

LAW ENFORCEMENT MANAGEMENT INSTITUTE

EVALUATING A CAREER CRIMINAL PROGRAM

A LEARNING CONTRACT
SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
MODULE I

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BEAUMONT, TEXAS
JANUARY, 1990

#729

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CHAPTER 1

THE CAREER CRIMINAL PROBLEM

A relatively small number of persons account for a significant portion of the workload of the police, prosecutors, and courts, and the disproportionate impact those persons have on citizens who are victims of crime. Wilson noted, "Most serious crime is committed by repeaters. What we do with first offenders is probably far less important than what we do with habitual offenders."¹ Even though repeat offenders are a small percentage of all criminals--about 15 to 20 percent, by one estimate--they commit the majority of serious, detected crimes. If these high-rate offenders could be identified and stopped from operating, the serious crime rate could be greatly reduced.² This common knowledge that a small group of offenders account for a disproportionate number of crimes has received substantial empirical validation in recent years.

Research on Career Criminals

A study of data in Washington, D.C. found that 7

percent of the 46,000 defendants arrested from 1971 through 1975 accounted for 24 percent of the 73,000 felony and serious misdemeanor cases handled by the prosecutor for that jurisdiction.³ Another example, "Baltimore County found that among 355 adults arrested for serious personal and property offenses, 70% had prior adult arrest records and 27% had prior adult incarcerations. Furthermore, within two years 40% were rearrested."⁴ A Rand Criminal Career study reported that 49 habitual offenders admitted committing more than 10,000 serious crimes, an average of 200 each, over a typical career length of about 20 years.⁵ According to a 1982 INSLAW Study, of 1708 federal offenders, there is a substantial difference. Noncareer criminals committed an average of 19 serious nondrug-related offenses over a five year period. By comparison, career criminals committed an average of 895 offenses over a 5 year period, of which 192 were nondrug-related.⁶

Problems in the Criminal Justice System

Career criminals profit from clogged dockets, long delays, and inadequate prosecutorial resources that characterize many jurisdictions. This results in

dismissals and inappropriate charge reductions due to insufficient case preparation and dilution of case strength over time. The image of revolving door justice occurs because the career criminal frequently returns to the street with the resumption of criminal activity. Some of these unsatisfactory outcomes result from inadequate resources or defective operations in the system; others, from a clear lack of policy direction. Some cases are dismissed or settled by a plea to a reduced charge because heavy workloads discourage the police from performing thorough follow-up investigations. Adequate trial preparations for all cases are usually precluded by excessive prosecutorial caseloads, so lenient plea settlements serve to relieve the caseload pressure and thereby benefit some recidivist defendants. In some cases, serious convictions may be unattainable because of the loss of key witnesses or by the absence or incompleteness of criminal records when needed in the proceedings.

CHAPTER 2

CAREER CRIMINAL PROGRAMS

A national strategy toward remedying the criminal justice system's handling of recidivists grew out of this growing body of evidence and took root in 1974 when the Law Enforcement Assistance Administration began funding the Career Criminal Prosecution Program (CCP). Prosecutors began to devote special attention to defendants who had been charged with targeted crimes and/or who had serious criminal records. "The growth of the career criminal prosecution programs reflects a belief that crime rates can be reduced by the more certain and the longer imprisonment of career criminals and by the resultant deterrence of other offenders. Also reflected is a view that these special prosecution units will impel an increased respect for, and improved morale within, the criminal justice system."⁷ As Broome noted,⁸ the program was focused on the prosecutor because his administrative decision making determined to a greater extent than any other single factor the quality of justice, and the increase in crime that so far outstripped the prosecutor's resources.

Prosecutorial Efforts

The major objectives of these programs is to focus prosecutorial efforts toward early identification of cases involving career criminals, more thorough case preparation, priority prosecution, conviction of the most serious charges and lengthy incarceration. The CCP is set up as a special unit within the prosecutor's office, with attorneys assigned primarily to this unit. There is usually a compliment of investigators assigned to the unit to assist in case preparation and to ensure a thorough investigation. Once a case is targeted for career criminal prosecution, it is assigned to one attorney. This is known as vertical prosecution, in which this single attorney will handle the case from its initiation to its final disposition. As opposed to the usual procedure of passing the case from one prosecutor to the next, vertical prosecution assures better case preparation, better rapport with witnesses and police officers, and can facilitate better handling of appeals. By reducing the case load, it allows the attorney to concentrate on these targeted cases. Strict plea bargaining procedures are used, so that once a case has

been targeted it will either go to trial as charged or a plea of guilty will be entered. In order to expedite these cases and thereby lessen the possibility of other crimes being committed while the defendant is awaiting trial, jurisdictions usually assign these cases priority on the docket. In addition, the prosecutor may allow full disclosure to the defense attorney so as to minimize pre-trial discovery hearings and constitutional challenges. In order to obtain the longest period of incarceration possible, prosecutors make use of prior convictions to file habitual offender charges and ensure the complete records are included in presentence reports.

