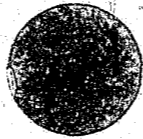




U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

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PROGRAM BRIEF

Career Criminal Prosecution Program

PREPARED IN CONJUNCTION WITH
REGULATIONS IMPLEMENTING THE
JUSTICE ASSISTANCE ACT OF 1984

U.S. Department of Justice
National Institute of Justice

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March 1985

PROGRAM BRIEF

Information Guide for State and Local Prosecutors,
and Concerned Criminal Justice Personnel

CAREER CRIMINAL PROSECUTION PROGRAM

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NCJRS45
JUN 19 1985**ACQUISITIONS**

I. INTRODUCTION

A. Overview

Where implemented, the Career Criminal Prosecution Program has been very successful in enhancing both the quality of prosecution and the length of incarceration of violent and repeat felony offenders. Research and statistics confirm an increase in the rate of conviction for the most serious charge lodged against repeat offenders, a reduced reliance on plea bargaining, a higher rate of conviction, a higher rate of incarceration, and a substantial increase in the average length of sentence. The result has been an increased assurance that a community's most violent and prolific criminals will be specifically identified, effectively prosecuted, and incarcerated for a lengthy period of time.

B. Results

From 1975 through early 1980, 10,281 defendants were identified and prosecuted as career criminals in 46 jurisdictions receiving Federal funding. Of that total, 9,599 defendants were convicted — a 93.4 percent conviction rate. These career criminals were prosecuted for a total of 18,910 major crimes. Of these defendants, 2,812 (29 percent) were convicted by trial, while 6,787 (71 percent) were convicted by guilty plea. In addition, 88 percent of the convictions were for the top felony charge. The average sentence of incarceration for these career criminals was 14.4 years.

II. GOAL AND OBJECTIVE

A. Goal

The goal of the Career Criminal Prosecution Program is to improve public safety and disrupt foreseeable patterns of serious criminal activity through effective prosecution and case management.

B. Objective

The objective is to incapacitate greater numbers of repeat and violent offenders by improving the prosecutor's resources and management capabilities. This includes the prosecutor's ability to screen, prosecute, and follow up on these offenders.

III. PLAN DEVELOPMENT

A. Problem

In an environment of high crime rates and extremely heavy case loads, prosecutors' offices have frequently been handicapped by incomplete investigations, incomplete screening and inaccurate crime charging, high prosecutor/case load ratios, lack of input into bail decisions, ineffective handling of preliminary examinations, pretrial delay, overemphasis on plea bargaining, and failure to impact on sentencing decisions.

B. Answer

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals urged prosecutors and courts to give priority to cases involving habitual offenders and professional criminals. The goals of this policy were crime control and deterrence, based on a view that:

- Faster disposition of these cases could encourage imposition of higher bail and greater use of pretrial detention, thus reducing the defendant's opportunity to commit more crimes; and,
- Swifter prosecution and more certain punishment could operate as a deterrent, if only through the incapacitation of the repeat offenders themselves.

Citing the Commission's recommendation, the District Attorney for Bronx County, New York, established the Major Offense Bureau in 1973 under a State Block Grant from the Law Enforcement Assistance Administration (LEAA). Devoted exclusively to the prosecution of serious crimes and career criminals, this unit was subsequently designated as an LEAA "Exemplary Project."

In 1975, LEAA launched the national Career Criminal Program with the establishment of projects in 11 cities. An additional eight cities received funding the following year, and the growth of that program continued to over 75 funded projects. LEAA awarded incentive funds, on a 50/50 matching basis, to Connecticut, Florida, and New York for statewide Career Criminal Prosecution Programs. Those funds supported from four to twelve prosecutorial units and a state-level administrative office in those three states.

The current program builds on that base by supporting additional statewide and local career criminal units.

C. Critical Elements

1. Organization

Most individual Career Criminal Prosecution Programs are established as a separate unit within the prosecutor's office. A unit chief, one or more assistant prosecutors, and a full-time support staff are assigned permanently to the unit. Assignment of experienced prosecutors to the unit is a central feature.

2. System of Prompt Notification

An enhancement for many projects is a system of direct police referral of potential cases to the special prosecution unit. Several projects had a designated prosecutor on 24-hour call to assist law enforcement officers during the early investigation.

