and Analysis: Phase I

Because data availability will limit the kinds of analyses that are possible, the early stages of evaluation will require a review of the available data. Since jurisdictions are unlikely to find that aggregate data exist with enough specificity to determine the current nature of repeat offender processing, we anticipate that a sample of arrestees will have to be selected. Within jurisdictions, automated offender tracking systems may soon be able to facilitate sample selection.

- At the state level in Maryland, the identification of a research sample of adult and juvenile arrestees currently can be determined by the use of the Arrest Disposition Reporting (ADR) System, an automated offender tracking system in operation since 1978. However, since the system does not capture all the information that investigators should review, including prior record information that pre-dates 1978, some data will have to be collected by hand. Prior record data for adults are available from the Maryland Criminal Records Central Repository (CRCR). Where resources and law allow, researchers should also collect information about the juvenile offense histories of the adult offenders in the sample. The Maryland Automated Juvenile Information System (MAJIS) is the most expedient source of these data in Maryland.
- Because the Task Force guidelines also specify that juveniles between the ages of 16 and 18 be considered when defining the repeat offender problem in each jurisdiction,

it will also be necessary to collect detailed information about the juveniles included in the research sample.

The investigation should focus on using historical data to identify offender characteristics that may predict recidivism. The sample should be large enough to accommodate a multivariate model that should include the following variables: offender age, race, sex, employment record, prior criminal/delinquent record, drug and alcohol use, and offense type and seriousness (e.g., victim injury, weapon use).<sup>1</sup> Researchers should also use these data to estimate the rates at which adult repeat offenders have historically been arrested, prosecuted, convicted, and incarcerated, and the rates at which juvenile repeat offenders have historically been apprehended, petitioned, adjudicated, and committed. From these rates, researchers will be able to derive an estimate of the degree to which ROPE will, through incapacitation, reduce crime or, at least, the number of future arrests/apprehensions. Calculation of these incapacitation estimates will require criminal/juvenile history data that reflect detailed information about prior case processing: number of charges/petitions, number of counts, charge/count reductions, pleas, dismissals, and sentence/disposition types.<sup>2</sup>

From the first round of data collection and analysis, the following information will emerge.

- Each jurisdiction will have developed a profile of its repeat and non-repeat offenders and will have defined the type(s) of repeat offenders to be targeted by ROPE;
- Each jurisdiction will have measures of arrest/apprehension, conviction/adjudication, and incarceration/commitment rates before implementation of ROPE; and
- Each jurisdiction will have some estimate of the degree to which increased offender targeting will improve current efforts.

#### Data Collection and Analysis: Phase II

The second round of data collection and analysis should be conducted between one and three years after the system-wide ROPE is implemented. The same type of data described above should be required, but the sample will consist of offenders processed during ROPE. Investigators should determine whether the rates at which adult repeat offenders are arrested, prosecuted, convicted, and incarcerated, and whether the rates at which juvenile repeat offenders are apprehended, petitioned, adjudicated, and committed, significantly increase after ROPE's implementation. Investigators should also determine whether the characteristics of repeat offenders processed by ROPE match what was specified in the jurisdiction's definition before ROPE implementation.

Ideally, each jurisdiction should be able to compare the

processing rates obtained before and after its ROPE implementation with the processing rates derived for comparable time periods in another "control" jurisdiction (control group) where ROPE is not implemented. This sort of analysis will afford some confidence that crime rate variations before and after implementation result from ROPE, and not from such factors as demographic or economic shifts. In order to accommodate this sort of analysis, of course, jurisdictions should identify a control jurisdiction and plan for data collection in that "control" at the outset of evaluation.

However, resource and other limitations may prevent the sort of experimental approach described above, which will make interpretation of rate changes more speculative. As noted, policy and demographic changes may occur in a jurisdiction over time, which could affect the rates at which repeat offenders are processed. Therefore, without a control jurisdiction, rate changes will not necessarily reflect the direct impact of ROPE alone. In this event, attempts to evaluate change as ROPE-related should be cautious and rely on the qualitative processing data described earlier to enhance interpretation of results. If the use of a control jurisdiction is impossible, ROPE jurisdictions should also consider increasing the number of rate measures they calculate, so that a more precise processing trend may be established over the evaluation period. Obtaining these measures should be progressively easier, as automated systems become more sophisticated and less hand-collection of data is required for each rate calculation.

Each jurisdiction should also compare the characteristics of repeat offenders processed prior to ROPE with those of offenders processed by ROPE. Presumably, the two groups will differ because the targeting and processing strategies of ROPE will differ from definitions and techniques currently used. To ensure that differences in offender characteristics are not simply attributable to overall differences in the criminal/delinquent population over time, evaluators should compare non-repeat offenders in the pre- and post-ROPE samples as well as the two repeat offender groups.

The latter comparison will serve at least two purposes. It will indicate how successful the justice system has been in implementing ROPE in each jurisdiction. It will also serve as an indicator of ROPE's success in incapacitating those offenders who are of greatest concern and therefore were classified by the jurisdiction as repeat offenders. Again, this will be true only if the pattern of criminal/delinquent history remains more or less constant over time; without this consistency, the individual repeat offender definitions may become obsolete.

Another way to test more accurately the effect of ROPE's selective incapacitation of repeat offenders would be to estimate the number of offenses prevented. This might be done by interviewing incarcerated/committed ROPE offenders or by using prior record information to estimate the number of offenses avoided by placing

ROPE offenders in confinement.<sup>4</sup> These offense rates and the societal costs associated with them could then be compared for consistency with the incapacitation estimates for the same kind of offenses calculated before ROPE implementation.

#### Data Collection and Analysis: Phase III

The final phase of ROPE evaluation should involve tracking targeted offenders over time to see with what frequency they recidivate after their involvement with ROPE. Analysis of these recidivism measures will be contingent on having comparable measures on pre-ROPE offenders. The use of a control jurisdiction would enhance analysis of ROPE's effect on recidivism. Absent this possibility, samples of pre-ROPE and ROPE offenders could be compared with regard to frequency of re-arrest/apprehension, re-conviction/adjudication, and re-incarceration/commitment for each jurisdiction. Since convicted/adjudicated repeat offenders will likely receive long(er) sentences/commitments under ROPE, the process of tracking released offenders should be a long-term effort. Evaluators should plan early for the kind and amount of data they will want to collect about recidivism, both before and after ROPE implementation.

#### C. SUMMARY

The evaluation methodology described above should highlight the impact of ROPE in each jurisdiction. It is critical to plan evaluation at the same time that a ROPE is planned, so that each jurisdiction may ensure measurement of ROPE's effect on its repeat offender problem and identify programmatic strengths and weaknesses. Evaluation results will also give guidance to other jurisdictions who may wish to consider implementation of ROPE. Finally, the evaluation will provide information about offender processing and data availability that can be critical to improving repeat offender programs specifically and the justice system in general.

#### NOTES

1. Kristen M. Williams, "Selection Criteria for Career Criminal Programs", The Journal of Criminal Law and Criminology 71 no. 2 (Summer 1980), 92-93.
2. For example, see Mark A. Peterson and Harriet B. Braiker, Doing Crime: A Survey of California Prison Inmates (Rand Corporation, 1980).
3. Joan Petersilia, Criminal Careers of Habitual Felons: A Summary Report (Rand Corporation, 1977); Joan Petersilia, Peter Greenwood, and Marvin Lavin, Criminal Careers of Habitual Felons (Rand Corporation, 1977).

4. These kinds of calculations have been made using state and federal data. See Alfred Blumstein and Jacqueline Cohen, "Estimating Individual Crime Rates from Arrest Records", The Journal of Criminal Law and Criminology, 70 no. 4 (1979); William Rhodes, et al., Developing Criteria for Identifying Career Criminals (INSLAW, 1982).

#### CHAPTER VI. CONCLUSION: ROPE PLANNING AND IMPLEMENTATION

The Repeat Offender Program Experiment (ROPE) Guidelines and Programmatic Alternatives concept and draft report was endorsed by the Maryland Criminal Justice Coordinating Council in January, 1982. The Council simultaneously approved a plan to implement ROPEs locally in the five largest jurisdictions in Maryland.

This strategy of local-level implementation recognizes that repeat offender problems are likely to vary among jurisdictions. The Repeat Offender Task Force and Council also recommend that repeat offenders be identified using empirically-derived estimates and that participants at all levels of the criminal and juvenile justice systems work jointly to formulate and implement systemwide programs. The need for full participation on the part of state-level agencies (e.g., Maryland's Juvenile Services Administration, Department of Public Safety and Correctional Services) to assure the success of these efforts is also recognized. By attempting a system-wide approach to the issue, Maryland hopes to overcome the communications and definitional problems that have undermined other career offender programs. Local experimental program development will be used to determine whether, in the long term, state-wide ROPE implementation should be recommended.

##### A. STATE LEVEL ACTION AND ORGANIZATION

In January, 1982, the Council decided to use remaining unobligated federal Law Enforcement Assistance Administration (LEAA) funds in Maryland to establish local Repeat Offender Steering Councils to plan and develop local ROPE efforts. In approving the request to use remaining LEAA funds for this purpose, the Office of Justice Assistance, Research, and Statistics (United States Department of Justice) commended Maryland for developing an innovative and creative approach to address the repeat offender problem.

Before the Council's endorsement was obtained, and simultaneously with the beginning of local ROPE planning, several steps were taken to assure that ROPE was thoroughly explained to state and local officials whose interest and support was vital. High level executive commitment was obtained in several ways.

##### Task Force Involvement

The composition of the Repeat Offender Task Force itself was a key element in gaining ROPE's acceptance and commitment. The Task Force members and staff--consisting of representatives from the judiciary, citizenry, local and state law enforcement, juvenile authority, corrections, the Attorney General's Office, and the parole authority--were in an excellent position to draw upon the resources of these groups and readily obtain input, advice, and ultimately the endorsement of each professional community or

association represented. This was buttressed by briefings before professional associations, legislative committees, the State Juvenile Justice Advisory Committee, and one-on-one meetings between Task Force members and decision-makers critical to ROPE's success.

As described earlier, the Task Force was not staffed full time by Council staff but rather by a joint effort on the part of Task Force members' agencies. Leadership and overall coordination remained the responsibility of Council staff; however, the involvement of member agencies' staffs strengthened ROPE considerably. Firstly, it gave the Task Force immediate access to, and expertise from, a range of state and local agencies including, for example, the Maryland Juvenile Services Administration, Baltimore County Police Department, and the State Division of Parole and Probation. Secondly, these staff members were encouraged to discuss their repeat offender staff assignments with their colleagues and in professional meetings and associations.

At several stages during ROPE's development, questions emerged regarding staff designees or representatives for agency heads officially appointed to the Task Force, and later to local Repeat Offender Steering Councils. It was eventually decided that so long as the top officials were fully knowledgeable about and immediately accessible to those who attended ROPE planning meetings, the designation of staff was acceptable. The primary criterion for determining if a particular staff representative would be appropriate was whether that individual could secure the top executive's decision on a matter concerning ROPE in a timely fashion.

Obviously, a good deal of flexibility and a great deal of communication characterized the ROPE policy planning and development process. The interest and enthusiasm generated by ROPE was significant enough to lead key officials to attend Task Force meetings even when they could have designated staff. For example, the Director of the Juvenile Services Administration attended most Task Force meetings even though he had already made a major staff commitment to the effort, and the State Director of the Division of Parole and Probation agreed to serve on one of the local ROPE Steering Councils. On the other hand, highly successful and productive arrangements were made by the Secretary of Public Safety and Correctional Services in designating the Department's Coordinator of Planning and, to cite one example at the local level, by the Baltimore City Mayor's assignment of ROPE responsibilities to his top justice staff.

#### Maryland Criminal Justice Coordinating Council Involvement

The Council, as the designated statewide authority for developing and coordinating justice policy and programs, was the primary force in generating interest and support for ROPE. The Council's formal endorsement accelerated the momentum to develop ROPEs in

several Maryland jurisdictions. The Council's composition, and the active participation of many Council members in assuming leadership roles to spearhead development of local Repeat Offender Steering Councils, contributed greatly to local jurisdictional acceptance of ROPE.

Much of the top-level support secured for ROPE followed formal or informal briefings of key officials by either the Task Force Chairman, the Executive Director of the Council, or Task Force staff. For example, at particularly critical points in the ROPE policy planning and development process, the Maryland Secretary of Public Safety and Correctional Services, the Director of the Juvenile Services Administration, and the Chief Judge of the Maryland Court of Appeals were briefed and their advice on specific matters requested. Many of these discussions are ongoing in nature, reflecting the dynamic nature of the ROPE planning process.

