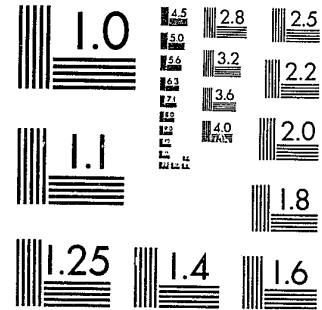


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

6-7-83

TARGETING FEDERAL RESOURCES ON RECIDIVISTS

Final Report of the Federal
Career Criminal Research Project

Brian Forst
William Rhodes
James Dimm
Arthur Gelman
Barbara Mullin

April 6, 1982

This report documents findings from the research project sponsored by the Department of Justice under contract no. JYFRP-81-C-0126. The findings, conclusions, and recommendations in this report do not necessarily reflect official U.S. Government policy.

INSLAW, Inc.
1125 15th Street, NW
Washington, D.C. 20005

88205

CONTENTS

1. Introduction 1

2. Previous Research Related to Selective Incapacitation 2

 2.1 Predictive Accuracy 3

 2.2 Existing Case Selection Strategies. 4

 2.3 Empirically Driven Case Selection Strategies. 6

3. Surveys of Criminal Justice Agents 7

 3.1 Federal Investigators 8

 3.2 Federal Prosecutors 9

 3.3 Local Prosecutors 13

4. Recidivism Patterns of Federal Offenders 18

 4.1 Retrospective Analysis of Recidivism. 18

 4.2 Predicting Recidivism for Federal Offenders 19

 4.3 Accuracy of Prediction. 20

5. Policy Implications. 22

NCJRS

JUN 14 1983

ACQUISITIONS

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Public Domain
U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

TARGETING FEDERAL RESOURCES ON RECIDIVISTS

1. Introduction

The concept of reserving prison and jail space for those offenders who, if released to society, would likely inflict the greatest harm has emerged as a dominant principle of criminal case selection, processing, and sentencing. While deterrence and rehabilitation have considerable theoretical appeal, they have not received systematic empirical support as effective principles for selecting criminal sanctions.¹ The effectiveness of a strategy of selective incapacitation, on the other hand, has both theoretical appeal and empirical validation.² The proliferation of "career criminal" programs in local jurisdictions throughout the country reflects the broad appeal of this concept.

The career criminal concept is equally appealing at the federal level. Recognizing this, the Office of Legal Policy of the Department of Justice contracted with INSLAW, Inc., in the summer of 1981, to examine the feasibility of instituting a career criminal-type program at the federal level. Motivated largely by previous findings that some classes of federal offenders commit many more serious crimes than others,³ the project was designed to examine the extent to which patterns of recidivism among federal offenders are predictable, to assess the attitudes of key criminal justice agents regarding the creation of a federal program that would target on cases involving serious repeat offenders, and to develop a prototype

system for identifying the most crime-prone offenders prior to their subsequent criminal acts. This report presents and discusses the major results of that project. The next section reviews highlights of previous research on selective incapacitation that have relevance to the federal justice system. We then discuss findings from surveys of agents of local career criminal programs, United States Attorney Offices, and federal investigative agencies. Next, we present highlights of an analysis of the predictability of recidivism among federal offenders and describe a tool designed to aid the federal government in prospectively identifying the most crime-prone offenders. We conclude with a set of recommendations for the federal criminal justice system.

2. Previous Research Related to Selective Incapacitation

Common knowledge among police and prosecutors that a small group of offenders account for a disproportionate number of crimes has received substantial empirical validation within the past ten years. In 1972, Marvin Wolfgang and his associates reported that 18 percent of a group of juvenile delinquents in Philadelphia accounted for 52 percent of all the offenses committed by the group.⁴ Then in 1976 Kristen Williams, analyzing PROMIS data from Washington, D.C., for 1971-75, found that 7 percent of the 46,000 different defendants arrested accounted for 24 percent of the 73,000 felony and serious misdemeanor cases handled by the prosecutor for that jurisdiction.⁵ These findings provided much of the stimulus for the institution of federally sponsored career criminal

programs in jurisdictions throughout the country.⁶ More recent findings derived from surveys of prison inmates have further validated the existence of substantial variation in the amount of criminal activity among different offenders.⁷

It is one thing, however, to identify crime-prone offenders retrospectively and another to identify them before they demonstrate their criminal proclivity. Obviously, if they cannot be identified for special case treatment prospectively, then there can be no opportunity to obtain the benefit of a strategy of reserving prison space for the most criminally active offenders.