Selection Criteria

The question of which cases are selected for prosecution by the CCP still remains. On what basis do we target those individuals as career criminals for special prosecutorial efforts? It is noted, "...research indicates that the selection process is the most important aspect of the program. Incapacitation may effect a notable reduction in crime only when the worst offenders are identified, prosecuted, convicted and incarcerated."⁹ The priorities

and policies of the prosecutor and resources available generally determine the scope of the targeted group. The criteria will include the offender's past record, the seriousness of the crime with which he is presently charged, and the strength of the present case. Williams found several recent studies that are associated with recidivism. When taken together they suggest a profile of a career criminal: a young person in his late teens or early twenties, arrested for robbery or burglary, or a series of property crimes, with a juvenile record and a long criminal history given only a few years on the street, who is unemployed and uses drugs. None of these factors seem to be very good predictors of future criminal activity by themselves, but must be taken as a whole to give the individuals status as a career criminal. Williams found, for example, that while prior criminal conduct with a criminal justice system is an important predictor of future contact, prior convictions alone are not very good predictors. This is due to the age of the offender. By the time an offender has had several prior convictions, he is usually old enough to have reduced his propensity toward crime. More important than mere prior convictions are the

recency of arrests. Each arrest within two years increases the likelihood of recidivism. The presence of a juvenile arrest record must also be taken into account in predicting criminality. In one study, of the persons arrested for all different types of felonies, robbery and burglary defendants were the most likely to recidivate in the future.¹⁰

General acceptance of LEAA's Career Criminal Prosecution Program has called into question whether other sectors of the criminal justice system are focusing enough attention on the career criminal, and if their efforts are appropriately complementing those of the prosecutors. The special prosecution efforts must be heavily dependent on police support. The CCP's work is greatly facilitated by prompt notification by the police that an arrestee appears to meet career criminal prosecution criteria. The strength of the case against a career criminal hinges on the quality of the police investigation, both initial and follow-up. Prosecutors generally rely on police channels to obtain local criminal history information, usually vital in career criminal cases. The Rand Corporation study identified three areas in which the police could implement new

strategies; strengthening their assistance to the prosecutor on his active career criminal cases; applying specific apprehension efforts against suspected career criminals; and upgrading investigation and crime analysis activities that are intended to identify additional career criminals.¹¹

CHAPTER 3

PROGRAM EVALUATION

Monitoring reports is the first stage in program evaluation. Quarterly meetings should be held between prosecutors and law enforcement agencies involved in the program and a summary report completed. This report addresses the issues whether the program is on schedule, if sufficient personnel are assigned to each task, and any technical problems encountered.

Monitoring Reports

Monitoring reports are completed quarterly on a case-study basis. With each case assigned to the CCP, police and prosecutors should maintain records of several items. For the investigators involved in the career criminal unit, primary goals would be early identification of career criminal cases after arrest and notification of the prosecutor, on or before the time the case is presented for formal charges. Another goal would be more extensive case preparation before trial. The police investigators should note on each case when it was identified as a career

criminal case and at what point the prosecutor was notified. Investigators should note any problems encountered in determining if the offender met the selection criteria. They should also note in the cases refused for prosecution and the reasons the prosecutor gave for declining the case. Additional investigative efforts on a case after presentation to the prosecutor for formal charges should be noted.

The prosecutors should note the following on each case; if all criminal history information was presented with the case when filed, if additional information was requested from investigators, and whether they complied with this request. Prosecutors should note appearances at bond hearings, whether the case received priority on the docket, and reason for any delays.

When the police and prosecutors meet every three months, these records may be combined into a summary report. The report should indicate the number of cases presented and accepted for career criminal prosecution, if the cases are receiving special attention from both police and prosecutors, and areas for improvement. These reports determine the program's operational status and give

valuable feedback for improved performance.