Finally, as local Repeat Offender Steering Council development commenced, the Governor personally requested local Chief Executives to form Repeat Offender Steering Councils.

#### B. LOCAL ROPE PLANNING EFFORTS

The Task Force's strategy for ROPE planning and development requires establishing local Repeat Offender Steering Councils, which should conduct a planning activity that:

- identifies the extent of the repeat offender problem (assist in defining repeat offenders);
- determines the difficulties with the present justice system handling of repeat offenders; and
- develops a plan for implementing an integrated program aimed at the specified repeat offender problem.

Maryland's experience with local ROPE planning may be detailed here. Local jurisdictions were directed to request major law enforcement and juvenile and criminal justice decision-makers to participate on local Repeat Offender Steering Councils. For the reasons discussed earlier, jurisdictional discretion and preference with regard to specific ROPE elements, such as criteria for identifying repeat offenders, were encouraged, but adherence to a set of guidelines for ROPE planning was required. The following steps were undertaken:

- A request for planning grant applications was prepared which provided a detailed description of the Council's expectations for local ROPE planning strategies. Local jurisdictions were asked to address the objectives, design, and requirements governing ROPE development and how they intended to use the federal grant funds to plan their

## ROPE.

- Technical assistance by Task Force and Council members and staff was offered to jurisdictions so that the local applications could be prepared expeditiously and with minimum difficulty. On a few occasions, suggestions and recommendations made by local representatives warranted modification of some part of the ROPE planning process.
- Local justice coordinators were informed which requirements the Council wished to be met prior to disbursement of the federal LEAA grant funds supporting each planning project. Accommodation was the key which ensured that adherence with most, if not all, of ROPE's guidelines was achieved.

### Local Repeat Offender Steering Councils

In establishing the local counterparts to the statewide Task Force, i.e., the local Repeat Offender Steering Councils, each jurisdiction was requested to include on its Steering Council its Chief Executive or his designee, Justice Coordinator, Chief of Police, Detention Center Administrator, and State's Attorney (prosecutor). Designation of staff support for the local Steering Councils was also requested of the State Directors of the Division of Parole and Probation, the Division of Corrections, the Juvenile Services Administration, and the Office of the Public Defender. In addition, applicants invited the administrative judges of the circuit, district, and juvenile courts to participate in the ROPE planning effort.

Those listed above were considered the minimum core participants on each Steering Council. Jurisdictions were also encouraged to involve other key individuals in the justice community, and in the community at large, in ROPE planning.

Coordination. To establish a mechanism to ensure a high degree of communication between the Task Force and local Steering Councils, Justice Coordinators from the major jurisdictions were routinely invited to Task Force meetings and asked at those sessions to provide briefings on local progress. Local Steering Councils were also requested to notify the state Coordinating Council when local ROPE planning meetings were to occur.

In developing ROPE, the Task Force had met on a monthly basis in public session. These meetings were usually well-attended and frequently local representatives participated. The establishment of a more formal communication mechanism through routinized attendance by local Steering Council representatives at Task Force meetings, and Task Force staff at Steering Council meetings, was largely a continuation of already-developed working relationships.

### Local ROPE Planning Efforts to Date

In response to Governor Hughes' request that the Chief Executives of major Maryland jurisdictions form Repeat Offender Steering Councils, the Mayor of Baltimore City, and the Anne Arundel, Baltimore, Howard, and Montgomery County Executives agreed to establish local Repeat Offender Steering Councils. One major Maryland jurisdiction, Prince George's County, declined to apply for ROPE planning funds.

Each jurisdiction is adhering to ROPE guidelines as their planning processes commence, but consistent with the guidelines there are significant differences in the approaches in use in several jurisdictions. Methods for staffing and managing each project differ as well. Some jurisdictions have hired consultants from the academic community to collect data necessary for defining a repeat offender population and making recommendations to improve the way the system arrests/apprehends, convicts/adjudicates, and incarcerates/commits repeat offenders. Other jurisdictions have hired full-time ROPE coordinators for up to eight months. Regardless of the staff arrangement, all jurisdictions share in common the use of Steering Councils to guide and advise staff or consultant actions, monitor progress, serve in a "trouble-shooting" capacity, and formulate policy.

Baltimore City is emphasizing the data and information problems among local and state agencies that may impede the effectiveness of the City's repeat offender targeting, apprehension, and adjudication efforts. Anne Arundel County's approach has a distinct research orientation: comparisons of cohort groups of repeat and non-repeat offenders are being made so that program improvements may be recommended. Baltimore and Montgomery Counties are both focusing upon definitional issues, accurate information availability, and the systemwide effects of the ROPE approach to the repeat offender problem. Howard County plans to review cases to determine the number that will fit their definition of repeat offender, develop a realistically-sized target group, and formulate recommendations.

By the end of December, 1982, each jurisdiction's initial planning process will probably be completed. Hopefully, the commitments to implement recommendations will be secured by virtue of the involvement of key officials in the planning process.

The most difficult tasks are ahead and will ultimately test both the effectiveness of the ROPE planning process and the strength of the ROPE concept. The success with which ROPE efforts are put into place will be judged by the extent to which existing justice agency operating procedures and management techniques are altered to accommodate the ROPE approach. ROPE's success will also be determined by observing if realignments or re-allocations of resources internal to law enforcement and justice agencies occur. If evidence indicates that agency procedures and resources are retooled to incorporate ROPE as a key agency priority, then



the concepts incorporated in the coordinated ROPE approach will deserve even more careful examination.

## APPENDICES

### A. REPEAT OFFENDER DEFINITIONS

#### Maryland Criminal Justice Coordinating Council

These definitions were used by Maryland's Repeat Offender Task Force for research purposes. They resulted from literature search, review of Maryland statutes and programs, and deliberation by the Task Force and Council members.

Juvenile Repeat Offender Definition. A juvenile repeat offender is any person 15 to 17 years old whose:

1. Present offense is any violent delinquent act using a dangerous weapon, or any property delinquent act, either of which was committed against a stranger; and whose
2. a. Prior unrelated petitions total two or more, the latest prior formal contact with the juvenile justice system in this regard having occurred within the last year; and whose
- b. One or more prior petitions involved a violent or property delinquent act.

Juvenile Repeat Offender Definition Emphasis. The present delinquent act (instant offense) must be for a serious crime. The crimes included are those believed to create the most fear in citizens because those crimes have the most chance to end in death or injury.

The delinquent act must be committed against someone not related to or having close ties with the perpetrator, with the exception of murder. This attribute would eliminate from the definition domestic violence or delinquent acts committed against persons with whom the perpetrator may have a casual acquaintance.

The offender's prior juvenile justice involvement shows recent and frequent delinquent activity. The offender is older and has a tendency to commit more serious types of delinquent acts.

Adult Repeat Offender Definition. An adult repeat offender is any person 18 years of age or older whose:

1. Present offense is any violent crime using a

dangerous weapon, or any property crime committed against a stranger; and whose

2. a. Prior convictions for unrelated incidents total two or more, the latest prior formal contact with the criminal justice system in this regard having occurred within the last three years; and whose
- b. One or more prior conviction(s) involved a violent or property crime.

Adult Repeat Offender Definition Emphasis. The present crime (instant offense) must be for a serious crime. The crimes listed are those believed to create the most fear in citizens because those crimes have the most chance to end in death or injury.

The crime must be committed against someone not related to or having close ties with the perpetrator, with the exception of murder. This attribute would eliminate from the definition domestic violence or crimes committed against relatives, close friends, or business associates, but would include crimes committed against persons with whom the perpetrator may have a casual acquaintance.

The offender's prior criminal justice involvement shows a more potentially "hardened" criminal. The offender has a history of deeper penetration into the criminal justice system (convictions, rather than arrests) and a propensity to commit serious crimes. The offender should show recent involvement in criminal activity.

The violent and property crimes noted in the definitions above include the same offense categories for both juveniles and adults and were derived in part from Maryland's "Mandatory Sentences for Crimes of Violence" (Article 27, Section 643B, Annotated Code of Maryland). These are:

Violent Crimes. These include:

- Murder (regardless of victim/perpetrator relationship);
- First/second degree rape, excluding statutory rape;
- Robbery;
- Assault with intent to murder, rape, rob, or aiding in the commission of a sexual offense;
- Manslaughter;

- o Mayhem;
- o First/second degree sexual assault, excluding statutory sexual assault;
- o Handgun use;
- o Abduction;
- o Kidnapping.

Property Crimes. These include:

- o Arson (dwelling);
- o Burglary, including both nighttime and daytime breaking-and-entering.

California Career Criminal Prosecution Programs (CCP)

The California CCP program differs substantially from other career criminal prosecution programs in that it was established through a state statute that made the definition of the target population (career criminals) crime-specific. The specific definition sections are:

Section 999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery by a person armed with a deadly or dangerous weapon, burglary of the first degree, arson as defined in Section 447a or 448a, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of

the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant, and (2) the number and the seriousness of the offenses currently charged against the defendant.

Section 999g. The selection criteria set forth in Section 999e and the policies of Section 999f shall be adhered to for each career criminal case unless, in the reasonable exercise of prosecutor's discretion, one or more of the following circumstances are found to apply to a particular case:

- (a) The facts or available evidence do not warrant prosecution on the most serious offense charged.
- (b) Prosecution of the most serious offense charged, if successful, would not add to the severity of the maximum sentence otherwise applicable to the case.
- (c) Departure from such policies with respect to a particular career criminal defendant would substantially improve the likelihood of successful prosecution of one or more other felony case.
- (d) Extraordinary circumstances require the departure from such policies in order to promote the general purposes and intent of this chapter.

#### Cook County (Illinois) Repeat Offender Courts Program

The Cook County Courts program is aimed at adult violent repeat offenders. There are three levels of criteria:

- (1) Two prior felony convictions and the instant offense of murder, forcible rape, armed robbery, deviate sexual assault;

- (2) Three prior felony convictions and the instant offense of murder, forcible rape, armed robbery, deviate sexual assault, burglary, simple robbery, or aggravated assault;
- (3) Person while on bail, bond, or recognizant for a felony commits any of the following offenses: murder, forcible rape, armed robbery, deviate sexual assault, burglary, simple robbery, or aggravated assault.

#### New York City Police Department Robbery Recidivist Program

This program's repeat offender definition reads as follows:

"Persons between the ages of 16 and 35 who have had a prior arrest/apprehension history of at least two robberies or one robbery and one violent felony offense that had occurred in Manhattan within the last 36 months."

#### Baltimore City State's Attorney's Habitual Juvenile Offender Program

The operational definition of an "habitual juvenile offender" in this program is a juvenile (person under 18 years of age) who:

- o Has been formally found by the Juvenile Court to have committed three prior unrelated delinquency acts and has now been referred to Juvenile Services for a felony offense; or
- o Has been formally found by the Juvenile Court to have committed four prior unrelated delinquent acts, at least one of which is a felony, and who has been referred to Juvenile Services for either a felony or a misdemeanor; or
- o Has eight or more unrelated arrests for delinquent offenses or four or more unrelated felony arrests; or
- o Is referred for a felony within one year of being formally placed on probation by the Court or committed to a training school by the Court for a felony.

This program has been awarded its second year of Federal OJJDP funding in June 1981 by the Maryland Criminal Justice Coordinating Council.

#### National Juvenile Justice Assessment Center

The National Juvenile Justice Assessment Center conducted a thorough study on serious juvenile crime and the national juvenile justice system. The study's definition of serious juvenile crime

included:<sup>1</sup>

A serious juvenile offender is one whose offense history includes adjudication for five or more serious offenses (on the Sellin-Wolfgang Seriousness Scale; see below) or one who is adjudicated for one or more offenses whose severity is equal to homicide or forcible sexual intercourse as measured by the Sellin-Wolfgang Seriousness Scale.

A serious juvenile offense includes the following offenses (or ones of at least equal severity as measured by the Sellin-Wolfgang Seriousness Scale):

- Homicide or voluntary manslaughter;
- Forcible sexual intercourse;
- Aggravated assault;
- Armed robbery;
- Burglary of an occupied residence;
- Larceny/theft of more than \$1,000;
- Auto theft without recovery of the vehicle;
- Arson of an occupied building;
- Kidnapping;
- Extortion;
- Illegal sale of dangerous drugs.

