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FINAL REPORT

REDUCING AVOIDABLE FELONY CASE ATTRITION
THROUGH ENHANCED POLICE-PROSECUTOR COORDINATION

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Prepared By:

Dr. James Garofalo
and
Anita R. Neuberger

Hindelang Criminal Justice Research Center
State University of New York at Albany
135 Western Avenue
Albany, NY 12222
(518) 442-5600

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INTRODUCTION

This report presents findings from a quasi-experimental evaluation of a project aimed at enhancing the preparation of felony cases through improved police-prosecutor coordination. The study was prompted by recent research on two related topics: case processing and police-prosecutor relationships.

Research examining case processing reveals that a significant proportion of felony arrests do not result in a conviction (Forst, 1977; 1982; Vera Institute, 1977; Brosi, 1979; Feeney, 1983; Boland, 1983; 1985). One study in particular suggests that the deterioration of cases, often referred to as case attrition, is a widespread phenomenon. In her study of thirteen jurisdictions, Brosi (1979) reported that approximately one-half of the felony cases were dropped after arrest without any conviction. While some of this attrition is understandable and perhaps justifiable, research suggests that evidentiary issues play an important role in determining whether a given arrest will result in a conviction (Boland, 1983; 1985; Brosi, 1979; Feeney, 1983, for example), and that the attrition rate may be decreased substantially by improving the case preparation process.

About the same time that researchers were documenting the attrition of felony arrests, another study indicated that a lack of coordination and understanding between police and prosecutors was responsible for many of the evidentiary problems in felony cases (McDonald, 1982). The results of this study imply that better mutual understanding of evidentiary and investigatory requirements between police and prosecutors could lead to a reduction of case attrition.

In 1985, the New York State Police (NYSP) developed and implemented a program designed to address case attrition by increasing communication and coordination between police officers and prosecutors. An evaluation of this program was funded by the National Institute of Justice and conducted by the Hindelang Criminal Justice Research Center, State University of New York at Albany.

The program involved a single police agency whose cases are handled by a variety of prosecutorial and court jurisdictions. Unlike many other statewide police agencies whose activities consist almost exclusively of highway patrol, the NYSP has full jurisdiction in all areas of the state, and the officers are actively involved in all types of law enforcement situations. This study will complement prior research that has examined either one police agency in a single jurisdiction, or different police agencies in a variety of jurisdictions across the nation. While the NYSP has jurisdiction throughout the state, they tend to be most heavily involved in routine law enforcement tasks in areas outside major cities. Within large cities, State Police activities tend to be more specialized: organized crime and

white-collar crime, for example. Nevertheless, the distribution of felony categories in the State Police arrests we analyzed closely parallels the distribution of felony categories among all felony arrests in New York State, outside of New York City.

PROJECT DESCRIPTION

The State Police program involved the placement of a Bureau of Criminal Investigation (BCI) officer in each of a number of prosecutors' offices throughout New York State. The investigators were to serve as liaisons between the police and prosecutors in order to encourage collaborative efforts in the preparation of cases for prosecution. The assumption behind the program is that the establishment of this formal liaison would contribute to the building of "stronger" cases and decrease the rate of case attrition. In addition, the presence of a liaison officer was expected to create an environment in which police and prosecutors would gain a deeper understanding and appreciation of each other's functions, philosophies, resources, and constraints, thus breaking down the barriers that often exist between these two segments of the criminal justice system (see McDonald, 1982 for a discussion of police-prosecutor relations).

The intent of the NYSP was to implement the program on a small scale for two years, at which time an assessment of the program would help in determining whether it should be expanded, in its original or modified form, to more counties. In addition, the initial program would lay the foundation for the development of training components on evidence gathering techniques and generate policy coordination between police and prosecutors.

The evaluation was conducted in six counties in New York State. Four are experimental sites where the NYSP implemented the liaison program; two serve as comparison sites. Two large counties had already been selected by the State Police for program implementation. The researchers worked with the State Police in selecting the other four counties.

Three main considerations were made in the selection of the remaining four sites. First, an effort was made to include counties having a mixture of urban, suburban, and rural populations to ensure generalizability of evaluation results. A second major criterion was that the experimental and comparison groups each contain at least one county in which a high proportion of felony arrests is made by the NYSP (as opposed to municipal law enforcement agencies). Finally, it was necessary to select counties in which the district attorney was willing to participate in the operational and research components of the pilot program. Cooperation was forthcoming from the first four counties that were selected, avoiding the need to exclude any of the initially selected sites from the study. Table 1 summarizes the characteristics of the research sites, and the jurisdictions are discussed in more detail below.

Case Processing in New York State

The majority of felony cases come to the attention of the district attorneys' office once an arrest has been filed from a law enforcement agency. New York State has a two-tier court system. Lower courts, which are scattered throughout a county's municipalities, have final jurisdiction over violations and misdemeanors, and they conduct initial arraignments and preliminary hearings for felonies. The second tier in New York is the county-level Superior Court, which has jurisdiction over the disposition of felony cases. Following a felony arrest, the case is arraigned in lower court and transferred to upper court for prosecution. However, it is not uncommon for a prosecutor to reduce a felony charge to a misdemeanor at lower court arraignment, and to have the case disposed of in lower court.

Felony cases that have been arraigned in lower court are brought by the prosecutor's office to Superior Court by way of a grand jury indictment or a Superior Court Information (SCI). SCI's are utilized primarily when the defendant pleads guilty to a charge agreed upon by the prosecutor, thus waiving his or her right to a grand jury proceeding. If the SCI procedure is not used, the case is presented to a grand jury. If the grand jury finds sufficient cause to charge the defendant with a felony, an indictment is issued specifying the exact charges the prosecutor may pursue. If sufficient cause is not found, the grand jury has two options: (1) to proceed with a misdemeanor charge, at which point the case will be referred to lower court for processing, or (2) return a "No True Bill" resulting in dismissal of charges.

Once a defendant is formally charged with a felony, either through indictment or Superior Court Information, the case is handled in upper court. At this point a Superior Court arraignment codifies the felony charges, and the case is prosecuted on these charges.

The Research Sites

Among the six district attorneys' offices that participated in the study there were some variations in organizational structure and specific policies. However, five of the six counties relied primarily on vertical prosecution, with one prosecutor responsible for the case from Superior Court arraignment through final disposition. The remaining county (an experimental site that contributed relatively few cases to the research data set) has a horizontal structure in which different prosecutors are responsible for the case at different stages.