The emerging evidence indicates that prospective identification of crime-prone offenders, while imperfect, can nonetheless be done with a moderate degree of accuracy in some settings and a high degree in others. More importantly, statistical prediction of criminal and deviant behavior has demonstrated itself with some consistency to surpass the accuracy of subjective prediction by clinicians and other experts.⁸ Recent studies have revealed a number of factors in particular to be consistent predictors of recidivism: recent prior criminal record, youthfulness, drug use, and charges of robbery or burglary.⁹

2.1 Predictive Accuracy. The accuracy of these prediction models is not difficult to demonstrate. Williams's model of recidivism, for example, when used to predict the most recidivistic half of the 46,000 defendants in her study, correctly identified in that half 84 percent of the 478

offenders who revealed themselves retrospectively as the most recidivistic 10 percent of the cohort.¹⁰ (A random selection would have identified only 50 percent, on average.) The extent to which recidivism can be predicted among federal offenders, it turns out, is even stronger, as will be described in Section 4.

2.2 Existing Case Selection Strategies. The available evidence on case selection and targeting strategies actually used by prosecutors is not plentiful. In an earlier INSLAW study we analyzed the factors that govern prosecutive case selection and subsequent processing decisions by identifying the case characteristics that best predict the prosecutor's decisions to accept a felony case at screening and then to carry it forward at successive stages of prosecution. Using 1973 data from PROMIS (the Prosecutor's Management Information System) for Washington, D.C., that study found that the cases that proceeded the farthest through the system tended to be those, first, that had the strongest evidence (measured by such factors as number of witnesses, whether physical evidence was collected by the police, and the amount of time that elapsed between the offense and the arrest) and, second, that involved the most serious offenses (measured both by the maximum sentence for the most serious charge indicated by the police or prosecutor and by the Sellin-Wolfgang index, a measure of the amount of harm inflicted on victims by the offense).¹¹ Cases involving defendants with longer criminal records (measured by number of prior arrests, and controlling for the defendant's

age) were not found to be selected at a higher rate or carried forward to a more advanced stage of prosecution than other cases.

These results, describing an office that had no career criminal program at the time the data were recorded, suggest that the prosecutor might not be inclined to target on the more crime-prone offenders in the absence of such a program. This inference was corroborated in 1977 by evidence produced from a survey of federal prosecutors.¹² While consistent with the deterrence aspect of crime control, the findings of those studies suggest that the prosecutor does not automatically target on cases with the idea of realizing the incapacitative effects associated with the conviction and incarceration of the most criminally active offenders.¹³

More recent research by Eleanor Chelimsky and Judith Dahmann has produced quite different findings: attorney time given to cases that are processed by career criminal units may actually be excessive. In a survey of four jurisdictions, the number of cases accepted per attorney per month for prosecutors assigned to those units was found to be only about one-fourth of that for the other prosecutors in each of the four offices, and the career criminal cases were found to be no more likely to end in conviction.¹⁴ Similar results were obtained in research by William Rhodes. Measuring the number of attorney hours allocated to each felony case in the main office and four branch offices of the Los Angeles County District Attorney, Rhodes found that the amount of attention given to robbery and

burglary cases in the career criminal unit was about five times the amount given to robbery and burglary cases that were processed conventionally, with results in terms of conviction rates that appeared no better.¹⁵

The accumulated evidence, in short, suggests that too little attention may be given to cases involving chronic offenders in an office with no special targeting program, and too little attention may be given to other cases in offices that do have such programs. It is possible that simply flagging cases involving criminally active offenders to remind the prosecuting attorney that the case warrants special consideration may produce a more balanced, if not more efficient, allocation of resources than the alternative of processing such cases through separate career criminal units.

2.3 Empirically Derived Case Selection Strategies. In their survey of four jurisdictions with career criminal programs, Chelimsky and Dahmann found four entirely different sets of career criminal targeting strategies.¹⁶ While such differences may be attributable to the prospect of recidivism predictors varying from place to place, it is safe to conjecture that the criteria vary primarily due to arbitrariness; few people know what actually predicts recidivism in any particular jurisdiction. Such variation in targeting criteria imposes crime costs on society to the extent that the criteria used do not result in a strategy of targeting on those offenders who are predictably the most crime prone.

In her analysis of selection criteria for career criminal programs, Williams found that the estimated incapacitation effects of empirically derived targeting criteria in fact surpass, by from 10 to 50 percent, those associated with criteria developed by the Law Enforcement Assistance Administration: current case a serious felony and one prior conviction. These estimates were based on a variety of assumptions about the size of the group of cases targeted, the conviction rate increase associated with the program, and the sentence that followed.¹⁷ Similarly, Roth and Wice's model of crime on bail, when used to predict the most recidivistic of a sample of 424 defendants who were required to post cash or surety bond, revealed that the number of persons jailed in that sample could have been reduced from 170 (those who failed to make bond) to 98 (those predicted to be the most recidivistic) without any increase in the expected rate of pretrial rearrest.¹⁸

These studies suggest that our ability to improve on current patterns of case selection and handling may be substantial. Opportunities to make such improvements at the federal level will be discussed in Sections 4 and 5.