SELLIN-WOLFGANG SERIOUSNESS SCALE			
Elements Scored (1)*	Number x Weight (2) (3)		Total (4)
I. Number of victims of bodily harm			
(a) Receiving minor injuries		1	
(b) Treated and discharged		4	
(c) Hospitalized		7	
(d) Killed		26	
II. Number of victims of forcible sexual intercourse			
(a) Number of such victims intimidated by weapon		10	
		2	

SELLIN-WOLFGANG SERIOUSNESS SCALE			
Elements Scored (1)*	Number x Weight (2) (3)		Total (4)
III. Intimidation (except II above)			
(a) Physical or verbal only		2	
(b) By weapon		4	
IV. Number of premises forcibly entered		1	
V. Number of motor vehicles stolen		2	
VI. Value of property stolen, damaged or destroyed (in dollars)			
(a) Under 10 dollars		1	
(b) 10-250		2	
(c) 251-2000		3	
(d) 2001-9000		4	
(e) 9001-30000		5	
(f) 30001-80000		6	
(g) Over 80000		7	
	Total Score		

\*Column 1 contains a list of the elements that can be scored, even though most events will include only one or two of these elements, and Column 2 refers to the number of instances or instances or victims involved in a particular incident. Column 3 gives the weight assigned to the element. Column 4 is reserved for the total score for a given element; this is derived by multiplying the figure in Column 2 by the figure in Column 3. By adding all figures in Column 4, the total score for the event is found.

#### NOTES

1. Smith, Charles P. et al., A National Assessment of Serious Juvenile Crime and the Juvenile Justice System (Office of Juvenile Justice and Delinquency Prevention, 1980), vol. I, 7-11.

#### B. REPEAT OFFENDER PROGRAM RESOURCES

Provided in this section of the Appendix is a list of individuals who are experienced in the planning and operation of various repeat offender programs or program components which may be adopted or adapted for use in ROPE.

#### Law Enforcement Programs

- Chicago Police Department's Career Criminal Mission Teams

Lieutenant Michael Cacciatola  
Aide to Chief of Detectives  
Chicago Police Department  
1121 South State Street  
Chicago, Illinois 60605  
312-744-5538

- New York City Police Department's Career Criminal Monitoring, Apprehension, and Investigation Units.

Thomas D. Slade  
Assistant Commissioner for Criminal Justice Matters  
New York City Police Department  
1 Police Plaza  
New York, New York 10038  
212-964-8646

Office of the Chief of Detectives  
New York City Police Department  
1 Police Plaza  
New York, New York 10038

- South Bay (California) Career Criminal Apprehension Program.

Sergeant Gary Stephens  
South Bay C-CAP c/o Redondo Beach Police Department  
401 Diamond Street  
Redondo Beach, California 90277  
213-379-5481

- Integrated Criminal Apprehension Program (ICAP) - Career Criminal Programs

Thomas Paine  
Director, Operations Resources Unit  
Colorado Springs Police Department  
P. O. Box 2169  
Colorado Springs, Colorado 80911  
303-578-6976

Sergeant Charles Hill  
Supervisor, Crime Analysis Unit  
Jacksonville Sheriff's Department  
501 E. Day Street  
Jacksonville, Florida 32202  
904-633-4347/4303

Sergeant Alan Luther  
ICAP Project Director  
Racine Police Department  
730 Center Street  
Racine, Wisconsin 53403  
414-633-6311 Ext. 236

Officer Wayne Hose  
Operations Support Section  
Stockton Police Department  
22 East Market Street  
Stockton, California 95202  
209-944-8651

- Statewide Career Criminal Apprehension Programs

Robert Spindler  
C-CAP Program Manager  
9719 Lincoln Village Drive  
Sacramento, California 95827  
916-366-5334

Patrick Ragan  
Director, Major Offense Police Program  
Division of Criminal Justice Services  
80 Centre Street  
New York, New York 10013  
212-587-4423

#### Prosecution Programs

- Local Programs

Daniel Fox  
San Diego Major Violator Unit  
Office of the District Attorney  
County of San Diego  
County Courthouse (C-16)  
220 West Broadway  
San Diego, California 92101  
714-236-2388

Honorable Andrew L. Sonner  
State's Attorney, Montgomery County  
50 Monroe Street  
Rockville, Maryland 20850  
301-251-7300

James Dimm  
Institute for Law and Social Research  
1125 15th Street, N. W.  
Suite 600  
Washington, D. C. 20005  
202-828-8600

Honorable Edwin G. Rendell  
Career Criminal Unit  
Office of the District Attorney  
2300 Centre Square West  
Philadelphia, Pennsylvania 19102  
215-875-6000

● Statewide Career Criminal Prosecution Programs

Douglas R. Cunningham, Director  
Office of Criminal Justice Planning  
7171 Bowling Drive  
Sacramento, California 95823  
916-445-9156

Maureen Reeves  
Major Offense Prosecution Unit  
Division of Criminal Justice Services  
80 Centre Street  
New York, New York 10013  
212-587-4424

● Juvenile Habitual Offender Programs

Alexander J. Palenscar  
Chief, Juvenile Courts Division  
State's Attorney Office  
Court House, Room 300  
Calvert & Fayette Streets  
Baltimore, Maryland 21202  
301-396-5035

Yolande Rogers  
Juvenile Repeat Offenders Unit  
State's Attorney Office  
Cook County Illinois  
1100 South Hamilton  
Chicago, Illinois 60601  
312-738-8626

Court Programs

● Cook County (Illinois) Repeat Offender Courts

Honorable Richard J. Fitzgerald  
Chief Judge  
2600 South California Avenue, Room 101  
Chicago, Illinois 60608  
312-890-3160

Kenneth Malatesta  
Supervisor of Repeat Offender Courts Unit  
State's Attorney Office  
1100 South Hamilton  
Chicago, Illinois 60601  
312-890-3429

● New York City Misdemeanor Trial Program

Robert S. Holmes  
Director, Misdemeanor Trial Program

District Attorney of New York County  
155 Leonard Street  
Manhattan, New York 10013  
212-553-9079

● Maryland Sentencing Guidelines Project

Patricia R. Nelson, PhD, Project Director  
Administrative Office of the Courts  
Courts of Appeal Building  
Annapolis, Maryland 21401  
301-269-2061

Juvenile Treatment Programs

● Uniform Delinquency Treatment Standards (UDTS)

David Larom  
Assistant Regional Supervisor  
Maryland Juvenile Services Administration  
Anne Arundel County  
Court House, 3rd Floor  
Annapolis, Maryland 21401  
301-841-6750 Ext. 1350

● Arthur G. Murphy Sr., Youth Services Center

Bruce Butts  
1600 West North Avenue  
Baltimore, Maryland 21217  
301-383-6500

● The Differential Treatment Project of Baltimore City

Paul Waldman  
1727 North Charles Street  
Baltimore, Maryland 21201  
301-383-3164

● New Pride Alternative School

Tom James  
Central Denver Center  
1437 High Street  
Denver, Colorado 80128  
303-355-1661

● De La Salle Vocational Program

Brother Gilbert Henderson  
Bensalem, Pennsylvania  
215-464-0344  
215-324-3532



- Maryland J.O.B.S. Program

Lawrence C. Brown, Jr.  
President, 70001 Ltd.  
West Wing, Suite 300  
600 Maryland Avenue, S. W.  
Washington, D. C. 20024  
202-484-0103

- Serious Juvenile Offender Program

Jay Lindgren, Director  
2233 University Avenue  
Wright Building, Suite 305  
St. Paul, Minnesota 55114  
612-297-3220

- Nexus

Dean Weigel, Project Director  
5915 Praire Road  
Minnetonka, Minnesota 55343  
612-934-4000

- House of UMOJA

Sister Falaka Fattah, President and Director  
1436 North Frazier Street  
Philadelphia, Pennsylvania 19131  
215-473-0215/16

- Green Oak Center

Neil Wasserman, Campus Administrator  
Green Oak Center  
W. J. Maxey Training School  
P.O. Box 349  
Whitmore Lake, Michigan 48189  
313-449-4400

- Closed Adolescent Treatment Center

Vickie Agee, Director  
Closed Adolescent Treatment Center  
3900 South Carr Denver, Colorado 80235  
303-986-2277

Adult Correctional Programs

- Patuxent Institution

Dr. Norma B. Gluckstern, Director  
Patuxent Institution  
Jessup, Maryland 20794  
301-799-3400

- Multiple Felony Offender Alcohol Program  
(Paltimore City Hospitals)

Dr. David T. Wells  
Baltimore City Hospitals  
4940 Eastern Avenue  
Baltimore, Maryland 21224  
301-396-8603

- Confined Addicts Seeking Help (CASH)  
(Baltimore City Jail)

Joseph DeSantis  
Baltimore City Jail  
401 East Eager Street  
Baltimore, Maryland 21202  
301-396-5219

- Federal Correctional Institute (F.C.I.) at Butner, North Carolina

Margaret Hambrick, Warden  
P.O. Box 1000  
Butner, North Carolina 27509  
919-575-4541

- The Correctional Intake Unit  
Mayor's Office of Manpower Resources

Robert Owens, Coordinator  
100 W. 23rd Street -- 5th Floor  
Baltimore, Maryland 21218  
301-396-6525

Victim Assistance

- National Organization for Victim Assistance (NOVA)

Marlene A. Young, Executive Director  
National Organization for Victim Assistance  
1757 Park Road N. W.  
Washington, D. C. 20010  
202-232-8560

- Local Victim/Witness Assistance Units

Sandra Brill Stolker  
Witness Information Services  
Anne Arundel County State's Attorney's Office

90 Cathedral Street  
Annapolis, Maryland 21401  
301-224-7264

Virginia Hamilton Mahoney  
State's Attorney's Office Victim/Witness Unit  
203 West Chesapeake Avenue  
Towson, Maryland 21204  
301-494-2580

Francis Perkowski  
Baltimore City State's Attorney's Office  
Victim/Witness Unit  
Courthouse, Room 410  
Baltimore, Maryland 21201  
301-396-1897

Terrence Farrell  
Victim Assistance  
Juvenile Services Administration  
2500 Eutaw Place  
Baltimore, Maryland 21217  
301-383-4923

#### C. EXISTING YOUTH PROGRAMS

An objective of ROPE is to employ a variety of treatment approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and aftercare services as well as community resources, upon repeat offenders. Described below are several programs in Maryland and elsewhere which are designed to deal specifically with juvenile offenders and which may be applicable to ROPE, depending upon a jurisdiction's definition of repeat offender.

##### Uniform Delinquency Treatment Standards (UDTS) (Maryland Juvenile Services Administration, Anne Arundel County)

Juvenile Services Treatment Standards is a procedure used since 1978 by the Maryland Juvenile Services Administration office in Anne Arundel County that holds juvenile offenders accountable for their actions by establishing standard consequences if a youth repeatedly commits delinquent acts. Its purpose is to reduce delinquency in Anne Arundel County by uniformly applying the guidelines to all cases and letting youths know what kinds of treatment and discipline to expect if they continue to act illegally. Referrals of juvenile repeat offenders for the past two years are as follows: FY 1981 = 3225; FY 1982 = 3094

Juvenile Services Administration distributes to youths and parents a written explanation of Uniform Delinquency Administration Treatment Standards (UDTS) which outlines what action Juvenile

Services Administration will take on cases, depending upon the seriousness of the current offense, number of prior offenses, and whether the youth is currently on probation. For example, if a youth, who has previously committed two minor offenses (such as loitering and trespassing) which were handled informally by Juvenile Services Administration, is charged with a third minor offense, Juvenile Services Administration would, with very few exceptions, send the new case on for a formal court hearing.

When a youth is placed on probation, a more detailed schedule, outlining the responsibilities of the child and the consequences of further offenses, is provided to the child and family. This document must be signed by both probationer and parent or legal guardian to signify that they have read the material and are aware of the uniform standards.

Accordingly, if a youth who is on probation commits another felony, Juvenile Services Administration would bring the youth back into court on the new charge; if the probationer commits a second felony, Juvenile Services Administration would recommend commitment to a juvenile institution; and, upon commission of a third felony, the recommendation would be commitment or, depending on the youth's age, offense, and background, consideration of a waiver to the adult system (only if the Juvenile Services Administration has progressively used every treatment option available for that youth).

This program is the first effort in Maryland to institute "reality-based" uniform guidelines for recommending court appearances and treatment programs for juvenile offenders. The emphasis is on protection of the public as well as rehabilitation of the child.

##### Arthur G. Murphy, Sr. Youth Services Center (Maryland Juvenile Services Administration)

The Arthur G. Murphy, Sr. Youth Services Center, located in Baltimore City, is a non-residential day program which has offered since 1973 an alternative to residential institutionalization for highly aggressive and violent youths of Baltimore City, Baltimore County, and Anne Arundel County. It also offers aftercare services, when appropriate, for youths re-entering the community from training school.

The purpose of the Youth Services Center is to offer youths the support and knowledge to help them overcome the environmental factors in their lives which have tended to lead them into delinquent behavior. The Center accepts youths between the ages of 15 and 18 at the time of admission who have been out of public school and are under consideration by the Court for institutionalization due to their delinquent behavior or charge.