The prosecutors' offices differed in the extent to which they used specialized bureaus or units. However, specialization was most pronounced in the two heavily populated experimental counties, and the numbers of felony arrests made by the State Police in those counties were relatively small.

Some variation was also evident in prosecutorial decision-making, particularly with respect to the policies guiding plea bargaining. Some district attorneys have very formal policies regarding plea bargaining, limiting the amount of discretion individual prosecutors have. In other offices the policies are more broadly defined, enabling more individual discretion on the part of the assistant district attorney.

A brief description of each county follows.

Experimental County #1 (E1)

With a population of about one million, this county is the largest of our research sites. The county's law enforcement responsibilities are shared by 29 city and town police departments, the county sheriff's department, and the NYSP. The majority of cases originate from one city police department.

The district attorney employs 76 full-time prosecutors. The majority of cases are prosecuted horizontally, with the assistant district attorneys assigned to one of six prosecutorial bureaus. The Justice Court and City Court Bureaus are responsible for cases handled by the 40 lower courts in the county. The Grand Jury Bureau gets felony cases from the lower courts and handles the case through the indictment stage. The Superior Court Bureau processes cases from indictment to final disposition. Aside from dealing with routine felony cases the Superior Court Bureau also has special units to handle major offenses and violent offenders. In addition, the county also has an Appeals Bureau and a bureau to deal with special investigations such as white collar offenses and organized crime.

In County E1, there were nearly 45,000 UCR Index Crimes known to the police in 1985, a rate of about 4,500 crimes per 100,000 population. However, only 2 percent of these were logged by the State Police, while 54 percent were recorded by the police department in the county's largest city.

Experimental County #2 (E2)

Law enforcement in this county is handled by 22 municipal police departments, the county sheriff's department, and the NYSP. The majority of cases originate from one city police department and from the sheriff's department.

The organizational structure of the district attorney's office consists of five divisions: local court, felony prosecution, pre-trial, appeal, and administration. In this county cases are primarily prosecuted in a vertical fashion. Within the Felony Division the prosecutorial functions are divided into several units: violent felony, superior court, career criminal, driving while intoxicated, and an arson unit. The Pre-Trial Division includes several bureaus: grand jury, economic crimes, domestic violence, and investigation.

The data on UCR Index Crimes known to the police in County E2 are similar to the data from E1. More than 38,000 offenses were reported, for a rate of about 5,300 per 100,000 population. And, as in E1, the NY State Police recorded only 2 percent of these crimes, while the department in the county's largest city recorded 59 percent.

Experimental County #3 (E3)

The district attorney's office in this county is responsible for the prosecution of all felony and misdemeanor cases brought to their attention by the 20 city, town, and village police departments, the county sheriff's department, and the NYSP. The majority of cases originate from one city police department, but the NYSP also contributes a significant proportion of arrests.

The organizational structure of the district attorney's office consists of four prosecutorial divisions: justice court, city court, felony, and appeals. Within the Felony Division are two specialized units; one dealing with driving while intoxicated offenses, and one which handles all arson, gambling, forgery, and white collar crimes. Except for these special offenses, all felony cases are randomly assigned to the prosecutors in the Felony Division.

In 1985, about 21,000 UCR Index Crimes were known to the police in County E3, a rate of more than 4,600 per 100,000 population. The State Police recorded a somewhat higher proportion of these crimes (7 percent) than was the case in E1 or E2, but the largest city police department still logged most (56 percent) of the offenses.

Experimental County #4 (E4)

With a population of about 160,000 this county is the smallest of our research sites and the least urbanized of the experimental counties. The county employs 14 prosecutors, six of whom are part-time employees. The district attorney's office receives cases from municipal police departments, the county sheriff's department and the NYSP. The majority of felony arrests in this county originate with the NYSP.

Because this county is relatively small, the district attorney's office does not utilize specialized bureaus to the extent found in the larger counties. Part-time prosecutors are primarily responsible for the justice courts; one attorney handles appeals; one handles city court; and the remainder share the felony offenses.

This county claims to have very stringent plea bargaining policies, and tends to have more trials than other counties.

The low level of urbanization in County E4 is reflected in its crime statistics. Nearly 5,000 UCR Index Crimes were known to the police in 1985, a rate of 3,000 per 100,000 population.

Unlike E1, E2, and E3, a substantial share of the Index Crimes (22 percent) were recorded by the State Police in E4, and only 26 percent were recorded by the county's largest city police department.

Comparison County #1 (C1)

The district attorney's office in this county receives its cases from the local police departments, the county sheriff's department, and the NYSP. The majority of arrests in the county originate from one city police agency, although the NYSP is also fairly active.

The county employs 18 prosecutors. The district attorney's office does not have many specialized bureaus. Attorneys are generally assigned to either lower court or superior court. A few assistants generally handle the special offenses (drug cases, sex offenses, arson cases), but the majority of the prosecutors deal with all types of crime. The office primarily utilizes a vertical system for prosecuting cases.

Although the total population and the total number of UCR Index Crimes in C1 are less than in E3, the crime rate of C1 (4,500 per 100,000) is similar to the rate in E3. Also, the proportions of Index Crimes recorded by the State Police and the largest city police department in C1 (6 percent and 45 percent, respectively) are similar to the proportions found in E3.

Comparison County #2 (C2)

County C2 is most comparable to County E4 in terms of population and social characteristics. The county employs 17 prosecutors and includes 25 local police agencies, in addition to the county sheriff's department and the NYSP. The NYSP is very active in this county, providing the majority of cases to the district attorney.

The organizational structure of the district attorney's office is not very specialized. As of January 1985 the office was divided into two separate bureaus: one dealing with lower court cases, the other dealing with felonies. Aside from a separate appeals unit and an assistant who concentrates on major felonies, the felony bureau assistants prosecute cases involving all types of offenses. The office utilizes a vertical structure of prosecution.

The 1985 pattern of UCR Index Crimes known to the police in County C2 parallels the pattern noted earlier for County E4. Nearly 8,000 offenses were reported, for a rate of about 3,000 per 100,000 population. The NY State Police recorded 16 percent of these offenses, and the largest city police department recorded 29 percent.

Comparability of Research Sites

It should be apparent from the above discussion that there is a great deal of variability among the six research sites. Most striking is the size of Counties E1 and E2, along with the relatively small proportion of the Index Crime workload that is handled by the State Police in those counties. E1 and E2 are the two counties in which the State Police had decided to implement the liaison officer program before a research component was developed. In fact, as discussed in the next section, State Police Bureau of Criminal Investigation officers had been working in the prosecutors' offices in these two counties for some time before the liaison officer program was conceived, though their roles had been much different than the roles planned for the liaison program.