3. Intake Procedures

In establishing or enhancing the operations of an individual Career Criminal Prosecution Program, there must be a firmly established procedure to screen all felony charges/defendants and, in the process, identify those cases to be referred for prioritized prosecution. Once potential cases have been referred to the special unit, an objective selection procedure is used to identify qualifying offenders. Many programs have developed a numerical rating form with precise scoring criteria for this purpose. This procedure standardizes the way in which similar cases are handled by the office. Three factors are usually weighed in determining whether or not an offender is selected for career criminal prosecution: (1) the nature of the offense; (2) the defendant's criminal history; and, (3) the strength of the case. To facilitate the identification of repeat offenders, many Career Criminal Prosecution Programs have sought to develop better means of accessing Federal, state, and local criminal history records.

4. Vertical Prosecution

The cornerstone of the Career Criminal Prosecution Program is vertical prosecution, whereby one prosecutor has the responsibility for a case from beginning to end. This policy eliminates unnecessary duplication of effort, reduces delay, and minimizes inconvenience to both witnesses and police.

5. Limited Plea Bargaining

Most individual Career Criminal Prosecution Programs limit the scope of plea negotiations. For example, the Major Offense Bureau in the Bronx will only allow defendants to plead guilty to the first or second count in the indictment. Once the trial begins, plea negotiations cease. The San Diego Major Violator Unit, a project awarded "Exemplary Project" status in 1979, has a similar policy. Prior to entering plea negotiations, the prosecutors determine what charges against the defendant best capture the nature of the offense and will result in a sentence that fits the crime. Once charges have been filed, the prosecutors typically seek conviction on the top felony counts and do not settle for pleas to lesser charges.

6. Coordination with Law Enforcement

To function successfully, a Career Criminal Prosecution Program must develop a close working relationship with law enforcement agencies. One way in which police and prosecutors work together is through direct police referral of cases to the career criminal unit. This coordination of effort typically extends to the investigative process as well. In San Diego, for example, local law enforcement agencies and prosecutors are in frequent contact regarding evidence collection and prosecutorial strategy, and at least one prosecutor is available 24 hours a day to respond to police inquiries.

7. Coordination with the Courts

Many courts have installed a priority scheduling procedure to expedite cases involving repeat offenders. When the courts are saddled with exceptionally heavy case backlogs, it may be desirable for a Career Criminal Prosecution Program to have separate trial sessions. At bail hearings, prosecutors can make the defendant's prior record known to the judge and urge that a high bail be set. Where permitted, prosecutors can recommend the maximum sentences be given by highlighting the offender's criminal history, and emphasizing the possible applicability of sentence enhancement statutes.

8. Coordination with Corrections

Some Career Criminal Prosecution Programs have sought involvement in parole determinations. For example, the career criminal unit in St. Louis, Missouri, instituted a procedure whereby it requests notification when career criminals become eligible for their first parole hearing. This request is forwarded to the State Board of Probation and Parole 75 days after a career criminal defendant is sentenced. Upon notification, the prosecutor who handled the case attends the parole hearing to oppose the offender's early release. In 1978, interviews conducted by Rand, with correctional administrators in 30 states, showed that most administrators are receptive to prosecutor requests for notification regarding early release hearings.

IV. IMPLEMENTATION STEPS/ISSUES

A. Specific Criteria

The prosecutor must ensure a procedure to screen all felony charges/defendants and identify those cases to be referred for priority prosecution. Criteria for career criminal case selection must be specific and tailored to the most serious crime problems of the community (e.g., San Diego chose to concentrate on robbery).

B. Organization

Although the LEAA Career Criminal Prosecution Program required the formation of a distinct unit to prosecute the accepted cases, most projects were not able to maintain this separate entity after Federal funding ceased. Nevertheless, most all participating prosecutors' offices have continued this basic concept by designating an identified "team" of experienced felony prosecutors to be responsible for prosecuting the selected cases.

There is no exact formula for the overall size of a career criminal unit or for the number of prosecutors assigned to the unit. Since cases must be thoroughly prepared and expeditiously presented, senior or more experienced prosecutors should be assigned. The unit must have a significantly reduced case load per prosecutor. Each prosecutor is responsible for specifically assigned cases throughout the adjudication process ("vertical prosecution"). If the "team" approach is selected, the two or three members should be very familiar with each case, being able to respond to any issue or procedure.

C. Case Load

The number of active cases per prosecutor is directly related to the case selection criteria. If the criteria are too broad, more cases may be accepted than the career criminal unit can effectively handle. Where the case load becomes too heavy, case selection criteria must be narrowed.