The Center has three major components which include group

counseling, adult basic education, and vocational instruction. The vocational instruction comprises four areas: business education skills, health assistant skills, home improvement skills, and service station attendant skills. The academic instruction is intended to improve the students' reading and math abilities so that they may attain a G.E.D. certificate.

The Arthur G. Murphy, Sr. Youth Services Center graduated ten students in 1980 with 10th, 11th and 12th grade certificates. Other graduates who have completed the Youth Services Center program are now working in private industry, state jobs, or are attending state universities for a higher educational degree. In FY 1981, the Center admitted 417 youths (372 males and 45 females).

The Differential Treatment Project (DTP) of Baltimore City (Maryland Juvenile Services Administration)

The Baltimore City Differential Treatment Project serves both male and female youths between the ages of 13 and 17 who commit high impact offenses, i.e., robbery, assault, purse-snatching and burglary. Child in Need of Supervision (CINS) and Child in Need of Assistance (CINA) cases are not served. The program's purpose is to supervise these youths at home, in school, and in the community through intensive counseling, and to broaden their experiences through recreational and educational field trips.

Clients are referred by the Baltimore City Juvenile Court and the Department of Probation. All clients have been found delinquent by the Court and placed on probation. Upon referral, a diagnostic interview is conducted to determine if the prospective client is eligible for admission. Because a low caseload requirement imposes strict limits on the number of clients who can be selected, much time and energy is expended in choosing youths who can receive maximum benefit from the program. DTP counselors are classified according to their style of supervision based on the "Interpersonal Maturity Level Theory". Upon admission, youths are matched with a counselor whose personality and style of supervision is best suited to that youth.

A youth's choice to participate in DTP is prerequisite to his or her involvement in the program. A youth with an extensive record spanning several years, who has recidivated in spite of previous probationary periods and commitments, will not necessarily benefit from this more intensive probation due to his established pattern of resisting intervention.

DTP was initially a three year (1973-1976) federally-funded demonstration project that incorporated major components of the California and Canadian integration level (I-level). DTP has been a success. However, it is not a panacea for the problems of juvenile delinquency. Like California, the DTP project has found greater success with certain types of juveniles than with

is felt that I-level is a systematized, yet flexible approach for dealing with delinquency.

The DTP offers a multifaceted treatment approach. Briefly, the treatment methods employed are the following: (1) smaller caseload, (2) the use of I-level treatment methodology, (3) client-worker matching, (4) treatment over an extended period of time, and (5) the special utilization of program components such as specialized group activities, tutorial services and other services as deemed appropriate. Unique to DTP is the "matching" aspect, which helps establish a strong relationship between youth and counselor.

Capacity for the program is 360, and populations over the past few years have averaged 330-360. Each counselor has a maximum caseload of 20 youths. Costs per child are approximately one-sixth that of institutionalization.

De La Salle Vocational Program (Bensalem, Pennsylvania)

The De La Salle Vocational Program is a 12-month, community-based day treatment center in a Philadelphia suburb designed to effect the reshaping of basic values and attitudes of youth identified by the Court as delinquents. The School is a subsidiary of the St. Gabriel's Hall System, conducted by the Brothers of the Christian Schools, and was founded in 1974. The goals of the Vocational program have been stated as follows:

". . . De La Salle Vocational believes that positive growth lies with changing the individual's views of reality. We believe that real change occurs in our students when they move from a poor self-image to an improved one, from an attitude of failure and defeatism to one of competence and anticipation. The final goal of our program is to graduate young men who have developed more positive self-images, who view the world in a caring, giving manner, men who are free to choose various options in looking towards and carefully planning for a happy, fruitful life."

De La Salle Vocational provides a fully-accredited academic program, as well as a variety of vocational, counselling, and social work programs, to male repeat offenders, 17 years of age and older, who have been referred by Philadelphia's court system or transferred out of other components of the St. Gabriel's Hall System. All have prior records of incarceration, and spend approximately two years in the program. Part of the intake process for De La Salle includes a preliminary creation in the youths of the concept that their "education . . . and marketable job skills are important for their survival in the world."

The overall program model offers four areas of concentration:

- o Stress challenge--learning to deal with survival in the natural environment;
- o Service learning--oriented towards experience with community service work;
- o Adventure learning--opportunities geared towards living in cultural environments different from those indigenous to the youths; and
- o Community-based learning--real-life encounters with the community at large which are socially acceptable.

The De La Salle's Vocational Program's "total living" concept has a per-capita cost of \$42 per day, and offers the youths who complete the program a job upon graduation. Since 1975, the program has treated/trained 146 youths, of whom only 3 have since been incarcerated.

#### Maryland J.O.B.S. Program (Prince George's County, Maryland)

The Maryland J.O.B.S. Program opened in January 1981 as a demonstration project serving youth offenders in Prince George's County. The goals of the program were to serve 60 youth offenders aged 16 to 18 and place 35 of them in unsubsidized jobs in the private sector. At the conclusion of the demonstration, the program had served 85 young people and placed 48 in unsubsidized jobs in the private sector. As of August 1982, only six of those served have been reinstitutionalized.

The ultimate goal for all demonstration programs is the continuation of the program once the seed money has terminated. This goal has been successfully attained.

70001 Ltd., through the first project initiated by the Prince George's County Private Industry Council, recently opened the 70001 Work and Learning Center in Prince George's County, with the Maryland J.O.B.S. Program being one of its primary components. The Center has four components:

1. A program of pre-employment training, educational instruction, and motivational activities for 100 out-of-school youths aged 16 to 21.
2. A program emphasizing employability skills, development, and job-readiness for approximately 160 disadvantaged youths attending public high schools.
3. A program of pre-employment training and job placement for juvenile offenders aged 16 to 18. In addition, referral arrangements have also been established to serve individuals from the Prince George's County Jail.

4. A program of self-directed job placement assistance for disadvantaged adults.

None of the center's participants receive stipends and all job placements are geared to unsubsidized jobs in the private sector.

#### New Pride Alternative School (Denver, Colorado)

New Pride Alternative School is one facility of a system of three operating in Denver since 1973. It provides education to 60 males and females per year (30 new students per semester) aged 14 to 18 at intake. Youths are referred through the Courts and are adjudicated delinquent repeat offenders. Staff include 3 counselors, 3 teachers, a supervisor and director.

New Pride gives primary attention to education through assignment of its participants to an alternative school where instruction is on the basis of one-to-one tutoring. Specific problems are dealt with in a learning disability center. Supportive counseling and instruction are both aimed at enhancing the youth's self-image and meeting everyday problems. Instruction in job application procedures, vocational counseling, and on-the-job training are key parts of the program. Finally, youths are exposed to cultural enrichment experiences including an Outward Bound weekend. Two hundred and twenty youths were served in a 3-1/2 year period. The program experienced a 50% rearrest rate per client year, whereas the expected rate from a control group of similar clients was 78.8%. The cost per year per child is \$4,000 versus \$12,000 per year per child who is committed in Colorado.

#### Serious Juvenile Offender Program (St. Paul, Minnesota)

This program accepts serious juvenile offenders between the ages of 15 and 18 who have committed property or person offenses. A property offender is one who has burglarized an occupied residence and has a record of three prior felonies, all separately adjudicated within 24 months. A person offender is anyone committing manslaughter, murder, rape in the first or second degree, aggravated assault, or terroristic threats and has had one prior felony in the past two years.

Youths can spend a total of 18 months in the program, six months in an institution, six in the community and, theoretically, six months in "good time". Generally, youths remain the full 18 months. Youths must fulfill a contract (e.g., completing GED requirements) before being released from the institutional component of the program. When in the community, each youth is supervised a minimum of 18 hours per week by a paid community liaison worker who is a screened friend or relative of the youth.

Although in danger of losing some of its funding, the Serious Juvenile Offender Program has proved remarkably successful. Program evaluation revealed that only 18 were adjudicated for a felony subsequent to program admission and only 25% (as compared with pre-program measures of 50%) of the participants ran away from community facilities.

#### Nexus (Minnetonka, Minnesota)

The criteria for admission to the Nexus program are: A male 16 or 17 years old (though occasionally a 15-year-old is admitted), who has no history of psychosis or mental retardation, has a current adjudication for a personal property offense, and has been certified (adjudicated) as an adult or defined as a serious offender. Youth with chemical dependencies are not excluded from the program. During a 30 day in-house assessment period staff reviews prior record, psychological evaluation, success or failure in other programs or institutions, family history, perceptions of the court, and seriousness of offense. Five of these indicators must show that the youth is a candidate for the program.

Youths move through the program in phases. Once admitted, each youth spends an average of 10-12 months in the residential component of the program which is divided into four phases. The first phase is structured and focuses on the client's behavior and provides alternatives for negative behavior. The second phase is more individualized and focuses on the underlying elements that contribute to his personality. The third phase is a transition period whereby the youth goes to school and/or work in the community. The fourth phase is non-residential aftercare which lasts approximately four months. During this final period, the youth lives in the community, but returns to Nexus twice a week for group counseling. Upon completion of this phase, the youth graduates from Nexus and the court then either reduces the case to lesser supervision or releases the youth. In some instances, the client is not willing to complete the fourth phase and the court will be notified of his program completion rather than graduation.

#### House of UMOJA (Philadelphia, Pennsylvania)

This program serves males between the ages of 15 and 18 who reside in or around Philadelphia. Eighty percent of the population served have been gang members, while the remaining 20% are dependent or emotionally disturbed. The program has served over 500 residents between 1969 and 1981, serving between 15 and 30 residents at any given time. Youths in the program have been either self-referred, or are referred from court or another social agency, and remain in the program for an average of one year. The House of UMOJA has a 75% to 80% success rate.

The basic premise behind the program is that youths are in the

program to provide a service, not merely receive services. The program goal is to have the youth provide some type of concrete service to the community. The rules that govern the operation of the program were created by the youths themselves and include personal discipline, self-respect and responsibility to the larger community.

House of UMOJA residents are provided with the support of a surrogate family. While in residence, the youths attend local schools and are provided with counseling, shelter, job readiness and survival skills, as well as actual on-the-job experience if they are ex-offenders. The majority of the residents live on their own once leaving the program and therefore preparation for independent living is an important aspect of the program.

The program is evaluated annually by the Department of Public Welfare. In addition, Robert L. Woodson, of the American Enterprise Institute, performed a thorough evaluation of the program from 1976 to 1979. All evaluations have been positive.

#### Green Oak Center (Whitmore Lake, Michigan)

The Center is part of Michigan's training school system, which serves mostly serious and violent youths. Youths range in age from 12 to 19; most are over 14 years of age. Typically, youths admitted to Green Oak Center are severely aggressive, dangerous to other people and/or property and/or cannot be helped by other programs in the system. These youths usually have either physical, psychological, or maturation development problems.

The facility is a closed treatment setting with a self-contained school operated five days a week. Heavy emphasis is placed on learning experiences of practical relevance to the youth's survival and adjustment in the community. Group treatment sessions employing Guided Group Interaction (GGI) techniques are held five days a week. Through GGI, the Center has essentially legitimized the informal peer group system in terms of sharing responsibilities and decision-making. Family visitation is scheduled once a week and on holidays. Home visits are permitted as a youth nears completion of his program. The average length of stay in the program is one year.

Aftercare plans for a youth are the responsibility of the home county's social worker; however, Green Oak Center staff assists in the planning. Youths in the center have indeterminate sentences and the Parole and Review Board determines release based upon institutional recommendation except in the case of a youth who reaches the age of 19. At 19 the youth earns an automatic release. The Parole and Review Board is a quasi-independent judicial review board. Yearly hearings by the Board on all institutionally-placed youths are mandatory.



Closed Adolescent Treatment Center (CATC) (Denver, Colorado)

This Center is designed specifically for "untreatable" and violent youths. Those served are habitually aggressive, often violent, and sabotage or resist attempts at intervention. The admission criteria, designed in conjunction with a panel of juvenile judges, are court commitment, history of extremely assaultive, destructive, or self-destructive behavior, history of unsuccessful previous treatment, and history of chronic runaway.

The CATC serves males and females between 12 and 21 years of age, with an average student age of 17.9 years, and an average length of stay of 22 months. Capacity for the Center is 26 youths who are served by 25-1/2 (fulltime equivalent) staff members. This staffing pattern is unusual in an institutional setting, but the use of paraprofessionals keeps costs in check. There has been little staff turnover (only about 1% over the last several years).

The Center has two goals. The primary goal is to apply pressure on youths to change their lifestyles. The secondary goal is to provide them an education. Therapy is the primary emphasis of the former and a combination of treatment modalities is used, group treatment being the primary technique. With respect to the second goal, youths attend school at least two hours per day. It is not usual that youths leave without completing their GEDs.