There simply are no counties in the State similar enough to E1 and E2 (in terms of size, urbanization, and State Police workload) to be used as appropriate comparison counties in the research.

On the other hand, the county pairs, E3-C1 and E4-C2, are well suited for the research design. Although not selected randomly, E3-C1 and E4-C2 have similar characteristics, especially in terms of degree of urbanization, crime rate, and proportional State Police involvement in the total law enforcement workload. In addition, the lack of appreciable differences in felony case attrition or conviction patterns among the E and C counties during the two-year pre-test period suggests that the lack of random selection has not been a problem for the research.

All of the E and C counties are used in the case processing analyses that are presented later. Because of the variability among counties, analyses were also conducted with different combinations of counties (especially with E1 and E2 removed from the E vs. C analyses) and with individual counties. Dropping E1 and E2 from the analyses has virtually no effect on the results, which is not surprising given the relatively small numbers of State Police cases that E1 and E2 contribute to the data set: less than 10 percent of the total cases and about 25 percent of all E cases.

The analyses involving individual counties are not presented in this report for two reasons. First, the findings and conclusions remain the same when these analyses are conducted. Second, the researchers agreed with the prosecutors in each county that individual county data would not be presented in order to keep attention focused on the aggregate effects of the liaison program and discourage comparisons of felony processing "track records" across counties.

NATURE OF THE INTERVENTION

Role of the Liaison Officers

As stated earlier, the primary purpose of the liaison officer program was to encourage collaboration between the NYSP and the district attorneys' offices. Aside from some very general job descriptions formulated by the State Police, the liaison officers had flexibility to shape their roles to meet the needs of the individual counties to which they were assigned. When the program began, the details of the liaison officer's specific role were jointly worked out by the liaison officer and the district attorney. Thus, the specific tasks of each officer varied somewhat from county to county.

The manner in which the project was implemented also varied among the research sites. As noted in the preceding section, prior to the start of the project, the NYSP already had a BCI officer placed in the district attorney's office in two of the four experimental sites (E1 and E2). In these counties the BCI officers were assigned to the district attorneys' investigation units. Although the officers were employed by the NYSP, their role was to aid the prosecutors in the investigation of NYSP cases. In county E1, the BCI officer had worked out of the district attorney's office for two years prior to the start of the liaison project; in county E2, the officer had been there for five years. The district attorneys' offices in Counties E3 and E4 did not have BCI officers until the project began.

When the liaison project started, the BCI officers in E1 and E2 were expected to modify their roles to perform the liaison functions. However, for the most part, these officers assumed the liaison responsibilities in addition to their current roles as investigators.

The experiences of the liaison officers assigned to counties E3 and E4 were very different from those in E1 and E2. Since the officers in E1 and E2 had been stationed in the district attorney's offices for quite some time, they had the advantage of having established good working relationships with the prosecutors prior to the start of the project.

In contrast, it took the liaison officers in E3 and E4 a few months before they could feel comfortable with the prosecutors. However, our observations and interviews suggest that the officers in E3 and E4 were able to have greater impact on the processing of cases once the initial barriers were broken. The liaison officers in E1 and E2 tended to be viewed by the prosecutorial staff as NYSP investigators with secondary roles as liaison officers; in E3 and E4 the officers were introduced from the start as liaison officers. Because the liaison officers in E3 and E4 were rarely involved with investigatory duties, they were able to expend all their energies on developing ways to increase coordination among police and prosecutors, while the officers in

E1 and E2 were limited in the amount of time they could devote to these activities.

While the liaison officers differed in how they approached their role, all perceived their primary function in a similar manner: to promote the improvement of police-prosecutor relations, particularly by enhancing the exchange of information between arresting officers and prosecuting attorneys.

Improving Police-Prosecutor Relations

The initial activities of the liaison officers centered around familiarizing themselves with the work routine of the district attorney's office. The officers were given office space alongside the prosecutors, enabling them to establish routine working relationships with the prosecutors. Eventually, the district attorneys' staffs began to perceive the liaison officers as routine parts of their work environments. In most instances the liaison officers had access to all office records and often attended staff meetings on a regular basis. Through this experience, the liaison officers quickly became aware of the issues prosecutors must contend with in processing cases.

In general, the setting provided the officers with a "hands on" perspective on how the district attorneys' offices operated, providing a better awareness of how prosecutorial decisions are made. Furthermore, prosecutors gained a better understanding of the constraints police encounter in their arrest and investigatory roles. Consequently, the mere presence and daily interaction between the liaison officer and the prosecutorial staff provided a foundation for establishing a sense of respect and trust between police and prosecutors.

Once a trusting relationship was established between the liaison officer and the district attorney's staff, the officers were able to work toward enhancing communication linkages between individual prosecutors and police officers. As the liaison officers gained a better understanding of the prosecutors' role, they could relate information regarding case processing to the arresting and investigating officers.

We were told that, prior to the implementation of the project, police officers were generally reluctant to seek out a prosecutor to provide details on a case or to obtain information regarding the disposition of a case because they often felt that prosecutors would not be receptive to them. Similarly, prosecutors were hesitant to seek out an arresting officer for additional information about a case unless they felt it to be absolutely necessary. This hesitancy stemmed from the time and effort it took to locate and contact the arresting officer and from a sense that the State Police preferred that prosecutors contact arresting officers through the chain of command rather than directly.

The presence of liaison officers enabled police and prosecutors to get to know one another better, encouraging them to feel more at ease communicating with each other, and the liaison officers were able to handle the formalities of establishing contact, relieving prosecutors of that burden.

Enhancing Information Retrieval/Feedback Mechanisms

Two of the liaison officers set up periodic meetings between prosecutors and police officers to provide a forum for information exchange. In discussions with prosecutors, the liaison officers realized that it would be helpful to provide police officers with a better awareness of problems prosecutors commonly have with the way police officers conduct and administer investigations. Also, the liaisons wanted to provide a setting where police officers could have an opportunity to informally discuss case processing with prosecutors. These meetings also provided a mechanism for police officers to get updated information on policy and procedures peculiar to a particular county.