3. Surveys of Criminal Justice Agents

Improvements in case selection and handling procedures are not likely to be effectively implemented by people who do not see them as improvements. An important precondition to the successful implementation of a strategy of selective

incapacitation is an understanding of the perceptions of the agents responsible for carrying out such a strategy.

Accordingly, we surveyed federal investigators and prosecutors, as well as prosecutors experienced in the operation of career criminal programs at the local level. In this section we describe the principal results of those surveys.

3.1 Federal Investigators. Four federal investigative agencies that account for the vast majority of cases prosecuted by federal attorneys cooperated in the survey: the Federal Bureau of Investigation, the Secret Service, the Postal Inspection Service, and the Bureau of Alcohol, Tobacco, and Firearms. A total of 26 in-person interviews with agents of these organizations were conducted in seven cities: Chicago, Detroit, Houston, Los Angeles, Miami, New York, and San Francisco. (Federal prosecutors were also interviewed in these sites.) Because the number of interviews ranged from five to seven for the individual agencies, it was not possible to draw reliable inferences about the attitudes of agents of any particular agency; hence we report results for the 26 agents as an aggregate.

The issue of central interest was the extent to which an offender's prior record influences federal investigation and prosecution. Most agents expressed the belief that prior record influences both the decision to investigate and to prosecute (see Exhibit 1). Most agents doubted, on the other hand, that the charges filed by the federal prosecutor are affected by the offender's criminal history.

**Exhibit 1.
Survey of Federal Investigators**

Does an offender's history of prior
criminal activity influence:

	<u>Agency's decision to initiate investigation</u>	<u>U.S. Attorney's decision to accept case</u>	<u>Seriousness of charges filed</u>
Yes	16	13	7
No	6	4	15
Depends	4	9	3
No response	<u>0</u>	<u>0</u>	<u>1</u>
N	26	26	26

With respect to the prospect of a more explicit federal career criminal program, most investigative agents seemed positive. They strongly supported the idea of increasing both the incarceration rates and average sentences of recidivists. Specific recommendations included the "flagging" of cases for special attention, assignment of cases to experienced attorneys, and the institution of special screening and review procedures. Only two agents expressed a preference for a special prosecution unit to handle such cases.

3.2 Federal Prosecutors. A total of 26 in-person interviews were conducted in nine federal districts: Central California (Los Angeles), Northern California (San Francisco), Southern Florida (Miami), Northern Illinois (Chicago), Eastern Michigan (Detroit), Eastern New York (Brooklyn), Southern Texas

(Houston), and Western Washington (Seattle). We interviewed from two to four people in each office--typically, the head of the criminal division, the head of a special prosecution unit, and another senior attorney. Additional interviews were conducted in other districts by telephone.

The interview started with a question about the federal attorneys' knowledge of local career criminal programs and views about their effectiveness. Of the 19 attorneys who expressed a view, nine thought the programs were either "quite effective" or "extremely effective," five thought they were "moderately effective," three "marginally effective," and two thought that they were not effective at all.

While the attorneys interviewed acknowledged current federal emphasis on cases involving repeat offenders, they indicated (using a 10-point scale of importance) that the strength of the evidence and the seriousness of the current offense weigh a bit more heavily than prior record in their decisions to accept or decline cases at the screening stage. To the extent that they do consider prior record in their screening decisions, they indicated that they base their assessment of recidivism on at least one of three sources of information: FBI criminal histories, local agency sources, and investigative information that reveals an offender's current activity to have the characteristics of a sophisticated, often long-term operation. Prosecutors in two of the nine jurisdictions indicated that they rarely have prior criminal history records available at screening.

Looking ahead to the prospect of a federal career criminal program, federal prosecutors identified several goals for the program, ranging from increased incarceration rates and sentence terms for repeat offenders to such side benefits as improved coordination with local prosecutors. They indicated that such benefits could be achieved through the flagging of cases involving repeat offenders and increased use of pretrial detention and special sentence enhancement statutes for those cases.

We found surprisingly little support (only four respondents) for the establishment of separate career criminal prosecution units within the office. This lack of support is consistent with the lack of proven effectiveness of such units at the local level, noted in Section 2. It is also consistent with a tendency for the federal prosecutors interviewed to express more interest in the offense than in the offender. Nearly all of the respondents expressed opposition to a program that would either alter their present office structure or that would cause a shift from the current emphasis on crime seriousness to an emphasis on offenders. It is not totally clear whether the federal attorneys' opposition to the creation of career criminal units within U.S. Attorney Offices stems primarily from a belief the career criminal units would not be effective or from a preference in focusing on serious offenses rather than serious offenders. The existence and acceptability of special prosecution units in most of these offices (e.g., to target on narcotics and on organized crime), however, may

suggest that federal prosecutors are not generally opposed to special prosecution units per se, but are opposed primarily to a focus on the offender rather than the offense.