Performance Measures

The second stage of the evaluation consists of performance measures using statistical data available in the police and prosecutor's offices. A table of program activities and their respective performance measures are presented in APPENDIX A. A process evaluation report should be prepared annually reflecting program performance on these measures.

The police career criminal unit has two functions, post-arrest and pre-arrest. One objective of the post-arrest unit is early identification of career criminal cases and notification of the prosecutor. Success will be measured by the percentage of cases where the prosecutor was notified on or before the time formal charges were filed. Another objective of this unit is to assist the prosecutor in case preparation before trial. Performance indicators would be the number of cases accepted compared to those refused for lack of evidence, and those cases later dismissed due to lack of evidence. Another measure is the number of man hours spent on case preparation by the

unit investigators compared to other investigative units. This would include time spent on the case after charges had been filed and thus give a more accurate measure of the extent of pre-trial investigation actually expended in career criminal cases as opposed to other more routine cases. A final objective of the police career investigative unit is to make other department members aware of career criminal offenders as they are indentified. This information may be accompanied by a request for feedback on the activities of these offenders. Patrol officers should use field interview cards and investigatives to submit intelligence on known or suspected offenders. An increase in the amount of feedback from other officers on targeted offenders would be an indicator of how well intelligence has been distributed.

Prosecution objectives for the program include detention from arrest to trial, assigning one prosecutor to handle the case for better case preparation, conviction on the most serious charge, reduced plea bargaining, higher conviction rate and increased length of sentences. With the exception of detention from arrest to trial, data is currently recorded on the performance measures listed.

Pre-arrest police strategies would include targeting active offenders for apprehension, using surveillance and other special tactics. Measures comparing the numbers of arrests and cost per arrests between this unit and other department units would be useful in gauging unit effectiveness. The additional measures listed would also be compared with departmental arrests and clearances generated, and the percentage of arrests accepted for prosecution. Special tactics can be costly in terms of man-hours; these measures would give the agency head an indication of the utility of a special unit in comparison with normal procedures.

Impact evaluation addresses the program goals of reducing crime rate and increasing the clearance rate for serious crimes. Many factors outside the criminal justice system influence the crime rate, such as economic conditions and population demographics. In addition, police and prosecutors have little control over the amount of sentence actually served; especially in Texas where prison overcrowding has severely reduced the number of prisoners accepted and time actually served. With these considerations in mind, it would be difficult to attribute

increases or decreases in the crime rate to the success or failure of the CCP.

Even with scarce resources, errors of prediction, and ethical questions of such programs, Career Criminal Programs continue to proliferate and still provide an attractive basis for choosing which criminal justice course to take. There are many effective programs currently in use in Texas. Some of the more successful ones are located in Dallas, San Antonio, and Austin.

APPENDIX A

COMPREHENSIVE CAREER CRIMINAL PROCESS EVALUATION

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. Police post/arrest
career criminal unit

ACTIVITIES

1. Early identification of career criminal cases
2. Enhanced case preparation
3. Tracking victims/witnesses from arrest to trial
4. Dessiminating career criminal information through the department

RESULTS/PERFORMANCE MEASURES

1. Career Criminal cases identified before suspect is charged
2. Number of man-hours spent on case preparation
3. Cases refused for prosecution due to lack of evidence
4. Cases dismissed or disposed of by a reduced plea because victim/witness not available
5. Intelligence reports on career criminals received from other departmental units

. Prosecutor's career
criminal unit

5. Vertical prosecution
6. Pre-trial detention
7. Priority docketing
8. Reduced plea-bargaining

9. Tried on most serious charge

6. % incarcerated from arrest to trial
7. Length of time from arrest to trial
8. Disposition on most serious charge
9. Number of negotiated pleas on a reduced charge
10. Conviction rate
11. Length of sentence received

. Police pre-arrest
career criminal unit

10. Targeting career criminals for apprehension
11. Use of special tactics, i.e. surveillance, undercover operations

12. Number of career criminals apprehended
13. % of arrests accepted for prosecution
14. Number of man hours per arrest/cost per arrest
15. Number of ancillary arrests
16. Number of clearances generated

Source: National Districty Attorneys Association, Bureau of Justice Assistance, Career Criminal Prosecution Workshop, Kansas City, Missouri, Oct. 86, Sec. 9, 2-8.

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