At the time this program was evaluated, the liaison officers did not have an opportunity to establish a formal mechanism for providing systematic feedback to officers on the final disposition of their arrests. However, the presence of the liaison officers and the increased interaction that took place between police and prosecutors encouraged prosecutors to provide feedback to arresting officers on an informal basis. For example, one prosecutor stated that the program fostered a mutual rapport that encouraged the prosecutor to personally and informally interact with police officers. Consequently, he now feels a deeper sense of accountability to provide arresting officers with feedback on cases, especially when charges were dropped or reduced.

EVALUATION METHODOLOGY

Definitions

The subject of this study is avoidable felony case attrition. The definitions of the key concepts -- avoidable, felony case, and attrition -- are not completely obvious, and there are alternative ways to measure each of them. Because the research reported here was part of a set of complementary projects being sponsored by the National Institute of Justice in several parts of the country, an attempt was made to use comparable definitions in all of the projects.

A felony case can be defined as any felony arrest charge. To illustrate, assume an offender beats and robs two victims in a parking lot and then flees in a car belonging to one of the victims. The offender is later arrested and charged with four felonies involved in the event: robbery, assault, weapon possession, and vehicle theft. Each of these charges could be counted as a separate felony case. Suppose further that the offender in this example had an accomplice who was equally involved in the

event. If he were arrested on the same set of charges, we would have eight felony cases stemming from the same event.

An alternative way of defining and counting felony cases is to focus on individual victims. In the example above, there are two direct victims; both were victimized by assault and robbery, and one was additionally victimized by auto theft. The weapon possession charges are ambiguous when the definition of a felony case focuses on individual victims.

Another alternative is to focus on individual offenders. Referring again to the example above, there are two felony cases, one for each offender, each of which consists of four charges.

Finally, one can focus on events. In the example above, this would translate to one felony case. The case consists of two offenders, two victims, and multiple arrest charges, but both offenders, both victims, and all of the felonious behaviors are part of a single event.

Our approach combines the notions of focusing on offenders and events. In this report, a felony case represents one offender in one event. Therefore, the example we have been using would produce two felony cases -- one for each offender -- and each case would involve multiple charges.

Attrition of felony cases can also be defined a number of ways. One could say that attrition occurs only when a case is disposed of without a conviction of any sort, or only when there is no conviction on a felony. We set an even more stringent operational definition of attrition: any outcome that does not involve a conviction on the highest arraignment charge.

Recall from the earlier discussion of the felony process in New York State, that arraignments almost always occur in lower (municipal) courts, where arresting officers bring suspects for initial charging. The charges may be reduced or even dismissed during the arraignment process, and these outcomes would be instances of attrition under our definition. But the charges recorded as being initially brought against suspects at arraignment are virtually identical to arrest charges, at least in the six counties that participated in the evaluation. This congruence is shown in Table 2. Because our information on initial arraignment charges was coded from the same data sources as our information on final dispositions, we use the highest arraignment charge as the criterion for judging whether or not attrition occurred in a given case.

Finally, we have the question of what constitutes avoidable attrition. For this study, we use a definition that paraphrases the initial NIJ Research Solicitation: Avoidable attrition occurs when a prosecutor prefers to carry a case further (rather than reduce charges or drop the case altogether) but cannot because of an evidentiary problem that might have been resolved if police and prosecutors had worked together more closely.

Data Collection

The evaluation collected quantitative data on the processing of felony cases and on the attitudes and opinions of NYSP officers assigned to the six counties. Qualitative data about the operations of prosecutors' offices and the implementation of the program were derived from semi-structured interviews.

The primary data set consists of 3,692 NYSP felony arrests made in the six counties studied. The cases represent most types of State Police felony arrests in the counties between January 1983 and July 1986. A few types of felony arrests were excluded because they tend to be handled in somewhat different ways than other cases: driving while intoxicated, probation or parole violations, and fugitive warrants.

The distribution of the 3,692 arrests, by felony category, is very similar to the distribution for all New York State felony arrests (excluding New York City) in the same time period. For the State Police arrests, the proportions were: A felonies = 2.6 percent, B felonies = 9.1 percent, C = 15.3 percent, D = 48.7 percent, and E = 24.3 percent. The distribution for all New York State felony arrests by any law enforcement agency outside of New York City in 1984 was: A = 1.9 percent, B = 9.3 percent, C = 15.9 percent, D = 42.3 percent, and E = 30.6 percent.

The 3,692 arrests were tracked through final disposition. When the final disposition was something less than a conviction on the highest arraignment charge, we attempted to identify the reason for the attrition.

The case processing data are divided into a pre-test period (Jan. 1983 through Dec. 1984) before the experimental intervention and a post-test period (Jan. 1985 through July 1986) during which time the liaison officers were operating in the four experimental counties.

Data collection methods differed for the pre-test and post-test cases. Pre-test data were collected retrospectively from case files in the prosecutors' offices. For the post-test, the researchers devised a worksheet that was to be initiated at arraignment and stay in the case folder until final disposition. On the worksheet there were places to record charges at each stage of the process, reasons for charge reductions or dismissals, prosecutors' opinions about whether outcomes were satisfactory, and if not, whether the unsatisfactory outcomes could be attributed to avoidable evidence problems. (See Appendix A).

As one might imagine, the post-test worksheets were not always completed or were not completed in a timely fashion. In the experimental counties, the liaison officers helped to keep track of the worksheets. Although the liaison officers attempted to monitor completion of the worksheets, problems were encountered in obtaining the completed forms. When this occurred the

liaison officers attempted to complete the worksheets themselves from information available to them from closed prosecutorial records or from conversations with the prosecutors involved with the case.

In the comparison counties, follow-ups on incomplete or missing worksheets were conducted by the researchers. This meant collecting post-test data for one of the comparison counties by the same method used in the pre-test (extracting information from existing files) because the worksheet process never took hold in that county.

Overall, the completion of the worksheets was more problematic in the four counties where State Police cases represented relatively small proportions of the total workloads. Because the worksheets were attached to relatively small numbers of the felony case files in these counties, the process of filling the worksheets out never caught on as a routine. smaller proportion of NYSP activity.

As will be seen in the data presented later (e.g., Table 5), there are far fewer cases in our post-test data set (1,238) than in our pre-test data set (2,454). There are three reasons for this.

First, the collection of post-test data relied primarily on the case processing worksheets being filled out and sent to us, and one can expect missing cases under such a procedure. In contrast, the pre-test data represent virtually all of the relevant State Police felony arrests in the six counties because the case files were retrieved and the data were recorded by the researchers themselves.

Second, the pre-test period covers 24 months, while the post-test covers 19 months.