Federal prosecutors appear also to be generally opposed to a set of criteria that would substantially narrow their discretion to select certain types of cases but not others. While about half of the attorneys interviewed thought that some guidelines would be useful to assist prosecutors in identifying the more crime-prone offenders, they also expressed the belief that such guidelines should be broadly defined. Only two attorneys favored point-system or check-list approaches to case selection.

If career criminal guidelines were to be based on the presence of certain factors, the most important factor cited by the sample of federal prosecutors (41 responded to this question) was, ironically, the seriousness of the current offense. Among 13 factors named on a five-point scale of importance, the following noteworthy results were obtained: offense seriousness (#1) received an average score of 4.37; prior federal felony convictions (#2), 4.24; indication of high volume of criminal activity (#3), 4.15; prior nonfederal felony convictions (#4), 4.04; prior felony arrests (#6) 2.80; indication of drug use (#8), 2.73; and prior misdemeanor arrests (#13), 1.49.

While offense seriousness appears to remain the more dominant concern of federal attorneys, they do express support for the inclusion of factors that are statistically related to

recidivism among a set of case selection criteria. Of the 31 prosecutors who responded to the question, "Should the case selection criteria for a federal career criminal program include items that are statistically related to the likelihood of recidivism?", all but three said yes.

Individual respondents also expressed support for ways of dealing with repeat offenders other than with the use of empirically derived case selection criteria: new legislation to facilitate the prosecution of recidivists, cross-deputization of federal and local prosecutors, less emphasis on cases involving the sophisticated white collar offender, and the provision of more complete criminal history information in time for the bail hearing.

For the most part, federal prosecutors feel that their current policies are adequate for dealing with repeat offenders. They expressed the view that substantially larger gains could be realized from tougher sentencing of repeat offenders than from different prosecution strategies or from new prosecution programs that would only duplicate current ones.

3.3 Local Prosecutors. The third major group of practitioners surveyed was prosecutors responsible for local career criminal programs. The purpose of this survey was threefold: to learn the basic features of local efforts to target on repeat offenders, to learn the extent and nature of the interaction of local prosecutors with federal investigators

and prosecutors, and to learn their views on the concept of a career criminal program at the federal level. Representatives over 80 active career criminal programs were interviewed in person or by telephone.

The programs surveyed had been in operation for an average of 42 months at the time of the interview (summer 1981). Most of the local career criminal programs experienced a substantial shift in funding during this period: federal funding, which was largely responsible for the initiation of these programs, fell from 68 percent of total program funds at the start to a level of 10 percent by the summer of 1981; state governments filled much of the void, increasing from 21 to 48 percent of the funding; and local governments assumed the remainder, increasing from 11 to 43 percent of the funding of career criminal programs.

Career criminal programs vary substantially in size, based primarily on the size of the jurisdiction. Los Angeles County, the largest jurisdiction in the study, also has the most attorneys (24) in its career criminal unit. Ada County, Idaho, and Black Hawk County, Iowa, jurisdictions of less than 150,000 residents, each have only one attorney assigned to their units. The average number of attorneys in the 82 units sampled was 3.8.

The career criminal unit attorneys are typically more experienced than other attorneys in the office--they have an average of over seven years of prosecution experience, nearly

twice that of the others. The minimum amount of prosecution experience in the vast majority of these units is three years.

Recognizing the importance of "case building" in many cases involving repeat offenders, these units usually have experienced investigators added to their staffs of experienced lawyers. About two-thirds of the units have such persons assigned to their staffs; of the 14 units surveyed operating in jurisdictions with over one million residents, 13 have investigators assigned to their staffs, and most of these units have two or more such people. Over 75 percent of all career criminal investigators were previously employed as police officers or detectives. Local career criminal unit staffs often also include paralegal assistants, secretaries, and clerks.

Local career criminal units are not distinctive only for their staffs of experienced lawyers and investigators. They are also characterized by a system known as "vertical prosecution". Rather than being passed "horizontally" from one attorney to another in a production line manner common in urban prosecutors' offices, career criminal cases are typically handled by a single attorney from the screening stage through indictment and on to final case disposition. While this enables each prosecutor to devote more attention to each case handled, it also results in fewer cases processed per attorney than in conventional case processing systems. Whereas felony caseloads typically run in the neighborhood of 100 per attorney in conventional settings, career criminal unit attorneys usually handle fewer than 50 cases per year, and in a number of

offices, including Los Angeles, the Bronx, and Indianapolis, fewer than 20 are processed per career criminal unit attorney annually.