When a youth is released from the program, the community services worker works with the youth in placement. Youths are placed on a six-month trial community placement supervised by the CATC's worker. Youths are then discharged, and most opt for independent placement. Family therapy does occur and is encouraged, though in many cases it is not realistic.

CATC is presently funded by the State of Colorado's Department of Institutions, Division of Youth Services.

D. EXISTING ADULT CORRECTIONAL PROGRAMS

The following list of adult correctional programs is by no means intended to be exhaustive. Rather, it incorporates some sound program concepts designed to address those characteristics which appear to typify many adult repeat offenders.

Federal Correctional Institute (FCI) Imprisonment Model (Butner, North Carolina)

The key elements of the Butner FCI Imprisonment Model are:

- Offenders are aware of their release dates; and

- A variety of occupational and educational programs are available which permit an amount of offender discretion in program participation and involvement.

An evaluation of the model showed that the research group--those offenders who were informed of their release dates--enrolled in and completed significantly more programs, particularly within areas intended to provide an offender with certifiable skills with which he could re-enter the job market. Rearrest, reconviction, and reincarceration data about the offenders who participated in this program were not prepared nor available.

Multiple Felony Offender Alcohol Program (Baltimore, Maryland, City Hospitals)

This project is designed to offer medical and psychological treatment for adult offenders, including repeat offenders, with alcohol-related problems. Inclusion in the program requires a history of alcohol abuse associated with two or more criminal offenses, at least one of which must be violent in nature or suggest a propensity for violence. The average length of stay in the program, during which intensive medical and psychological alcoholism treatments are provided, is between six and eight months.

Confined Addicts Seeking Help (CASH) (Baltimore, Maryland, City Jail)

A drug-free "therapeutic community" emphasizing self-rehabilitation through the use of peer-group pressure operates within the Baltimore City Jail. The program's objectives include the modification of overt behavior, i.e., maintenance of drug-free status, improvement of social skills, and improvement of inmates' self-confidence. The program also provides comprehensive evaluative information to the courts about inmates' success in changing drug abuse habits.

The project is directed at pre-trial addicts. It involves a 30 day probationary status during which inmates are required to waive voluntarily certain civil rights concerning visitation and recreation so that the addict may adjust to the therapeutic community without external interference. If the inmate is accepted into the CASH community following evaluation at the completion of the 30-day probationary period, he is physically segregated from the general jail population and participates in group therapy sessions with other CASH residents. The average length of program participation is four months.

The Correctional Intake Unit (Baltimore, Maryland, Mayor's Office of Manpower Resources )



This program is designed to help locate employment for ex-drug abusers and for ex-offenders who are re-entering the job market after a period of incarceration. Among its services, the Correctional Intake Unit offers vocational counselling, testing, and evaluation; employment application training; and referral to skills-training programs or jobs with public or private employers, including on-the-job training opportunities.

The target group assisted by this program is not consistent with the offender populations envisioned within a ROPE context, but it is included here because of the comprehensive range of vocational skills and employment training it offers.

#### Patuxent Institution (Jessup, Maryland)

In addition to its traditional incarceration function, this correctional institution is charged with providing effective and adequate programs for the treatment and rehabilitation of convicted offenders who exhibit intellectual deficiencies or who are emotionally unbalanced. Most of the institution's population have prior delinquent and/or criminal histories, and many have been previously incarcerated in state or local institutions.

Institutional programs include medical, psychological, psychiatric, and social work services. A complete program of academic, vocational, recreational, and religious services is available to inmates on a voluntary basis. Family counselling, job placement, and casework services are also available for the inmate and his family.

Patuxent Institution consists of a maximum security building, a maximum security diagnostic center, and segregation units (in Jessup, Maryland), and an institutional halfway-house and community services clinic (in Baltimore City). It is governed in part by a Review Board, which each year reviews the progress of each inmate and has the authority to declare inmates no longer eligible for its programs and services. In this regard, the Review Board acts as the institution's paroling authority, and is empowered to grant parole status or recommend to the court that a Patuxent parolee, who has successfully completed at least three years on parole, have his sentence suspended.

#### E. ISSUES IN RESPONSE TO THE ROPE CONCEPT

Throughout this report, it has been emphasized that the highly coordinated ROPE concept focuses upon improving the justice system's response to repeat offenders. This orientation is most appropriate, given the membership of (and role of) the Maryland Criminal Justice Coordinating Council and the resources most readily available to the Council.

In the course of completing this report, we had the benefit of an

extensive review process. Many diverse officials and agencies throughout Maryland--academicians, professional researchers, elected officials, public interest groups, professional associations, and others--were asked for or offered their comments on both the general ROPE concept and its specific program components. Task Force staff who prepared the report benefitted immeasurably from this process, and hopefully this report reflects that fact.

Not all comments and criticisms received were positive, although certainly many were favorable. Many of the less favorable comments suggested that the Task Force and staff had perhaps not adequately described ROPE's limitations and, significantly, some focused on those areas ROPE does not address. Generally, the concerns raised by citizens' groups, the youth advocacy community, and some corrections professionals addressed points that, while frequently sound, are peripheral to the ROPE concept.

The purpose of this section is to clarify and respond to key concerns raised by the Maryland review process; this section may or may not be apropos to other states or jurisdictions.

Q. The ROPE concept intends to improve the way repeat offenders are apprehended, adjudicated, confined and treated through a coordinated effort of justice agencies. Are you not overlooking the reasons for delinquent and criminal activity?

A. ROPE is not intended to be a cure-all for all problems related to crime and delinquency. It is intended to strengthen the justice system's response to those fear-producing serious, chronic and violent offenders who exhibit a propensity to repeat delinquent and criminal acts. It does propose to treat repeat offenders' substance abuse problems and needs for employment and vocational skills once these offenders are apprehended and adjudicated. Beyond this, ROPE is limited in its approach regarding factors identified as causes of crime and delinquency, and appropriately so.

The Maryland Criminal Justice Coordinating Council has identified repeat offenders as but one of four priorities. Other priorities are crime and delinquency prevention, improving the conditions of state and local institutions and improving the justice system's accountability to the public (the latter indicates the need to provide accurate information to citizens about how justice agencies work). In addition, the Council and its staff are involved in major efforts concerning prevention of violence and extremism in Maryland (racial and other discriminatory acts), rape and sexual offenses, and domestic violence, among other efforts.

Since ROPE is only one component of the state's crime control and delinquency prevention strategy, the Council's efforts to strengthen the justice system's response to repeat offenders is responsible and appropriate. The Council regards ROPE as

is responsible and appropriate. The Council regards ROPE as only one part of an overall response to crime and delinquency.

Q. Does ROPE aim to increase the number of offenders incarcerated or to increase sentence length as parts of its primary strategy for reducing crime?

A. There are several issues within this question.

Firstly, ROPE does aim to increase the frequency with which repeat offenders are placed in secure institutional custody. However, ROPE does not rule out options other than secure confinement, such as highly intensive community supervision, for certain kinds of repeat offenders. It is expected, however, that those repeat offenders sentenced/committed to state juvenile or adult institutions as a result of ROPE will be placed in secure confinement.

Secondly, appropriate classification and placement of offenders will, in some instances, fall within the jurisdiction of local subdivisions. These locally-sentenced/disposed repeat offenders may receive alternative sentences consistent with local jurisdictional autonomy and discretion. Those offenders identified as serious, chronic, and violent by ROPE are intended for secure confinement, and would in all likelihood be sentenced/committed to state institutions.

Thirdly, in preparing this report, Task Force staff grappled with issues concerning long-term incapacitation and its effect upon recidivism and the "crime rate". Much conflicting information is available about the utility of confinement as a method for reducing future criminality. Carefully drawn and statistically significant correlations have not been made between "crime rates" (generally, arrest rates) and incarcerated/committed populations. Researchers have yet to identify, define, and propose adequate measures for intervening variables which link recidivism (regardless of how it is defined), crime (re-arrest) rates, and measures of incapacitation. Nor have causal relationships been established other than hypothetically. Further, research studies on mandatory sentences do not provide conclusive information about the validity of such approaches as crime reduction strategies.<sup>1</sup>

It cannot be disputed, however, that secure confinement of offenders will prevent further commissions<sup>2</sup> of offenses upon the public. Studies by the Rand Corporation<sup>2</sup> and the Carnegie Mellon Institute<sup>3</sup> have reported the deterrence effect of selective incapacitation upon those offenders in secure confinement. Research findings vary with regard to the extent of the selective incapacitation deterrence effect. The possibility has also been raised that the deterrence of

criminal/delinquent activity by the incapacitation of repeat offenders will not be reflected in crime statistics because of the activity of non-repeat offenders,<sup>4</sup> or the continued activities of undetected repeat offenders.

Task Force staff acknowledged and carefully considered the incomplete and inconclusive information regarding these issues. However, the policy orientation adopted in the ROPE concept does suggest increased periods of confinement for violent repeat offenders, because the Task Force believes in the limited, but effective, deterrence effect of selective incapacitation. (Please note, also, that treatment program alternatives are proposed for repeat offenders while incarcerated/committed.)

Fourthly, while ROPE does intend to increase the number of serious and violent repeat offenders incarcerated, it does not necessarily follow that it aims to increase the overall number of offenders incarcerated.

Costs of prison construction and housing on an annual basis in Maryland are presently figured at \$40,000 - \$50,000 per bed per medium security facility, and over \$8,600 to house an inmate per year. (It should be noted that actual construction costs frequently are considerably higher than initially projected due to delays, unforeseen circumstances, and inflation.) A multiplicity of programs and services compete for each scarce dollar of limited public agency budgets. It is incumbent upon executive and legislative decision-makers to remain cognizant of the resource implications of their ROPE decisions while setting priorities during the planning process.

One of the stated aims of ROPE is to contribute to greater public safety, and to do so using existing resources and laws to the maximum extent possible. Construction of new institutions, whether adult or juvenile, requires major resource commitments.

It is also implicit in the ROPE concept that existing institutional resources first be allocated to confine serious violent repeat offenders. To the extent that a non-repeat, non-violent offender population can be identified, it is necessary to consider and develop more appropriate punitive sanctions for these offenders.

Q. In describing the composition of local Repeat Offender Steering Councils, it is suggested that members of the judicial branch of government be invited to participate in developing a jurisdiction's ROPE. It is appropriate for judges to be involved in ROPE planning?

A. Representatives of the judiciary and court administration were invited to participate in ROPE planning. Yet, their

involvement in planning in no way jeopardized the constitutional requirement of the separation of powers nor affected judicial objectivity in ruling on specific juvenile delinquency and criminal cases.

The ROPE concept is entirely consistent with judicial neutrality and impartiality. To the extent that some of the ROPE components described in this report are recommendations which may affect management of the courts, the judiciary must be as informed and involved in all planning stages as possible. We refer here to the establishment of specialized repeat offender dockets or courts such as the Repeat Offender Court in Cook County (Chicago), or expedited repeat offender adjudication procedures, described in Chapter III.

In Maryland, the Chief Judge of the Court of Appeals has indicated that Court Administrators in local jurisdictions are participating in ROPE planning efforts. In some jurisdictions, the Administrative Judge of the District Court has also designated court clerks as their representatives on local ROPE Steering Councils.

Appointment of court administrators to ROPE planning efforts enable courts to gain knowledge about, and provide input to and involvement in the development of recommendations which result from local ROPE planning, particularly those which are court-related. This fulfills ROPE's needs and is consistent with maintenance of judicial impartiality.

Q. ROPE requires that juvenile records be available for early identification of juvenile and adult repeat offenders and subsequent court case preparation and decisions. Isn't this inconsistent with the philosophy of the juvenile justice system which is concerned with "labeling" youth in ways that might handicap their social development?