Third, the pre-test data were collected at least six months after the most recent arrest in the pre-test period; thus, very few of the pre-test arrests were still pending dispositions. On the other hand, the special case processing worksheets were being received until the very end of the post-test period, and a number of felony arrests made by the State Police prior to July 31, 1986 were still being processed in the criminal justice system when the data collection ended. We do not have an exact count, but we estimate that about 150 arrests fell into this category.

The reader will also notice later that the decline in the numbers of cases between the pre-test and the post-test is greater for the E counties than for the C counties. This stems from two factors.

First, three of the four E counties were characterized by relatively low proportions of State Police cases in their total workloads; this was the case for one of the two C counties. As noted earlier, the problem of case processing worksheets not

being filled out was greater in counties where State Police cases comprised a small proportion of the total, and we suspect that this is because use of the worksheets never had a chance to become a routine in those counties.

Second, as also noted earlier, the post-test worksheets never took hold at all in one of the C counties, and the data had to be coded from the prosecutor's files by the researchers. This meant that the special information elicited by the worksheets was not available for that county, but it also meant that some information was obtained about virtually all of the post-test felony arrests that had reached disposition in the county.

The researchers took every analytic step possible to check on the possibility that post-test data collection problems had biased the evaluations findings. Pre-test and post-test distributions of initial charges were compared (see Table 3), and analyses were conducted separately with just the counties for which we had more complete data. These checks indicate that the incompleteness in the post-test data did not have an effect on the results we report.

The evaluation also draws on a questionnaire designed by the researchers that was administered to uniformed and investigative State Police officers in the six counties during the post-test period. The questionnaire elicited officers' views on the nature and extent of felony case attrition, their judgments about evidentiary problems for specific types of crime, and their perceptions regarding police-prosecutor relationships. (See Appendix B).

Finally, in-depth interviews were conducted with prosecutors in all six counties and with the liaison officers in the four experimental counties. The interviews dealt with the policies and procedures guiding the processing of felony cases in each prosecutor's office, the opinions of prosecutors on the issue of case attrition, and the specific functions performed by the liaison officers during the program period.

Several waves of interviews took place. When the liaison project first began initial site visits were conducted at the six research sites, during which time the researchers interviewed prosecutors and liaison officers. The content of the interviews focused on the following: gaining an overview of how the various district attorney offices operate, understanding the extent to which the NYSP are involved with felony cases in each county, and soliciting prosecutors' views on the issue of felony case attrition. In Counties E1 and E2, where BCI officers were placed in the district attorneys' offices for several years prior to the liaison project, the researchers were also interested in understanding the specific role these officers performed.

Near the end of the project, follow-up site visits were conducted at the two experimental counties with the greatest NYSP activity (E3 and E4). At this time, final interviews solicited

prosecutors' reactions towards the liaison program. Specifically, the researchers were interested in finding out the extent to which prosecutors utilized the liaison officers, and their opinions regarding what impact, if any, the liaison officers had in the prosecution of felony arrests.

Interviews with the liaison officers in E3 and E4 were also conducted during these final site visits. The interviews focused on gaining an awareness of the specific activities each liaison officer performed during the span of the project, getting feedback on problems they encountered in performing their role, and obtaining their overall assessment of the liaison program.

Although final site visits were not conducted at the two experimental counties with small numbers of State Police felony arrests (E1 and E2), the liaison officers in those counties were contacted by telephone and asked for their views about the project.

In addition, during the span of the project, informal contact was maintained via telephone with prosecutors and liaison officers whenever specific information was needed.

FINDINGS

Extent and Nature of Attrition

To examine the extent to which attrition is a problem among State Police felony arrests, cases were tracked from arrest to final disposition. The dismissal rate in the six counties was found to be substantially lower than the rate reported in earlier studies. (See Table 4). While research by Brosi (1979) and others suggest that 50 percent of felony arrest cases do not result in conviction, only 26 percent of all cases (pre and post-test) in this study did not result in conviction.

Although the issue of dismissed cases is not nearly as problematic in this sample as in others, plea negotiations do seem to play a significant role in the prosecution of State Police felony arrests. Since approximately 58 percent of all cases were convicted on a reduced charge, case attrition does seem to be substantial among State Police felony arrests.

Equivalent data for all of New York State are not available, but some comparisons can be made. In the early 1980's, about one third of the non-New York City felony arrests that were disposed of during a given year did not result in a conviction. This is somewhat higher than our figure of 26 percent. However, the statewide data (even excluding New York City) are heavily weighted by cases from the more populous, urban jurisdictions. Our data reflect the experiences of less urbanized jurisdictions, where conviction rates tend to be lower. Nonetheless, the ratio of felony convictions to felony arrests in New York State in 1984 was 0.25, which is exactly the same as in our pretest data set.

To measure the impact of the liaison program on felony case attrition, comparisons of final dispositions before and after the implementation of the program were made for both the experimental and comparison counties. The increased collaboration between police and prosecutors in the experimental counties was expected to result in a higher overall conviction rate and in a larger proportion of cases ending with convictions to the highest arrest charge.

The data only partially support this hypothesis. There was virtually no change in the proportion of cases resulting in conviction for the experimental counties (76% convictions in the pre-test compared to 77% in the post-test), while the comparison counties showed a slight decrease (71% to 68%). These changes are too small to support a conclusion that the program had a positive effect on the overall conviction rate.

Although we cannot conclude that the program had an effect on the total conviction rate, there do seem to be some positive results with regard to charge degradation. In those cases where a conviction was obtained, there is a noticeable improvement in the quality of convictions from the pre- to post-test that is unique to the experimental counties. As indicated in Table 5, the experimental counties showed a 9 percentage point increase in the proportion of cases resulting in convictions on either all arraignment charges or on the highest arraignment charge. In the comparison counties, the comparable figures showed virtually no change from pre-test to post-test. Thus, it appears that the project had a positive effect on the **quality** of convictions, if not the quantity of convictions.

One should note that the E counties had somewhat less attrition than the C counties in the pre-test and that this difference is accentuated in the post-test data (see Table 5). It is possible that our results reflect history rather than the effects of the liaison officer program. For example, the E counties might have been decreasing the amount of attrition in their felony cases for a number of years, and the trend simply continued for the period covered by our data. At the same time, attrition rates may have been stable in the C counties over a number of years.

Absent random selection of counties or processing data that extend back much further in time, the possibility of historical effects cannot be ruled out completely. However, attrition in the E counties did not change from 1983 to 1984 (the two pre-test years, and the perceptions about the liaison officer program that were communicated to us by prosecutors in the E counties are consistent with the kind of change reflected in Table 5. Thus, we feel fairly confident in attributing the change in quality of convictions to the effects of the program.