The aspect of career criminal units that one might expect would set these units most clearly apart from conventional prosecution is the case selection process, designed to produce a systematic focus on those offenders most likely to recidivate. While the focus of case selection in local career criminal programs does appear to be on the repeat offender, it is in fact anything but systematic. Fewer than one-fourth of those surveyed use a scoring system to select cases. Most programs use criteria that allow for more cases than the unit can actually prosecute. Over two-thirds target on specific offenses; while prior record is regarded as "very important," crime type and degree of harm to the victim rank close behind among the criteria used to select cases as worthy of "career criminal" prosecution. State criminal history information is usually available to support the systematic selection of cases involving active offenders, as is information about parole or probation status and other pending cases, but information about trial status is available in only half of the jurisdictions, and juvenile records and FBI data on offenses committed in other states are rarely available to local jurisdictions that wish to target resources on repeat offenders.

Because a federal career criminal type program would need information about both federal and nonfederal prior offenses, and hence would have to rely on information sources at the

local level, we surveyed local prosecutors about their coordination with federal agents. Most units (92 percent) do have occasion to contact federal agents. Such contacts are more likely to be monthly, however, than weekly or daily. Agents contacted most frequently are with the FBI, Bureau of Alcohol, Tobacco and Firearms (BATF), and the Drug Enforcement Administration. In response to an open-ended question, the attorneys were inclined to regard BATF agents as especially cooperative; investigators from another federal agency were described primarily as information receivers rather than givers.

The interview closed with some general questions about the overall success of the career criminal program and about the prospect of such a program at the federal level. The persons interviewed expressed a belief that the program locally has been a success overall, especially because incarceration rates increased and because attorneys were given more time to work on each case. While not generally enthusiastic about the concept of a federal career criminal program, nearly three-fourths of those interviewed thought that it would be better to have one in their federal district than not to. Many prosecutors stressed the need for a federal career criminal program to coordinate closely with local efforts to target on repeat offenders; many expressed a concern, based on their previous experiences with federal agents and prosecutors, that federal authorities would not in fact coordinate sufficiently with local authorities.

4. Recidivism Patterns of Federal Offenders

We turn now to an investigation of the extent to which a program that attempts to reserve federal prison space for the most criminally active offenders could in fact be expected to reduce crime by way of incapacitation.¹⁹ Obviously, there can be no opportunity to incarcerate the most active offenders, except by chance, if we cannot identify them before they commit further crime.

4.1 Retrospective Analysis of Recidivism. To do this, we analyzed a data base describing a six-year follow-up period for 1700 offenders convicted of a cross-section of federal offenses and released from prison or other federal custody in 1970. The data base was constructed from a variety of sources, including presentence investigation reports (to provide detailed information about offenders and their prior records), FBI rap sheets (to provide information about arrests during the follow-up period), local jails and prisons (to provide information about intervals in the follow-up period during which it was not possible for the offenders to commit crimes "on the street"), and the U.S. Parole Commission (to provide additional information about the offenders released from federal prisons).

The analysis of this data base has confirmed earlier findings that previously convicted federal offenders, on the whole, are recidivistic and that some are substantially more recidivistic than others.²⁰ The 1700 offenders committed an estimated average of 7.8 non-drug offenses per year (or 36 per

year, including drug offenses) on the street; 58 percent, however, were not known to recidivate during the follow-up period, while the others committed an estimated average of 19 non-drug offenses per year. Of those who recidivated, 71 percent did so within two years of their release.

4.2 Predicting Recidivism for Federal Offenders. Looking back on the follow-up period, as we do above, has only limited policy relevance. Of particular significance for a strategy of selective incapacitation is our ability to identify prospectively, or predict, which offenders are the ones most likely to recidivate. To develop such a capability, we constructed a statistical prediction model based on analysis of the data described above. Specifically, we examined the statistical association between the factors that were known about the 1700 offenders at the time of their release from federal custody in 1970 and the likelihood that an offender was rearrested within 60 months after release. This analysis revealed four sets of factors as especially strong predictors of recidivism: prior record (including length of criminal career, number of arrests within the past five years, longest term of incarceration previously served, and number of prior convictions); youthfulness; use of drugs (including heroin use or heavy use of alcohol); and the nature of the current offense (especially violent offenses, property thefts, forgeries, and drug crimes). These findings are consistent with earlier research on recidivism.²¹

We then established the following hypothetical career criminal targeting criterion: Select a case for special handling if the model identifies the offender as being more likely than not to recidivate within 60 months. This criterion identified 200, or 12 percent, of the 1700 offenders as "career criminals".