D. Improved Coordination

Improved treatment of victims and witnesses is an inherent part of career criminal unit operations. Victims and witnesses are cooperating with a single, experienced prosecutor, as are the police. Pretrial events, such as motions to suppress or to continue, are handled by the same prosecutor. The prosecutor actively seeks the earliest feasible trial date. In short, career criminal prosecutors take all steps within their authority to ensure that each case is thoroughly and expeditiously prosecuted.

V. PROGRAM EXPERIENCE

A. Improvements in Prosecutorial Techniques

One measure of the effectiveness of Career Criminal Prosecution Programs is the level of satisfaction expressed by chief prosecutors and program directors. A survey of approximately 75 career criminal jurisdictions, conducted in 1979 by the Institute for Law and Social Research (INSLAW), showed that 92 percent of chief prosecutors and 87 percent of program directors rated the programs in their jurisdictions to be excellent or very good. Only two percent of the directors and none of the chief prosecutors found their projects to be unsatisfactory.

Importantly, 76 percent of those chief prosecutors and program directors cited an improvement in attorney morale as a result of their Career Criminal Prosecution Program. A full 62 percent said that the program had improved their public image.

B. Improvements in Prosecutorial Effectiveness

Evaluation studies of Career Criminal Prosecution Programs have focused on several standard measures of prosecutorial effectiveness.

1. Reduction in the amount of time required to prosecute a case

Varying levels of success have been reported in achieving this goal. The California Career Criminal Prosecution Program reported no change in case processing time across its Statewide system of 12 career criminal units. In contrast, the Major Violator Project in Suffolk County, Massachusetts, cited a 67 percent reduction in the average time required to process an offender from arrest to conviction. Similarly, the Kalamazoo unit reported a 51 percent reduction, while units in New Orleans, Louisiana, and Columbus, Ohio, posted more modest reductions of 31 and 15 percent respectively.

2. Reduction in the number of repeat offenders securing pretrial release

Only two programs cite figures for this outcome measure. The Suffolk County unit reported a 30 percent reduction in the number of career criminals being released on bail, achieved primarily through the setting of higher bail. The average bail for repeat offenders increased threefold in California counties having career criminal units.

3. Increase in the rate of conviction for the most serious charge

Rate of conviction for the most serious charge has improved dramatically in jurisdictions with career criminal units. Prior to the establishment of the California Career Criminal Prosecution Program, for example, only 60 percent of the prosecuted career criminals were convicted of the most serious charge against them. After initiation of the Career Criminal Prosecution Program, this figure rose sharply to 81 percent. Within San Diego County, the increase was from 41 percent during the baseline period to 76 percent after the career criminal unit had been established.

4. Increase in the overall rate of conviction

Increases in the overall conviction rate of repeat offenders have been uniformly modest. Often, such rates were already high before the program was instituted. For example, Suffolk County reported a conviction rate for career criminal cases of 87 percent prior to the creation of its Major Violator Project. This rate increased to 96 percent after the project was started. Other programs have reported increases ranging from two to seven percent.

5. Reduction in the scope of plea negotiations

In the California program, the percentage of charges leading to conviction increased from 42 percent to 61 percent, with only 32 percent of the charges being dropped by the prosecutors.

6. Increase in the rate of incarceration

Nearly all Career Criminal Prosecution Programs reported increases in the percentage of prosecutions leading to incarceration. Across all 12 California projects, this rate jumped from 64 to 84 percent.

7. Increase in the average length of sentence

Most units reported an increase in the average sentence. For example, California reported an increase in the average sentence from four years, six months, to five years, five months, excluding life sentences. The San Diego unit showed a more dramatic increase, from an average of four years, four months, to eight years, ten months.

Finally, an examination of the 12 California units suggests that those units focusing on a limited range of crimes, such as burglary and robbery, show greater improvements than those concentrating on a wider range of felonies.

VI. FUNDING

Individual Career Criminal Prosecution Programs are eligible for funding under the Block Grant program to the states at a 50 percent Federal funding level. State and/or local units must provide the remaining 50 percent of funding.