To investigate the finding presented in Table 5 further, we hypothesized that the effect in the experimental counties was generated by a change in how cases at the felony-misdemeanor borderline were handled.

Our interviews with prosecutors and liaison officers indicated that the presence of the liaison officers made communications between prosecutors and arresting officers easier. This facilitation of communication might not have a major impact on the outcomes of serious felonies, to which prosecutors are able to devote a substantial amount of time. But it could make a difference in borderline cases. The liaison officers tended to short-cut what was often a cumbersome process for information exchange between police and prosecutors. Thus, during the post-test, prosecutors in the experimental counties might have been more apt to spend a few extra minutes with the liaison officers to get additional evidence or information and to continue prosecuting a borderline case as a felony. Prosecutors who did not have access to a liaison officer might be more likely to reduce a Class D or E felony to a Class A misdemeanor because the relatively low seriousness of the offense did not justify spending a great deal of time trying to get additional information from arresting officers.

If the rationale just presented is correct, we should expect to find a redistribution of conviction charges between the pre-test and the post-test in the experimental counties, but not in the comparison counties. Specifically, in the experimental counties, the proportion of convictions having a Class A misdemeanor as the top conviction charge should decrease, while the proportion of convictions in the lowest felony classes (particularly Class E felonies) should increase.

The relevant data appear in Table 6, and for the most part, the distributions of conviction charges support our hypothesis. Among felony arrests that resulted in convictions, the highest conviction charge was a misdemeanor or violation in 61.2 percent of the cases in the experimental counties during the pre-test, but this decreased to 50.5 percent in the post-test. All of this decrease occurred in the Class A misdemeanor category (51.2 to 41.0 percent). However, contrary to our hypothesis, an increase did not occur for Class E felonies; rather, most of the increase in felony convictions occurred for Class D felonies, and there were even slight increases for Class C felonies and for the relatively small numbers of Class A and B felonies. By way of contrast, the distribution of top conviction charges remained fairly stable in the comparison counties between the pre-test and post-test periods.

The data in Table 6 suggest that there was some upward shifting of borderline cases from Class A misdemeanor convictions to felony convictions in the experimental counties. There was apparently a simultaneous upward shifting from Class E felony convictions to higher felony categories. Thus, the effects do occur at the felony-misdemeanor interface; they decrease slippage

to the misdemeanor category, and they also produce an upward shifting from the lowest felony category.

Reasons For Attrition

In order to determine the extent to which the case attrition among State Police felony arrests can be attributed to avoidable evidentiary problems, the reasons given for cases not resulting in conviction to the highest charge were examined. The pre-test sample data did not provide much information about reasons for charge degradation. The prosecutors' case files rarely stated anything more explicit than "prosecutor agrees to reduce charge" or "prosecution declined". Thus, it is difficult to determine what factors elicited this action and whether the prosecutors considered the outcome a favorable one.

The case processing worksheets implemented during the post-test period asked prosecutors to indicate what problems, if any, were encountered in the prosecution process. These data suggest that most of the case attrition was not due to avoidable problems in evidence gathering and case preparation.

Table 7 presents the reasons given by prosecutors for why cases did not result in conviction to the highest arrest charge for the four most prevalent offense types in the study: burglary, larceny, forgery, and criminal possession of stolen property. Note that these data pertain to post-test cases only and that one of the comparison counties is not represented because the special worksheets were not implemented in that county (see earlier section on Data Collection).

The reasons for attrition noted by the prosecutors are relatively consistent among offense types. Most often cited is that, while the prosecutor had all the necessary evidence, the nature of the specific case did not warrant pursuit of the more serious charge. The defendant's prior record was also a chief reason for the reduction or dismissal of the highest charge. The third most frequently reported reason had to do with problems associated with victims and witnesses. Usually this reflected a reluctance on the part of the primary victim/witness to cooperate with the prosecution, or a decision to withdraw the complaint.

These findings suggest that large percentages of dismissals and charge reductions result from routine prosecutorial policies rather than from deficiencies in case preparation. To delve further into this issue, the worksheets asked prosecutors for their evaluations of case outcomes in the post-test sample.

When asked whether the prosecutor's office perceived the case outcome as satisfactory, the responses were overwhelmingly positive. (See Table 8). Among cases that resulted in less than a conviction to the highest charge, and where information was available (N=918), the prosecutor felt that the disposition was unsatisfactory in only 5 percent (44) of the cases. Furthermore, in only 5 of these 44 cases did the prosecutor state that the

likelihood of a satisfactory disposition could have been improved through more careful or thorough case preparation by police. (See Table 9). Evidently, prosecutors in the counties studied do not perceive "avoidable felony case attrition due to evidentiary problems" to be a major issue.

POLICE OFFICER PERSPECTIVES

As mentioned earlier, one component of the research was a survey of the State Police officers serving in the six counties. The questionnaire used in the survey appears in Appendix B.

The NYSP distinguishes its officers by two types of primary duty: uniformed patrol and Bureau of Criminal Investigation (BCI). All new State Police officers are assigned to uniformed patrol at the beginning rank of Trooper where they are required to serve between two and four years (depending on educational background) before being considered for transfer to a BCI unit. Consequently, BCI officers tend to be more experienced; they have been specifically chosen and trained for investigative duties.

Uniformed officers are responsible for first-response law enforcement and service duties. While they can be involved initially with all types of crimes, they transfer felonies to BCI personnel for investigation and case preparation. Thus, in terms of case processing, uniformed officers are responsible for misdemeanors and other infractions, and BCI officers have primary responsibility for felonies.

The survey data derive from questionnaire responses by 196 officers: 131 uniformed and 62 BCI. (The classification was not noted for 3 officers). The uniformed officers had served an average of 8.5 years with NYSP, while the figure was 17.5 years among BCI officers. The mean number of felony arrests that the uniformed officers reported having made during the year prior to the survey was 11.4, compared to 31.8 for BCI officers. Because type of primary duty is so strongly associated with officer experience and involvement in felony cases, data analyses were conducted with the total sample and with uniformed and BCI officers separately. Where major differences occur between the two groups, they are noted in the discussion below.

Views on Attrition

The officers who responded to the survey recognized that attrition of felony cases occurs, and they viewed some factors as greater contributors to attrition than others. We asked the officers to rate a dozen factors in terms of how significantly each contributed to attrition. There were only minor differences between the responses of uniformed and BCI officers, so the ratings for the two groups are aggregated in Table 10.