4.3 Accuracy of Prediction. How accurately does this model identify repeat offenders prospectively? The importance of this question derives primarily from our concern about "false positives", persons identified as recidivistic offenders prospectively but not retrospectively. In fact, the model predicts fairly accurately, with true positives outnumbering false positives by nearly six to one. The vast majority of those identified as career criminals--170 of the 200 (85 percent)--were rearrested during the five-year follow-up period. Ninety nine (49.5 percent) of the 200 were rearrested within 12 months of release, and 138 (69 percent) were rearrested within 24 months. In contrast, only 36 percent of the 1500 offenders not identified as career criminals were rearrested during the five years following release from federal custody. The 200 offenders identified prospectively as recidivists committed an estimated average of 38 non-drug crimes per year, while the other 1500 committed an estimated average of less than four per year.

It is not even necessary to use the full detail of a sophisticated statistical prediction model to produce targeting criteria that accurately identify recidivists. We have developed a simple nine-factor score sheet (Exhibit 2) that

Exhibit 2.
PROPOSED POINT SCORES FOR SELECTING CAREER CRIMINALS

Variable	Points
Heavy use of alcohol	+ 5
Heroin Use	+10
Age at time of instant arrest	
Less than 22	+21
23 - 27	+14
28 - 32	+ 7
33 - 37	0
38 - 42	- 7
43+	-14
Length of criminal career	
0-5 years	0
6-10	1
11-15	2
16-20	3
21+	4
Arrests during last five years	
Crimes of violence	4 per arrest
Crimes against property	3 per arrest
Sale of drugs	4 per arrest
Other offenses	2 per arrest
Longest time served, single term	
1-5 months	4
6-12	9
13-24	18
25-36	27
37-48	36
49+	45
Number probation sentences	1.5 per sentence
Instant offense was crime of violence*	7
Instant offense was crime labeled "other"***	-18
Critical Value to Label an Offender As a Career Criminal: 47 points	

*Violent crimes include homicide, assault, robbery, sexual assault and kidnaping.

**Other crimes include military violations, probation, parole, weapons and all others except arson, burglary, larceny, auto theft, fraud, forgery, drug sale or possession, and violent crimes.

produces results closely approximating those of the more elaborate prediction model: as with the exact model, true positives outnumber false positives by six to one, and only 36 percent of the offenders not identified as career criminals were rearrested during the follow-up period.²² It is important to note that because the population of cases screened by prosecutors is different from the population of offenders that we analyzed to generate this scoring system, a real world application of these weights at the screening stage is likely to be somewhat less accurate than the results obtained here.

Ideally, of course, we would like to be able to predict recidivism perfectly. It is occasionally said that anything short of that ideal standard is unjust, therefore statistical prediction models should not be used. Career criminal targeting is likely to occur, however, in the absence of an empirically derived set of targeting criteria. More false positives are almost certain to result from conventional targeting strategies than from one based on empirically derived criteria, with all of its shortcomings.²³ False positives are not unique to empirically derived targeting criteria, they are common to all career criminal targeting programs; criteria derived from the application of sound statistical procedure reduces the rate of false positives.

5. Policy Implications.

This study confirms the notion that the widening of a strategy of targeting federal resources on cases involving

recidivists offers the potential for substantial crime reduction in both federal and local jurisdictions. The offenders studied committed an estimated average of eight non-drug offenses per year free. The majority, however, were not rearrested; we estimate that the 42 percent who were rearrested committed about twenty non-drug crimes per year. And many, if not most, of these were crimes committed at the local level. We found that one fourth of all persons arrested by federal agents had prior records that included five previous arrests at the local level.²⁴

Our ability to separate the recidivists from the nonrecidivists prospectively by using statistically derived criteria appears substantially stronger than doing so by using either a random selection process or conventionally derived criteria. Eighty-five percent of the 200 offenders identified as the most crime-prone using the statistical model, in fact, were rearrested during the five-year follow-up period, while only 36 percent of the 1500 identified as less recidivistic were rearrested during that period. Those prospectively identified as the most crime prone committed an estimated ten times as many crimes as the others. Half of those identified as highly recidivistic were rearrested within 12 months of release from federal custody. This statistical identification system can be closely approximated with the use of a simple nine-factor score sheet (see Exhibit 2, p. 21). While the use of such a model to assist in the case selection process for a federal career criminal program does not ensure perfect prediction of

recidivism, it does provide an opportunity to base case selection on the most accurate prediction system available at this time.

The study's surveys of federal prosecutors indicate that the routine use of empirically derived case selection criteria is not likely to be accomplished smoothly unless certain prevailing attitudes are taken into consideration. One is a predominant tendency for federal attorneys currently to focus on elements of the offense rather than information about the offender. Another is resistance to narrowing their exercise of discretion. While federal prosecutors view local programs that target on the most criminally active offenders as generally effective, and while they support the notion of case selection criteria that are statistically related to recidivism, they are opposed to a program that would narrow their discretion to select certain types of cases but not others. The concept of a point system or use of a check list to assist in the case selection and targeting process was not generally regarded as an attractive alternative to current procedure. On the whole, federal prosecutors are comfortable with their current case selection policies.