VII. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

A. Selected Bibliography

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3. "The Major Offense Bureau - Bronx County (N.Y.): An Exemplary Project"; McGillis, D.; National Institute of Justice, U.S. Department of Justice, Washington, D.C.; 1977; NCJ #37810.
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12. "The Prison Experiences of Career Criminals"; Petersilia, J., P. Honig, and C. Hubay; Rand Corporation, Santa Monica, Calif; 1980; NCJ #71103.
13. "Urban Crime Policy: Hearing Before the Subcommittee on Economic Growth and Stabilization"; United States Congress, Joint Economic Committee; 95th Congress, 2nd Session, May 17, 1978; pp. 29-37; NCJ #57638.
14. "Career Criminal Briefing Paper No. 6: Responses to Legal Challenges" (Draft); Institute for Law and Social Research, Washington, D.C.; 1979.
15. "Doing Crime: A Survey of California Prison Inmates"; Peterson, M.A., H. Braker, and S. Polich; Rand Corporation, Santa Monica, Calif.; 1980; NCJ #72477.
16. "Career Criminal Program"; Policy Brief; National Institute of Justice, LEAA, U.S. Department of Justice, Washington, D.C.; September, 1980; NCJ #70870.

- Most of the preceding information is available from the cited source or, through microfiche, from:

National Criminal Justice
Reference Service (NCJRS)
P.O. Box 6000
Rockville, Maryland 20850
Telephone: (301)251-5500 or
Toll Free (800)851-3420

B. Technical Assistance Sources

Within the limits of available resources, including discretionary funds, the Bureau of Justice Assistance, Office of Justice Programs, will provide technical assistance to local prosecutors and state agencies that are expanding or initiating Career Criminal Prosecution Programs.

The major emphases will be: (1) to assist prosecutors in developing criteria for career criminal case selection based on an analysis of felony crime patterns; (2) to assist in the development of appropriate case selection procedures; and, (3) to assist with planning and policy for a vertical prosecution unit.

C. State and Local Program Contacts

The following individuals are experienced in the planning and operation of Career Criminal Prosecution Programs and can be contacted for further information or assistance.

- | | |
|---|--|
| - Daniel Fox
San Diego Major Violator Unit
Office of the District Attorney
County of San Diego
County Courthouse (C-16)
220 W. Broadway
San Diego, California 92101
(619) 236-2388 | - Randolph Williams
Career Criminal Unit
Office of the District
Attorney
1300 Chestnut Street
Philadelphia, Pennsylvania 19107
(215)875-6093 |
| - Brian Wilson
Major Offense Bureau
Office of the District Attorney
Bronx County
851 Grand Concourse
Bronx, New York 10451
(212) 590-2714 | - David Cook
Habitual Offender Unit
Marion County
Prosecutor's Office
City-County Bldg., Rm. 560
Indianapolis, Indiana 46204
(317) 236-5302 |
| - Charles Campbell
Career Criminal Prosecution Unit
District Attorney's Office
800 South Victoria
Ventura, California 93009
(805) 654-2518 | - James Dimm
Institute for Law and
Social Research
1125 15th Street, N.W., Suite 600
Washington, D. C. 20005
(202) 828-8600 |

The following office has information available on the Statewide California Career Criminal Prosecution Program.

- Joseph Arellano
Office of Criminal Justice Planning
1130 K Street
Sacramento, California 95814
(916) 324-9206

D. Federal Program Contact

Career Criminal Prosecution Program
Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Tel: 202/724-5974

VIII. PERFORMANCE INDICATORS

During implementation of the program described in this Program Brief, sponsoring agencies or organizations should find it useful to track and maintain certain program information in order to provide some indication of program performance. While basic in nature, this information will not only provide an indication of program progress and performance, but will also serve as a benchmark for continued program implementation and allow for comparison with similar program efforts in other jurisdictions. Attached is a suggested reporting form listing several performance indicators which should be helpful in tracking program performance.

PERFORMANCE REPORT
(Please type)

Program Category: Career Criminal Prosecution

Project I.D. No.: _____
(Limited to 10 characters)

Implementing Agency: _____

Address: _____

Report Date: ____/____/____

Period Covered: ____/____/____ through ____/____/____

Performance Indicators: In order to gather basic information regarding project implementation, please provide responses to the following performance indicators.

(1) Number of full-time prosecutors assigned to unit: _____

(2) Total amount of Federal/non-Federal expenditures: _____

(3) Number of cases meeting established criteria: _____

(4) Number of cases prosecuted: _____

(5) Number of cases resulting in conviction: _____

(6) Number of individuals incarcerated: _____

(7) Additional comments/information: _____

END