In the questionnaire, ratings were marked on lines that had their end-points defined: from "very significant contributor" to

"not a significant contributor" to attrition. Later, the markings were converted to scores ranging from one (significant contributor) to seven (not significant). Table 10 presents the mean rating scores for each factor.

The officers clearly viewed court/prosecutor workload as the most important factor in attrition. The next most important factor was that the "facts of the specific case do not warrant pursuit of the highest charge."

Three of the 12 factors refer directly to evidence, and all three had mean ratings that leaned toward the "not significant" side of the scale. Non-availability and non-admissibility of evidence were given virtually identical ratings as reasons for attrition (4.8 and 4.9, respectively), but the failure to collect available evidence was rated as one of the least significant contributors to attrition (mean = 5.8).

Another three of the factors in Table 10 refer to victims and witnesses. One of these was viewed as the third most important cause of attrition: "victim/witness changes mind about testifying or changes story for reason other than intimidation." The other two victim/witness factors (can't be found/moved away, intimidation) were rated as much less important for attrition; both had mean scores of 5.7.

Evidentiary Problems

We also asked officers to rate various types of evidence in terms of problems posed for police. The respondents felt that the greatest evidentiary problems stemmed from search and seizure issues, statements by suspects, and eyewitness identifications. At least the first two of these are clearly the areas that have undergone continuing modifications via case law during the past two decades.

Despite their recognition of evidentiary problems in felony cases, the NYSP officers believe that their training has prepared them for dealing with evidentiary issues in the field. Table 11 shows the responses of uniformed and BCI officers to our question about adequacy of training. The training they had received was rated as either very adequate or adequate by 71 percent of the uniformed officers and by 84 percent of the BCI officers. In addition, the respondents were asked to rate their own "level of understanding of the quality and types of evidence that prosecutors need." On a 1-7 scale (1 = complete understanding; 7 = weak understanding), the mean scores were 3.6 for uniformed officers and 2.6 for BCI officers. The uniformed-BCI differences on these items probably reflect the additional two weeks of investigatory training that NYSP officers receive when they move from the uniformed to BCI ranks.

Training is generally geared toward preparing people to deal with typical situations. In the field, officers will eventually encounter situations that were not covered in training or that

seem ambiguous in light of the advice they received in training. Thus, we asked the survey respondents whether they could get accurate, timely advice about the collection and handling of evidence from several sources: supervisors, district attorneys' offices, the NYSP laboratory, and the NYSP counsel's office.

The results indicate that the officers rarely had contact with the counsel's office on evidentiary matters, so responses for the other three sources of advice are displayed in Table 12, with the opinions of uniformed and BCI officers shown separately.

Given the different roles of uniformed and BCI officers in the NYSP, it is not surprising that, in Table 12, higher proportions of uniformed officers report never having solicited advice about evidence collecting or handling, especially from district attorneys' offices and the laboratory. Therefore, Table 12 also presents (in parentheses) the responses of only those officers who had sought advice.

Focusing on the percentages in parentheses, it is clear that few officers -- uniformed or BCI -- were completely dissatisfied with the accuracy and responsiveness of the three sources of advice. The percentage of respondents who replied with an unambiguous "No" when asked whether they could get "accurate and timely advice" reaches a maximum of only 11 percent (among uniformed officers who sought advice on evidence handling from district attorneys' offices). On the other hand, there is a fair amount of variability in the proportions who gave unambiguous "Yes" responses, ranging from 72 percent (among BCI officers rating their supervisors on advice about evidence collection) down to 38 percent (among uniformed officers rating district attorneys' offices on advice about evidence handling).

In general, Table 12 indicates that NYSP officers can get what is perceived to be accurate and timely advice about evidence problems. Overall, advice from supervisors is most highly rated (and sought), although ratings from BCI officers were more positive than ratings from uniformed officers. Laboratory advice is rated more highly when it pertains to evidence handling, as opposed to initial collection. Ratings of advice from district attorneys' offices are least positive among uniformed officers. However, it is particularly pertinent to this research to note that, when asked whether they could get accurate and timely advice from district attorneys' offices about the evidentiary needs for a particular case, 61 percent of the BCI officers said "Yes" and another 33 percent said "Sometimes."

Crime-Specific Evidentiary Issues

The relative absence of felony case attrition attributable to deficiencies in police evidence collection or case preparation and the confidence that officers have in their training, their knowledge, and the advice available to them, do not mean that the police encounter no problems in these areas. Our interviews suggested that such problems are crime-specific. Because only a

small number of the cases in our data set showed evidentiary problems, it was not possible to examine crime-specific evidentiary problems with our case processing data.

Furthermore, crime-specific variability in evidentiary problems will not necessarily show up in post-arrest case processing data. If the police are aware of and sensitive to this variability, they may devote extra effort to the more problematic types of crime and not make an arrest until they have the needed evidence. Thus, by the time the cases are prosecuted, the evidence collected for more problematic types of crimes may be as complete and sound as the evidence for more routine types of crime that do not pose special evidentiary problems. To examine this issue from the police perspective, we draw again on the questionnaire administered to State Police officers serving in the six counties in the evaluation.

The survey responses suggest that certain crimes are perceived by officers as more problematic in terms of the collection of evidence needed to obtain convictions. Table 13 illustrates how officers rated 15 offenses in terms of the evidentiary problems they generally pose for the police. Using a seven-point scale where one represents "severe problem" and seven represents "no problem", the mean scores indicate that arson, sex crimes, homicide, burglary, and robbery are perceived by officers as posing greater problems in terms of evidence collection.

When this analysis is broken down to distinguish responses made by uniformed and BCI officers, little difference is found with respect to those offenses perceived as most problematic. Although both groups agree that arson is most problematic and criminal possession of a weapon is least problematic, some slight differences occur in the ranking of other crimes. Additionally, there is a slight difference in terms of the **range** of responses within the seven-point rating scale. Responses of the BCI officers cover a wider range, indicating that they tend to be a little more discriminating in their rating of crime-specific evidentiary problems. Given the different roles assigned to uniformed and BCI officers, one would expect BCI officers to be more attuned to evidentiary issues and factors that contribute to the attrition of felony arrests. While this is demonstrated in Table 13, the disparity between uniformed and BCI responses is not very substantial considering that BCI officers are much more involved in the processing and investigation of felony arrests.