Like federal prosecutors, the federal investigators and local prosecutors interviewed were supportive of the general concept of a federal career criminal program and somewhat skeptical about various specific aspects of such a program. Federal investigators join with federal prosecutors in favoring a system of flagging cases for special attention over a system

of creating a special career criminal unit to handle cases involving repeat offenders. Local prosecutors expressed concern, based on previous experience, that a federal career criminal program would fail to coordinate adequately with local efforts to target resources on repeat offenders.

The creation of a federal career criminal program should be sensitive to these concerns. It should also include the setting and monitoring of specific objectives: increasing conviction rates in cases involving repeat offenders, increasing pretrial detention rates and trial rates in such cases, and obtaining longer sentences for repeat offenders.

Conviction rates for cases investigated by federal agents can be increased in several ways. First, the U.S. Attorney and the local prosecutors in each federal district should develop a coordinated policy for the prosecution of dual jurisdiction offenses, especially those involving repeat offenders. Dual jurisdiction cases represent a substantial portion of the federal criminal case load; policy relating to those cases should be developed jointly and communicated to federal investigators and local law enforcement officials. Room for improvement in the handling of dual jurisdiction cases appears to be substantial.²⁵

Second, cases involving the most crime-prone offenders can now be predicted with a sufficiently high degree of accuracy to warrant the use of statistical prediction to support (not supplant) the exercise of discretion in selecting cases and targeting resources on them. Many cases that are currently

declined for prosecution because they are somewhat unattractive (for example, because of the nature of the offense or a correctable evidentiary problem), may be found worthy of prosecution when the offender's profile of crime proneness is given more systematic attention.

Third, federal investigative agencies could share in the responsibility and accountability for the eventual outcomes of cases. It is not clear that each federal agency provides sufficient inducement for its agents to present cases for prosecution in such a way that brings about the conviction and incarceration of criminally active offenders.²⁶

Fourth, opportunities can be exploited by both federal and local prosecutors to increase conviction rates in cases involving the most crime-prone offenders after these cases have been accepted for prosecution. Proper management of witnesses and evidence is crucial to successful prosecution and need not consume lavish prosecution resources. Paralegal staff trained in witness management could make certain that witnesses are given proper information and encouragement about their cases and could assist prosecutors in meeting court events on schedule. They might even outperform the harried attorney in this role. Prosecutors can also see to it that the investigators have obtained and properly processed all of the evidence available to support the successful prosecution of cases involving repeat offenders.

Reducing crime by way of a strategy of selective incapacitation can be achieved in other ways as well, including

the areas of pretrial release, plea bargaining, and sentencing. The prosecutor at either the federal or local level can serve both the judge and the community by providing to the judge information about an offender's crime proneness to support the determination of the defendant's pretrial status. While the constitutional issues involved in the ongoing pretrial detention debate are not likely to be resolved soon, one dominant practical consideration tends to moot that discussion: Few judges care to read in the newspaper that a defendant they released on bail committed another serious crime. Judges are inclined to find a legitimate reason for locking up the most dangerous defendants, hence they are interested in knowing which ones are in fact the most recidivistic.

Prosecutors can also use information about an offender's crime proneness to increase sentence terms. One way is to take more cases involving chronic offenders to trial rather than offer a sentence or charge concession to induce a guilty plea. Another way is to recommend a longer sentence to the judge for such cases in allocution.

Current procedures for dealing with repeat offenders at the local level--including the use of arbitrary case selection criteria and the career criminal unit as centerpieces--may be largely ceremonial, ineffective, and costly. A federal career criminal program can, instead, exploit simple, unobtrusive procedures such as those described above to effectively

incapacitate offenders who are criminally active at both the federal and local levels.

The concept of a federal program that targets resources on cases involving recidivists is not new. The FBI's list of the ten persons most wanted by that agency exemplifies a long-standing focus on dangerous recidivists by federal criminal justice agents. The public's concern about crime warrants the implementation of such a program among other federal investigative agencies and in the offices of U.S. Attorneys. It is especially important that the institution of a federal career criminal program proceed in an orderly yet expeditious manner, with explicit goals and procedures for ensuring that those goals are achieved.