A. To quote a recently completed major study:

"Studies of criminal careers indicate that those who become dangerous offenders start their careers relatively early. They reveal themselves not only by committing minor crimes at very high rates, but also by committing fairly serious crimes even while juveniles. Perhaps even more significantly (at least from the point of view of assessing the crime control benefits of selective incapacitation), it seems fairly clear that the peak level of activity for dangerous offenders is the late teens and early twenties. Taken together, these observations suggest that important information relevant to the identification of unusually dangerous offenders in the adult criminal justice system is being lost by preventing the use of juvenile records of serious offenders in the adult system. In effect, because the adult criminal justice

system is ignorant of serious offenses committed by an offender while a juvenile, it fails to identify the unusually dangerous offenders among the young offenders that come before it. Even worse, by the time it does identify the offenders as dangerous, the offenders are already beginning to decrease the level of criminal activity. From this perspective, then, it seems obviously desirable for the adult criminal justice system to have access to juvenile records."<sup>6</sup>

The study goes on to state that a compromise is possible between the principles and interests of the juvenile justice system which encourage closing of juvenile records, and those that encourage access to these records to aid in the identification of repeat offenders:

"If a person is arrested for a dangerous offense shortly after he has reached the age at which he is handled in the adult criminal justice system, then the adult criminal justice system should be allowed to review the record of serious offenses committed while a juvenile in determining whether he should be treated as a 'dangerous offender'. . . This position is far short of routine access to juvenile records by the adult criminal justice system. Access to juvenile records is triggered only by an arrest for a dangerous offense occurring shortly after reaching adult age. Moreover, it extends only to the record of serious offenses committed while a juvenile. The principle that justifies this limited intrusion into juvenile records is that it is in the interests of justice and an effective criminal justice system to focus on unusually dangerous offenders, and that serious offenses committed while a juvenile are relevant to determining whether a person should be considered unusually dangerous. Moreover, the interests that originally barred access to juvenile records have not been violated by that limited intrusion. If the juvenile offender has committed several serious offenses, some of the presumed innocence of "youthful indiscretions" has disappeared, and with it, our desire to protect the youth from guilt and punishment. Similarly, if the person commits serious offenses as an adult, then the utilitarian interest in sealing the juvenile records (i.e., that the person would be encouraged to "go straight" by the absence of a crippling label) has already been lost: the juvenile kept committing offenses."<sup>7</sup>

The ROPE approach is in agreement with these conclusions. The Task Force is of the opinion that these guidelines for dangerousness ought to be applied to those identified as repeat offenders as a result of ROPE planning.

NOTES

1. Kenneth Carlson, Mandatory Sentencing: The Experience of Two States (National Institute of Justice, 1982)
2. See Peter Greenwood, Rand Research on Criminal Careers: Progress to Date (Rand Corporation, 1979); Joan Petersilia, Peter Greenwood, and Marvin Lavin Criminal Careers of Habitual Felons (Rand Corporation, 1977).
3. Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin (eds.), Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates (Washington, D.C. 1978).
4. Mark H. Moore, Susan Estrich, and Daniel McGillis, Report of the Project on Public Danger, Dangerous Offenders and the Criminal Justice System, Vol. I: Final Report (Draft II) (National Institute of Justice, 1982).
5. Information provided by the Maryland Department of Public Safety and Correctional Services staff to Task Force staff in August, 1982.
6. Moore et al. (supra, note 4), 10-11; Barbara Boland and James Q. Wilson, "Age, Crime, and Criminal Punishment", Public Interest (1978), 22-35.
7. Moore et al. (supra, note 4), 11-12.

BIBLIOGRAPHY

- A-T-O Inc., The Figgie Report on Fear of Crime: America Afraid, Part I: The General Public, New York, 1980.
- , The Figgie Report on Fear of Crime: America Afraid, Part II: The Corporate Response to Fear of Crime, New York, 1981.
- , The Figgie Report on Fear of Crime: America Afraid, Part III: A Fourteen-City Profile, New York, 1982.
- Alexander, Paul S., et al., Background Paper for the Serious Juvenile Offender Initiative of the U.S. Office of Juvenile Justice and Delinquency Prevention, National Juvenile Justice Assessment Center, 1979.
- Bakal, Yitzhak, and Poolsky, Howard W., Reforming Corrections for Juvenile Offenders: Alternatives and Strategies, Lexington, MA., 1979.
- Bartolomeo, John S., "Practitioners' Attitudes Towards the Career Criminal Program", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 113-117.
- Bazelon, David L., "Crime: Towards a Constructive Debate", American Bar Association Journal, 1981, vol. 67, 438-442.
- Bennis, W. G., Benne, K. D., and Chin, R., eds., The Planning of Change, New York, 1969.
- Blair, Louis H., et al., Monitoring the Impact of Prison and Parole Services, The Urban Institute, 1977.
- Blumstein, Alfred, and Cohen, Jacqueline, "Estimating Individual Crime Rates from Arrest Records", The Journal of Criminal Law and Criminology, 1979, vol. 7, no. 4, 561-585.
- , and Nagin, Daniel, eds., Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates, Washington, D.C., 1978.
- Blumstein, Alfred, and Larson, Richard C., "Models of a Total Criminal Justice System", Operations Research, 1969, vol. 17, no. 2, 217-229.
- Boland, Barbara, "Fighting Crime: The Problem of Adolescents", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 94-97.
- , and Wilson, James Q., "Age, Crime and Punishment", Public Interest, 1978, 22-34.

Braiker, H.B., Policy Implications, Limitations, and Ethical Considerations of Criminal Classification Models, Rand Corporation, 1979.

Britt, David W., and Larntz, Kinley, "The Effects of Plea Bargaining on the Disposition of Person and Property Crimes: A Research Note", Bureau of Justice Statistics Indicators of Crime and Criminal Justice: Quantitative Studies, 1980, 70-73.

Broder, Paul, and Zimmerman, Joel, "A Comparison of Different Delinquency Measures Derived from Self-Report Data", Journal of Criminal Justice, 1980, vol. 8, no. 3, 147-162.

Broome, Homer F., Jr., "Overview: The Career Criminal Program", The Police Chief, 1980, 62-66.

Bureau of Justice Statistics Indicators of Crime and Criminal Justice: Quantitative Studies: see Britt, David W.; Loftin, Colin; Perline, Richard; Seidman, David.

California State Office of Criminal Justice Planning, California Career Criminal Apprehension Program: First Annual Report to the Legislature, 1981.

-----, California Career Criminal Apprehension Program: Second Annual Report to the Legislature, 1982.

-----, California Career Criminal Prosecution Program: Third Annual Report to the Legislature, 1981.

-----, California Victim/Witness Assistance Program: Preliminary Report, 1981.

Carlson, Kenneth, Manatory Sentencing: The Experience of Two States, National Institute of Justice, 1982.

Chambers, Marcia, "How the Police Target Young Offenders", New York Times Magazine, September 20, 1981, 5.

Chelimsky, Eleanor, and Dahmann, Judith, Career Criminal Program National Evaluation: Final Report, National Institute of Justice, 1981.

-----, "The Mitre Corporation's National Evaluation of the Career Criminal Program: A Discussion of the Findings", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 102-106.

Citizens Crime Commission of New York City, Crossroads on Crime, 1980.

-----, Controlling Violence: Get the Gunmen Off the Street, 1980.

-----, Crime and Criminal Justice in New York City: 1980, 1981.

Cohen, Jacqueline, "The Incapacitation Effects of Imprisonment: A Critical Review of the Literature", in Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin (eds.), Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates, Washington, D.C., 1978.

Collins, James J., Jr., Offender Careers and Restraint: Probabilities and Policy Implications, LEAA, 1977.

Correctional Services Group, Maryland Correctional Classification Study: Executive Summary, Maryland Governor's Commission on Law Enforcement and the Administration of Justice, 1981.

Correctional Services Group, Ten-Year Prison Facilities Plan for Maryland, Maryland Governor's Commission on Law Enforcement and the Administration of Justice, 1981.

Corrections Magazine, vol. 7, no. 3 (1982), 9.

Dimm, James, Pacheco, Phillip, and Noe, Cindy, Report of the Survey of Local Career Criminal Programs, INSLAW, 1981.

Doleschal, Eugene, "Crime: Some Popular Beliefs", Crime and Delinquency, 1979, vol. 25, no. 1, 1-8.

-----, "Social Forces and Crime", Criminal Justice Abstracts, 1978, vol. 10, no. 3, 395-410.

Dror, Yehezkal, Design for Policy Sciences, New York, 1971.

Feld, Barry C., "Legislative Policies Towards the Serious Juvenile Offender", Crime and Delinquency, Hackensack, NJ, 1981.

Figgie Report on Fear of Crime: see A-T-O Inc.

Forst, Brian, et al., What Happens After Arrest?--A Court Perspective of Police Operations in the District of Columbia, INSLAW, 1977.

Gest, Ted, "Our Losing Battle Against Crime", U.S. News & World Report, October 12, 1981, 39-43.

Gibbons, Don C., "Offender Typologies: Two Decades Later", British Journal of Criminology, 1975, vol. 12, no. 2, 140-156.



- Glaser, Daniel, "The Efficacy of Alternative Approaches to Parole Prediction", American Sociological Review, 1955, vol. 20, 283-287.
- , "A Reconsideration of Some Parole Prediction Factors", American Sociological Review, 1954, vol. 19, 335-341.
- Gottfredson, Don, and Ballard, Kelley B., Offender Classification and Parole Prediction, Institute for the Study of Crime and Delinquency, 1966.
- , The Validity of Two Parole Prediction Scales: An Eight Year Follow-Up Study, Institute for the Study of Crime and Delinquency, 1965.
- , and Lane, L., Association Analysis in a Prison Sample and Prediction of Parole Performance, Institute for the Study of Crime and Delinquency, 1963.
- Gottfredson, Stephen D., Monitoring Correctional Policy: A System-Wide Assessment, Preliminary Report, Criminal Justice Studies Program, Johns Hopkins University Center for Metropolitan Planning and Research, 1980.
- , and Gottfredson, D. M., "Screening for Risk: A Comparison of Methods", Criminal Justice and Behavior, 1980, vol. 7, no. 3, 315-330.
- Greenfeld, Lawrence A., Assessing Prison Environments: A Comparative Approach, LEAA, 1981.
- Greenwood, Peter, Rand Research on Criminal Careers: Progress to Date, Rand Corporation, 1979.
- , "Career Criminal Prosecution: Potential Objectives", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 85-88.
- , Statement Prepared for the Subcommittee on Crime of the House Committee on the Judiciary, Rand Corporation, 1981.
- , Petersilia, Joan, and Zimring, Franklin E., Age, Crime, and Sanctions: The Transition from Juvenile to Adult Court, Rand Corporation, 1980.
- Hamparian, Donna Martin, Schuster, Richard, Dinitz, Simon, and Conrad, Joseph, The Violent Few: A Study of Dangerous Juvenile Offenders, Lexington, MA, 1978.
- Heir, Robert F., and Johnson, Weldon T., "Deterrence as Social Control: The Legal and Extralegal Production of Conformity",

- American Sociological Review, 1977, vol. 42, no. 2, 292-304.
- Hellman, Daryl A., and Naroff, Joel L., The Urban Public Sector and Urban Crime: A Simultaneous System Approach, National Institute of Justice, 1980.
- Hoffmann, Peter, and Beck, James L., "Parole Decision-Making: A Salient Factor Score", Journal of Criminal Justice, 1974, vol. 2, no. 3, 195-206.
- , and Stone-Meierhoeffer, Barbara, "Post-Release Arrest Experience of Federal Prisoners: A Six-Year Follow-Up", Journal of Criminal Justice, 1979, vol. 7, no. 3, 193-216.
- , "Reporting Recidivism Rules: The Criterion and Follow-Up Issues", Journal of Criminal Justice, 1980, vol. 8, 53-60.
- , and Beck, James L., Salient Factor Score and Release Behavior: Three Validation Samples, United States Parole Commission Research Unit Report No. 15, 1978.
- Honig, P. K., The Prison Experience of Career Criminals: Current Practices and Future Considerations, Rand Corporation, 1978.
- Hopkins, Andrew, "Imprisonment and Recidivism: A Quasi-Experimental Study", Journal of Research in Crime and Delinquency, 1976, vol. 13, no. 1, 13-32.
- INSLAW: see Dimm, James; Forst Brian; Rhodes, William M.; Williams, Kristin M.
- INSLAW, Career Criminal Program, Overview of the National Program, Briefing Paper No. 1, 1980.
- , Assessing the Extent of Your Career Criminal Problem, Briefing Paper No. 2, 1980.
- , Improving Procedures for Positive Identification, Briefing Paper No. 3, 1980.
- , Monitoring and Evaluation, Briefing Paper No. 4, 1980.
- , Recidivism Among Youthful Offenders, Briefing Paper No. 5, 1980.
- , Responses to Legal Challenges, Briefing Paper No. 6, 1980.
- , Selection Criteria, Briefing Paper No. 7, 1980.



INSLAW, Career Criminal Program, Police-Prosecutor Coordination, Briefing Paper No. 8, 1980.

-----, Promoting Cooperation from Victims and Witnesses, Briefing Paper No. 9, 1980.

-----, Prosecutor-Court Coordination, Briefing Paper No. 10, 1980.

-----, Prosecutor-Corrections Coordination, Briefing Paper No. 11, 1980.

-----, Recordkeeping and Reporting Procedures, Briefing Paper No. 12, 1980.

-----, Establishing and Operating a Career Criminal Program, Briefing Paper No. 13, 1980.

INSLAW, Curbing the Repeat Offender: A Strategy for Prosecutors, LEAA, 1977.

-----, Digest of Selected Research Applicable to the Prosecution of Career Criminals, LEAA, 1980.

-----, Expanding the Perspective of Crime Data: Performance Implications for Policy Makers, LEAA, 1977

-----, National Directory of Career Criminal Programs, LEAA, 1980.

-----, Prosecutors' Planning Guide for Career Criminal Programs, LEAA, 1980.

Institute for Law and Social Research: see INSLAW.

Institute for the Study of Crime and Delinquency: see Gottfredson, Don.

Iowa State Office for Planning and Programming, The Iowa Offender Risk Assessment Scoring System, Statistical Analysis Center, 1980.

LEAA: see Collins, James J., Jr.; Greenfeld, Lawrence A.; INSLAW, National Directory and Prosecutors' Planning Guide; Office of Juvenile Justice and Delinquency Prevention; Shannon, L. W.; Von Hirsch, Andrew; Wilson, James Q.

Loftin, Colin, "Alternative Estimates of the Impact of Certainty and Severity of Punishment on Levels of Homicides in American States", Bureau of Justice Statistics Indicators of Crime and Criminal Justice: Quantitative Studies, 1980, 75-81.

Mannheim, Herman, and Wilkins, Leslie, Prediction Methods in Relation to Borstal Training, London, 1955.

Maryland Department of Health and Mental Hygiene, Juvenile Services Administration Annual Statistical Report: 1981 Fiscal Year, Division of Research, Planning, and Alternative Funding, 1982.

Maryland State Administrative Office of the Courts, Maryland Sentencing Guidelines Manual, 1981.

McCain, Gavin, Cox, Vern C., and Paulus, Paul B., The Effect of Prison Crowding on Inmate Behavior, National Institute of Justice, 1980.

McClintock, F. H., Walker, M. A., and Savill, N. C., Attendance Centers, London, 1961.

McDonald, William F., Rossman, Henry H., and Cramer, James A., Police-Prosecutor Relations in the United States: Executive Summary, Institute of Criminal Law and Procedure, Georgetown University Law Center, 1981.

Monahan, John, "The Prediction of Violent Criminal Behavior: A Methodological Critique and Prospectus", Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates, Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, eds., Washington, D.C., 1978, 244-269.

Moore, Mark H., Estrich, Susan, and McGillis, Daniel, Report of the Project on Public Danger, Dangerous Offenders and the Criminal Justice System, Vol. I: The Final Report (Draft II), National Institute of Justice, 1982; Vol. II: Public Danger, Dangerous Offenders and the Criminal Justice System, Papers prepared for the Conference on Public Danger, Dangerous Offenders and the Criminal Justice System, Harvard University, February 11-12, 1982.

Nagel, Jack H., Crime and Incarceration: A Reanalysis, Fels Center of Government, University of Pennsylvania School of Public and Urban Policy, 1977.

Nagel, Stuart, and Levy, Kathleen, Alternative Statistical Models in Criminal Sentencing Policy, paper presented to the American Society for Public Administration, 1981.

Nagel, William G., Prisonia: America's Growing Sprawling Megalopolis, Washington, D.C., 1979.

National Institute of Justice, American Prisons and Jails, 5 vols., Washington, D.C., 1980.

National Institute of Justice: see Carlson, Kenneth; Chelmsky and Dahmann; Hellman, Daryl A.; McCain et al.; Moore, Mark H. et al.; Office of Development, Testing and Dissemination; Whitcomb, Debra.

National Juvenile Justice Assessment Center: see Alexander, Paul S.

National Office for Social Responsibility, The Serious Juvenile Offender: Proceedings of a National Symposium, Office of Juvenile Justice and Delinquency Prevention, 1978.

New York City Police Department, Felony Augmentation Program, 1981.

New York County District Attorney's Office, Misdemeanor Trial Program: Handbook for Assistant District Attorneys, 1981.

New York State Division of Criminal Justice Services, Career Criminal Prosecution Program Report: October 1, 1978 to March 1, 1980, 1980.

Office of Development, Testing, and Dissemination, Policy Briefs: Career Criminal Programs, National Institute of Justice, 1980.

Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice: Before and After the Onset of Delinquency (United States discussion paper for the sixth U.N. Congress on the Prevention of Crime and the Treatment of Offenders), LEAA, 1980.

-----, Violent Juvenile Offender Program, Part I, LEAA, 1981.

-----, see National Office for Social Responsibility; Smith, Charles P.; URSA Institute.

Ohlin, Lloyd E., Selection for Parole, New York, 1951.

Oldroyd, Richard J., and Stapley, Michael, "Some Correctional Programs to Reduce Recidivism", Offender Rehabilitation, 1976-77, vol. 1, no. 2, 137-141.

Perline, Richard, and Wainer, Howard, "Quantitative Approaches to the Study of Parole", Bureau of Justice Statistics Indicators of Crime and Criminal Justice: Quantitative Studies, 1980, 59-69.

Petersilia, Joan, Criminal Careers of Habitual Felons: A Summary Report, Rand Corporation, 1977.

-----, Juvenile Record Use in Adult Court Proceedings: A Survey of Prosecutors, Rand Corporation, 1980.

-----, "Career Criminal Research: A Review of Recent Evidence", Crime and Justice: An Annual Review of Research, Norval Morris and Michael Tonry, eds., Chicago, 1980.

Petersilia, Joan, and Greenwood, Peter, "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations", The Journal of Criminal Law and Criminology, 1978, vol. 69, no. 2, 606-607.

-----, and Lavin, M., Criminal Careers of Habitual Felons, Rand Corporation, 1977.

Petersilia, Joan, and Honig, Paul, The Prison Experience of Career Criminals, Rand Corporation, 1980.

-----, and Lavin, M., Targeting Career Criminals: A Developing Criminal Justice Strategy, Rand Corporation, 1978.

Peterson, Mark A., et al., Doing Crime: A Survey of California Prison Inmates, Rand Corporation, 1980.

Phillips, Joel, and Cartwright, Charlsey, "The California Career Criminal Prosecution Program One Year Later", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 107-112.

Quade, E. S., Analysis for Public Decisions, New York, 1976.

Rand Corporation: see Braiker, H. B.; Greenwood, Peter; Honig, P. I.; Petersilia, Joan; Peterson, Mark A.

Rhodes, William M., "Investment of Prosecution Resources in Career Criminals", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 118-123.

-----, and Conly, Catherine, Analysis of Federal Sentencing, U.S. Department of Justice, 1981.

-----, et al., Developing Criteria for Identifying Career Criminals, INSLAW, 1982.

Rossi, Peter H., and Wright, Sonia R., "An Assessment of Theory, Practice, and Politics", Evaluation Quarterly, 1977, vol. 1, no. 1, 5-52.

Schick, Allen, "Beyond Analysis", Public Administration Review, 1977, vol. 37, no. 3, 258-263.

Schultze, Charles L., "Muddling Through: An Alternative View of the Decision Process", The Politics and Economics of Public Spending, 35-53.

Sebba, Leslie, "Is Mens Rea a Component of Perceived Offense Seriousness?", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 124-135.

Sechrest, Lee, White, Susan, and Brown, Elizabeth, eds., The Rehabilitation of Criminal Offenders: Problems and Prospects, Washington, D.C., 1979.

- Seidman, David, "Current Research in Criminal Justice Statistics: Report of a Conference", Bureau of Justice Statistics Indicators of Crime and Criminal Justice: Quantitative Studies, 1980, 1-10.
- Sellin, Thorsten, and Wolfgang, Marvin, E., The Measurement of Delinquency, Montclair, NJ, 1978.
- Shannon, L. W., Cohort Study of the Relationship of Adult Criminal Careers to Juvenile Careers, LEAA, 1978.
- Sherman, Michael E., Strategic Planning and Focused Imprisonment, Papers prepared for the Conference on Public Danger, Dangerous Offenders and the Criminal Justice System, Harvard University, February 1982.
- Simon, Frances, Prediction Methods in Criminology, London, 1971.
- Skogan, Wesley G., Issues in the Measurement of Victimization, Bureau of Justice Statistics, 1981.
- Smith, Charles P. et al., A National Assessment of Serious Juvenile Crime and the Juvenile Justice System, 4 vols., Office of Juvenile Justice and Delinquency Prevention, 1980.
- Smith, Robert R., and Petko, Charles M., "An Updated Survey of Four Policies and Practices in American Adult Corrections", Journal of Criminal Justice, 1980, vol. 8, no. 2, 123-128.
- Strasburg, Paul A., Violent Delinquents: A Report to the Ford Foundation from the Vera Institute of Justice, New York, 1978.
- Takken, G. L., "Rand's Study of Habitual Criminals: The Policy of Incapacitation", Quarterly Journal of Corrections, 1977, vol. 1, no. 4, 4-6.
- Tanenbaum, Alan L., Maryland's Subsequent Criminal Offender Statute: An Analysis of Current Law and Proposed Legislation, State Department of Legislative Reference, 1982.
- Taylor, Leah S., "The Serious Juvenile Offender: Identification and Suggested Treatment Responses", Juvenile and Family Court Journal, 1980, vol. 31, no. 2, 23-34.
- United States Department of Justice, Attorney General's Task Force on Violent Crime: Final Report, 1981.
- Urban Institute: see Blair, Louis H.
- URSA Institute, Violent Juvenile Offender Program, Part I: Treatment and Reintegration, Office of Juvenile Justice and Delinquency Prevention, 1981.

- Vachss, Andrew H., and Bakal, Yitzhak, The Life-Style Violent Juvenile, Lexington, MA, 1979.
- Van Drice, Stephen, et al., Restraining the Wicked: The Incapacitation of the Dangerous Criminal, Lexington, MA, 1979.
- Vold, George B., Prediction Methods and Parole, Liverpool, 1932.
- Von Hirsch, Andrew, and Hanrahan, Kathleen J., Abolish Parole?, LEAA, 1978.
- Waldo, Gordon, and Griswold, David, "Issues in the Measurement of Recidivism", The Rehabilitation of Criminal Offenders: Problems and Prospects, Lee Sechrest, Susan White, and Elizabeth Brown, eds., Washington, D.C., 1979, 225-251.
- Whitcomb, Debra, An Exemplary Project: Major Violator Unit, San Diego, California, National Institute of Justice, 1980.
- Wilkins, Leslie T., "Problems with Existing Prediction Studies and Future Research Needs", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 98-101.
- , et al., Sentencing Guidelines: Structuring Judicial Discretion, n.p., 1978.
- Williams, Kristen M., The Scope and Prediction of Recidivism, INSLAW, 1979.
- , "Selection Criteria for Career Criminal Programs", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 89-93.
- , and Lucianovic, Judith, Robbery and Burglary: A Study of the Characteristics of the Persons Arrested and the Handling of Their Cases in Court, INSLAW, 1979.
- Wilson, James Q., and Boland, Barbara, The Effect of Police on Crime, LEAA, 1979.
- Wolfgang, Marvin E., "Crime in a Birth Cohort", Proceedings of the American Philosophical Society, 1973, vol. 117, no. 5, 404-411.
- , "Prologue: Symposium on the Career Criminal Program", The Journal of Criminal Law and Criminology, 1980, vol. 71, no. 2, 83-84.
- Wolfgang, Marvin E., Figlio, Robert M., and Sellin, Thorsten, Delinquency in a Birth Cohort, Chicago, 1979.
- Zimring, Frank, "American Youth Violence: Issues and Trends", Crime and Justice: An Annual Review of Research, Norval Morris and Michael Tonry, eds., Chicago, 1979, 67-107.

REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE)

GUIDELINES AND PROGRAMMATIC ALTERNATIVES

EXECUTIVE SUMMARY

BACKGROUND

The Maryland Governor's Commission on Law Enforcement and the Administration of Justice created the Repeat Offender Task Force in September 1980. The Task Force's mission statement was adopted as follows:

The Repeat Offender Task Force's purpose is to study the administration of justice activities concerning juveniles and adults who are identified as Repeat Offenders, to prepare recommendations to improve the system's response, and to reduce the adverse impact upon Maryland citizens.

Chief Cornelius J. Behan was appointed Chairman of the Repeat Offender Task Force, whose other members represent a cross-section of the criminal justice system, jurisdictions, and geographic areas. The Task Force members include the Honorable Warren B. Duckett, Jr., State's Attorney, Anne Arundel County; Dr. Arnett Gaston, Director, Prince George's County Detention Center; Mr. Eddie Harrison, Justice Resources, Inc., Baltimore City; the Honorable N. Paul Joyner, Board of County Commissioners, Snow Hill; Mr. William J. Kunkel, Chairman, Maryland Parole Commission; Mr. Emory Plitt, Office of the Attorney General; the Honorable George B. Rasin, Jr., Chief Judge, Second Judicial Circuit; Mrs. Jackie Roberson, citizen of Howard Co.; and Mr. Henry P. Turner, citizen of Talbot Co.