NOTES

1. Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, editors, Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates (Washington: National Academy of Sciences, 1978); Lee Sechrest, Susan O. White, and Elizabeth D. Brown, editors, The Rehabilitation of Criminal Offenders: Problems and Prospects (Washington: National Academy of Sciences, 1979).
2. Empirical support for a strategy of selective incapacitation is the subject of Section 2 of this report.
3. We have estimated that federal offenders commit an average of ten crimes per year free. INSLAW, Federal Sentencing: Toward a More Explicit Policy of Criminal Sanctions (Washington: U.S. Department of Justice, 1981). Further analysis of the data collected in that sentencing study revealed that bank robbers commit an average of about 2 1/2 times as many crimes while free as do other federal offenders. Letter proposal from Brian Forst to Charles Wellford, May 14, 1981.
4. Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972), p. 88.
5. These findings appeared in a 1976 working paper by Williams and in a finished version in 1979, The Scope and Prediction of Recidivism (Washington, D.C.: Institute for Law and Social Research), pp. 5-6.
6. Peter W. Greenwood, "Crime Control: Explaining Our Ignorance," Rand Corporation working draft (no. WD-1050), May 1981, p. IV-8.
7. Barbara Boland, Incapacitation as Applied to Federal Offenders (Washington, D.C.: INSLAW, 1980); Mark Peterson, Harriet Stambul, and Suzanne Polich, Doing Crime: A Survey of California Prison Inmates (Washington, D.C.: U.S. Department of Justice, 1980); Joan Petersilia and Peter W. Greenwood, Criminal Careers of Habitual Felons (Washington, D.C.: U.S. Government Printing Office, 1978). (The latter two monographs were originally published by the Rand Corporation.)
8. John Monahan, Predicting Violent Behavior: An Assessment of Clinical Techniques (Beverly Hills, California: Sage, 1981); Henry J. Steadman and Joseph Cocozza, "Psychiatry, Dangerousness and the Repetitively Violent Offender," Journal of Criminal Law and Criminology, vol 69 (1978), pp. 226-31; and Paul E. Meehl, Clinical vs. Statistical Prediction (Minneapolis: University of Minnesota Press, 1954).

9. Kristen M. Williams, op. cit. (note 5); Jeffrey A. Roth and Paul B. Wice, Pretrial Release and Misconduct in the District of Columbia (Washington, D.C.: Institute for Law and Social Research, 1980); William M. Rhodes, et al., Developing Criteria for Identifying Career Criminals (Washington, D.C.: INSLAW, 1982).
10. Williams, *ibid.*, p. 27.
11. Brian Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," Journal of Legal Studies, vol. 6 (1977), pp. 177-91. The effect of the evidence variable was ten times larger, as measured by the elasticity of the variable, than the effect of crime seriousness (pp. 187-90). The Sellin-Wolfgang index is described in Thorsten Sellin and Marvin E. Wolfgang, The Measurement of Delinquency (Montclair, N.J.: Patterson Smith, 1974).
12. U.S. Department of Justice, Justice Litigation Management (Washington, D.C., 1977), pp. 42-44.
13. We can assume that crime reduction is produced from a strategy of targeting on repeat offenders primarily by way of incapacitation rather than deterrence. In fact, these incapacitative effects may be at least partly offset by lost deterrent effects associated with failure to convict less active offenders whose current offenses are more serious. It is possible, however, that the deterrent effect of a strategy of targeting on repeat offenders may approximate that associated with a strategy of targeting on the most serious current offenses. We know little about the differential crime control effects of sanctions applied to various classes of offenses and offenders, and even less about the decomposition of those effects in terms of deterrence. Limits to this knowledge are discussed in Blumstein, et al., op. cit. (note 1).
14. Eleanor Chelimsky and Judith Dahmann, Career Criminal Program National Evaluation: Final Report (Washington, D.C.: U.S. Department of Justice, 1981), pp. 87, 127.
15. William M. Rhodes, "Investment of Prosecution Resources in Career Criminal Cases," Journal of Criminal Law and Criminology, vol. 71 (1980), pp. 118-23. The study noted that the targeted cases may have been more difficult to prosecute in the first place than the other cases (p. 122).
16. In San Diego, for example, the charges in the current case are critical to selection for career criminal targeting; those charges are irrelevant to the program in New Orleans. Chelimsky and Dahmann, op. cit. (note 14), pp. 63-73. A survey of the selection criteria used in 146

different career criminal programs in jurisdictions throughout the United States confirms the variety of case selection criteria found by Chelimsky and Dahmann. Institute for Law and Social Research, National Directory of Career Criminal Programs (Washington, D.C.: Department of Justice, 1980).

17. Kristen M. Williams, "Selection Criteria for Career Criminal Programs," Journal of Criminal Law and Criminology, vol. 71 (1980), pp. 89-93.
18. Roth and Wice, op. cit. (note 8), pp. 63-64. They also showed that jail populations could be reduced if the primary goal of pretrial detention were to reduce the rate at which defendants fail to appear in court (pp. 63-64).
19. See note 13.
20. See note 3.
21. See note 9 and accompanying text.
22. Rhodes, et al., op. cit. (note 9).
23. See note 8 and accompanying text.
24. Analysis of a random sample of 9205 persons arrested by federal agents in 1976.
25. Jack Hausner, Barbara Mullin, and Amy Moorer, The Investigation and Prosecution of Concurrent Jurisdiction Offenses (Washington, D.C.: INSLAW, 1982).
26. *Ibid.*

END