PROBLEM STATEMENT

The Task Force directed staff to:

- Review major research efforts (e.g., Rand, INSLAW, Juvenile Assessment Center Reports);
- Identify programs across the nation aimed at repeat offenders (RO's);
- Collect data on a variety of offender populations in Maryland; and
- Examine press responses to criminal/juvenile justice issues, especially those concerning incidents of repetitive criminality/delinquency.

Research showed that:

- A small number of criminals/delinquents accounts for a substantial percentage of crimes committed;
- RO's are extremely active during their juvenile and young adult lives,

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with the frequency of crimes committed diminishing after young adulthood;

- Maryland's RO problem appears to be similar to that of other states across the nation;
- Nationally, several programs have been successfully directed at the RO problem, most notably the Prosecutor's Career Criminal Program;
- RO programs are usually focused on a narrow segment of the RO problem and are usually isolated within one agency, which tends to limit the impact on the RO problem as a whole.

Repeat Offender Program Experiment (ROPE) Design

ROPE Perspective

- ROPE is NOT a cure-all--ROPE IS an experiment;
- ROPE is NOT intended to supplant existing criminal/juvenile justice programs, such as diversion programs--ROPE IS intended to supplement these programs, in recognition of the fact that there exists a population of RO's whose activities must be diminished and upon whom attention and treatment must be focused for the protection of Maryland citizens.
- ROPE is NOT intended to undermine existing adult and juvenile rights under the law--ROPE IS intended to seek out alternative handling of identified RO's to minimize adverse affect upon Maryland citizens.

ROPE Characteristics

- Adaptable Objectives and Implementation. Each participating jurisdiction will be allowed to adapt the given objectives and to decide upon mechanisms for implementation according to its local RO crime/delinquency problem and other local constraints and concerns.
- Sufficient Planning Time and Assistance. Provision will be made for sufficient planning (start-up) time--12 to 18 months--to ensure the viability of ROPE programs. The Governor's Commission and the RO Task Force will be available for technical assistance and intend to provide thorough support and guidance.
- Flexible Design of Program "Mix". Each participating jurisdiction will select the combination of ROPE program models best suited to individual needs and resources from the broad range of sample models provided by the RO Task Force.
- Comprehensive Participation. ROPE programs, as implemented by participating jurisdictions, will involve most if not all of the components (local and state) of the criminal and juvenile justice systems, from those agencies responsible for RO identification and

apprehension to those responsible for RO rehabilitation and return to society.

- Innovative/Creative Use of Resources. Recognizing that new resources may not be readily forthcoming, each jurisdiction will seek to commit itself to a ROPE program through the realignment of resources, changes in policies and procedures, or other actions/activities that will ensure the ROPE program's support.

#### ROPE Requirements

- Executive Commitment. From the outset, elected and appointed officials and justice executives must make active commitments to the concept of ROPE and to their local ROPE program, and should participate in all policy, program, and resource decisions.
- Coordination: Repeat Offender Steering Councils. Because the need for coordination among participating agencies (local and state) in each jurisdiction is so critical to the success of each ROPE program, RO Steering Councils will be established to ensure continuing executive commitments, plan, monitor, "trouble-shoot", and evaluate the ROPE program.
- Target Population. Each RO Steering Council will define its own specific target population. However, the Repeat Offender Task Force recommends, as a result of its research, that the target population selected should conform to the following parameters:

--Person is between the ages of 16 and 24;

--Person has some combination of prior frequency and seriousness of criminal and/or juvenile delinquency behavior;

--Person's instant offense is a selected, targeted offense.

The target population should be carefully defined to produce a manageably-sized population (i.e., case-load); a too large or too small target population will defeat the purpose of ROPE.

- Evaluation. Each ROPE program will be evaluated by the RO Steering Council and the Governor's Commission at program conclusion from three primary points of view:
  - How the ROPE program was developed, implemented, and operated;
  - What effect the ROPE program had on the clients, the community, and the criminal and/or juvenile justice system(s);
  - Whether the ROPE program in that jurisdiction should be continued, scrapped, or modified in some basic way.
- Time Frame. Each ROPE program will run (operationally, excluding

planning/start-up time) no less than three years for juveniles and no less than five years for adults. (This time frame, however, will not be adequate for determining the efficacy of the correctional/institutional aspect of ROPE programs.) The RO Task Force recommends the adoption of some reasonable termination point beyond which ROPE is either adopted statewide, scrapped, or substantially modified.

#### ROPE Implementation by Governor's Commission

To ensure RO Steering Councils' basic adherence to the requirements and characteristics of ROPE, the Governor's Commission will disseminate Requests for Proposals (RFP's). The RFP's will itemize ROPE characteristics and requirements and will be accompanied by ROPE Guidelines and Programmatic Alternatives Report. The Governor's Commission and the RO Task Force will be available for consultation in the preparation of proposals. Proposal acceptability will be determined by conformance to the RFP; programmatic exceptions to the RFP may be approved for implementation depending upon circumstances.

#### ROPE GOALS AND OBJECTIVES

ROPE has two goals, which have been delineated into four major operational objectives and three supporting objectives.

##### ROPE Goals

- To bring attention to the problem of RO's in Maryland, by developing experimental programs which will focus on manageably-sized groups of RO's in individual jurisdictions through the commitment of the requisite components of the criminal and juvenile justice systems.
- To contribute to greater public safety, by increasing the likelihood that those persons identified as RO's will be:
  - apprehended;
  - convicted/found delinquent;
  - sentenced/disposed;
  - incarcerated/confined in a secure institution;
  - provided correctional programming which will tend to deter future incidence of criminal/delinquent behavior.

##### ROPE Objectives

- Identification, Apprehension, and Adjudication.
  - To enable law enforcement officers and/or Juvenile Services



Administration intake officers to accurately identify those persons identified as RO's.

--To effect apprehension of RO's, according to proper procedure and processing, in cases having a high probability of court conviction/finding of delinquency.

--To examine the use of the waiver-to-adult-court provision for those juveniles defined as RO's by the jurisdiction, and to modify or increase its use for such offenders if warranted.

--To provide thorough and complete preparation and presentation to the courts through written reports and testimony.

The key elements in this objective area of ROPE are:

- Identification of RO's;
- Apprehension of RO's;
- Enhancement of cases involving RO's, including close coordination between law enforcement agencies and prosecutors.

A law enforcement agency can approach the RO problem in two ways: go out and attempt to arrest/take into custody those persons already identified as RO's; or wait until a person is arrested/taken into custody for the selected crimes and then check criminal/delinquent history records for evidence of RO status.

Law enforcement agencies could also create a special unit to closely watch targeted RO's (surveillance) and try to apprehend them in the actual commission of a crime/delinquent act (e.g., New York City Career Criminal Investigation Unit). Law enforcement agencies involved with Integrated Criminal Apprehension Program (ICAP) could modify their program by placing emphasis on the detection, apprehension, and prosecution of the serious RO (e.g., California's Career Criminal Apprehension Program).

In case enhancement, law enforcement agencies develop special procedures for use by police detectives and prosecutors to build solid cases, thus ensuring convictions of targeted RO's under arrest/in custody. Some agencies have established special units which take over the follow-up investigations and case-building activities whenever a targeted RO is arrested/taken into custody (e.g., San Diego's Major Violators Unit; New York City's Felony Augmentation Program).

#### ● Conviction/Finding of Delinquency

--To increase the overall rate of conviction/finding of delinquency for RO's.

--To increase the overall rate of conviction/finding of delinquency for the most serious charges lodged against RO's.

--To reduce the scope of plea negotiation for adult RO's.

The key elements in this objective area of ROPE are:

- Notification: a system of direct police referrals of cases meeting RO criteria;
- Vertical prosecution: one prosecutor has responsibility for a case from beginning to end;
- Limited plea-bargaining: convictions are sought on the top felony charges and/or counts; pleas to lesser charges are strictly limited;
- Coordination: close working relationships are developed among law enforcement agencies, juvenile services, courts and corrections;
- Re-examination of the handling of juvenile RO cases.

Special career criminal units can be established within prosecutor's offices, wherein specific prosecutors and resources are assigned to targeted RO cases (cf. INSLAW's thirteen "Briefing Papers" on the career criminal program). The selection criteria remain the most important aspect of career criminal programs.

The handling of juvenile RO cases by prosecutors could also be re-examined for more vigorous case-building in cases involving recognized juvenile RO's (e.g., Baltimore City State's Attorney's Juvenile Habitual Offender Unit).

#### ● Sentencing/Disposition

--To increase the overall rate of incarceration for RO's.

--To increase the average length of incarceration/confinement for RO's.

The key elements in this objective area of ROPE are:

- Sentencing guidelines;
- Pre-sentence investigation reports;
- Post-conviction and pre-sentence detention.

The RO Task Force research has not uncovered any comprehensive



program that covers this programmatic area, although nearly all Prosecutor's Career Criminal programs have reported increased rates of incarceration/confinement and most have reported an increased average length of sentence/disposition.

The Maryland Sentencing Guidelines Project, now operating in four Maryland subdivisions, does not restrict a judge's power to sentence an adult offender with a high degree of judicial discretion. It does require that the judge explain in writing if the sentence disposition falls outside the guidelines. Beyond this experiment, in adult RO cases, judges tend to impose sentences based more upon the defendant's characteristics and the criminal act itself than upon the charge leading to conviction.

Pre-sentence investigation reports could be improved, not only by more thorough preparation but also by the addition of police and victim input.

The Federal Task Force on Violent Crime has come out strongly in favor of modifying the Federal Bail Reform Act, saying that since conviction is presumptively correct at law, a statutory presumption in favor of release is not appropriate after conviction.

#### ● Correctional Programs

- To allocate space for RO's, and to allocate rehabilitative resources for RO's intended to reduce the likelihood of future criminal/delinquent behavior.
- To increase the security level at which RO's are maintained, and to increase time served in higher security as warranted.
- To employ a variety of treatment and case management approaches to examine the success of various "mixes" of institutional and supervisory resources, including probation and after-care services as well as community resources, upon RO's.

The key elements of this objective area of ROPE are:

- Prioritizing institutional space for juvenile and adult RO's;
- Maximizing individual space for long-term RO's;
- Developing internal and community programs focused on successful rehabilitation of the RO.

If judges are to give priority to RO incarceration/confinement, it is necessary to provide institutional space for RO's; alternatives to incarceration should be confined to non-RO's. However, the usefulness of such alternatives for non RO's as a method for making available the institutional space and resources needed for RO's should be carefully examined.

Citizen concerns about repeat offenders and the need to incarcerate these offenders are of the greatest significance and must be responded to. However, responsible public officials, while assuring that incarceration space is available for these offenders, must simultaneously explicitly address the fact that correctional institutions are extremely costly resources.

A National Institute of Justice study (1981) has shown that long-term inmates are adversely affected by overcrowding and/or double-celling, and recommends single cells of at least 50 square feet.

A number of RO rehabilitation alternatives are open to jurisdictions, including intervention in small, closed residential centers; community supervision programs; aggressive drug and alcohol programs; contracting with the private sector for vocational training and/or after-care services (e.g., job training, placement, etc.); and others. An example is the programs being developed as part of the Office of Juvenile Justice and Delinquency Prevention experiment in five cities to treat hardcore violent juvenile offenders.

#### ROPE Supporting Objectives

Critical areas which should be addressed by each ROPE program include:

#### ● Timeliness. ROPE program objectives should include:

- To enable law enforcement officers and/or Juvenile Services Administration intake officers to rapidly identify RO's.
- To reduce the amount of time required to prosecute/adjudicate RO cases.
- To reduce the amount of time required to dispose of RO cases.

#### ● Information Availability. ROPE program objectives should include:

- To assure that accurate and complete information is available to decision-makers at each step as RO cases are processed, particularly with regard to prior criminal/delinquency history, prior institutional history, and victim impact information.

#### ● Legal Challenges. ROPE program objectives should include:

- To assure that procedures used by police, prosecutors, courts, and correctional personnel to improve the processing of RO's are consistent with constitutional safeguards.

REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE) GUIDELINES AND  
PROGRAMMATIC ALTERNATIVES REPORT

The complete and final version of the RO Task Force Report will contain:

- ROPE program characteristics and requirements;
- ROPE program goals and objectives;
- Sample model RO programs and descriptions;
- Sample model RO definitions; and
- Bibliographic references.

**END**