Discussions with the liaison officers assigned to the experimental counties suggest that the majority of evidentiary problems associated with certain crimes are largely due to the nature of the offense, not to the manner in which police officers prepare cases. For example, in arson cases the difficulty in obtaining adequate evidence usually stems from the fact that evidence literally "goes up in flames". In sex offenses, the major problem tends to be a reluctance on the part of the victim to pursue prosecution.

These kinds of problems are not very amenable to correction by trying to improve the routine case preparation skills of the average police officer because the problems are unique to cases that occur relatively infrequently. Thus, most large police agencies, and prosecutors' offices, have formed specialized units to deal with the unique evidentiary matters and victim concerns in these types of cases.

For the most part, NYSP officers feel fairly confident about their familiarity with the kinds of evidence that prosecutors need to obtain convictions for specific types of crime. As indicated earlier (Table 11), 75 percent of the officers view the training they have received as adequate in preparing them to deal with evidentiary issues. When BCI responses are examined separately, the figure is 84 percent, which is not surprising given the additional training that NYSP officers receive when they move from the uniformed ranks to BCI.

At the outset of the evaluation, there was a plan to develop crime-specific evidentiary checklists that officers could use in the field as aids in case preparation. When the preliminary results from the case processing and police questionnaire data were available, the researchers met with NYSP officials to discuss this issue. It was jointly decided that the checklists would not be developed. In the first place, the need for such checklists appeared to be very minor. Secondly, their use could create problems that outweighed their utility. There was some sentiment that checklists would add to the paperwork burden already placed on officers in the field and that they might become "discoverable" documents in later proceedings, which could add more complications to the adjudicatory process.

CONCLUSIONS

The conclusions of this research fall into three categories: (1) how the experimental program produced the improvement in the quality of convictions, (2) the extent to which avoidable attrition due to evidentiary shortcomings is a problem in the criminal justice system, and (3) how existing evidentiary problems might be best handled.

Linking Implementation to Outcomes

The State Police liaison officers who were placed in the prosecutors' offices in the four experimental counties generally performed the functions they were expected to perform. They were given the broad mission of enhancing coordination and communication between prosecutors and arresting officers, but they had a lot of leeway to shape the specific nature of their roles to the unique feature of the offices to which they were assigned.

As the post-test period progressed, the liaison officers in at least two of the four experimental counties became well-integrated with the case processing routines of the prosecutors'

offices. They attended staff meetings to keep abreast of case problems; they established informal, cooperative relationships with the assistant district attorneys handling State Police cases; they became recognized as resources by their fellow officers in the field.

In the two sites where implementation was most complete, the liaison officers were placed in the prosecutors' offices from other assignments, and it was clear that their new assignments were to act as liaisons for felony case preparation. At the other two sites, the liaison officer roles were assigned to BCI officers who had already been in the prosecutors' offices for several years, working on special investigatory tasks. For these officers, there was some conflict between taking on the liaison role and continuing to perform the duties in which they had already been involved.

It is our conclusion that the function of coordinating case preparation between arresting officers and prosecutors was performed better in the sites where a new individual was placed in a prosecutor's office for the sole purpose of case coordination. This conclusion is based on our interviews and observations; the relatively small numbers of post-test cases in the two counties with less than complete implementation did not allow for reliable comparisons of case outcomes.

We also conclude that the improvements in the quality of convictions found in the experimental counties did not derive primarily from liaison officers helping to obtain evidence that officers in the field had neglected to collect or had collected incorrectly. The case processing data indicate that the liaison officers had little impact on whether cases were won or lost (i.e., conviction vs. no conviction). Rather, their impact was on decreasing case "slippage", particularly for less serious felonies -- for example, decreasing the probability that a Class D or E felony arrest would result in a conviction on a Class A misdemeanor.

Our interviews with prosecutors and liaison officers suggest that this impact derives from simplifying the communication channel between prosecutors and arresting officers. Absent a liaison officer, prosecutors and arresting officers are less likely to initiate contact with each other unless the matter is very important, such as a key piece of evidence in a serious case. By facilitating the communication process, liaison officers encouraged contact between prosecutors and arresting officers on more routine matters pertaining to less serious cases. These communications often resulted in the prosecutor having more background information about a case -- a better "feel" for the case. We conclude that it was this type of routine information exchange that produced the upward shift in outcomes (or conversely, the decrease in "slippage") among lower-level felonies.

Case Attrition and Evidentiary Shortcomings

When we conducted our initial site visits to prosecutors' offices just prior to program implementation, we were struck by the virtual unanimity of opinion in the six counties that felony case attrition due to avoidable evidentiary shortcomings was not a major problem. The prosecutors did see a need for improvements in police-prosecutor relationships, and they offered a variety of suggestions toward that end: facilitating communications about the backgrounds of cases, receiving case paperwork in a more timely fashion, coordination of officers' schedules and court dates, and so forth. These kinds of improvements are, in fact, what the State Police liaison officers brought to the experimental counties. Rarely did the liaison officers have to work with arresting officers to get necessary evidence that should have been collected in the first place.

Post-test data derived from the case processing worksheets implemented for the research provide other indications that, from prosecutors' perspectives, evidentiary shortcomings are not a major issue in felony case attrition.

Earlier, Table 7 presented the reasons given by prosecutors for why particular cases did not result in convictions on the highest arraignment charges. The most frequently cited reasons were that all necessary evidence was available but the nature of the case or the defendant's prior record did not justify pursuing the highest charge. Victim or witness problems were often cited, an issue we will address later. Reasons pertaining specifically to evidentiary problems were cited infrequently, and the percentages in Table 7 even overstate evidentiary problems because multiple reasons were cited in a number of cases. One or more of the three seemingly evidence-related reasons ("constitutional", "state", "other technical") were cited without some other reason in only 29 out of 918 cases.

Furthermore, prosecutors in both the experimental and the comparison counties were overwhelmingly satisfied with the dispositions they got in post-test cases that did not end with a conviction on the highest charge. Even in the small number of cases about which prosecutors were dissatisfied, there were only five instances in which a prosecutor indicated that the unsatisfactory outcome could be attributed to case preparation by the police.

Thus, we have to conclude that, in the six counties studied, avoidable felony case attrition due to evidence collection and case preparation was not a major problem for prosecutors. Since the findings supporting this conclusion apply to both the experimental and comparison counties, we also have to conclude that it was not the experimental program that produced this situation.

This relatively benign conclusion does not seem to fit well with the fact that we found a substantial amount of felony case attrition in the evaluation. Even in the post-test data for the

experimental counties (where there was the least attrition), a quarter of the cases resulted in no conviction, and fully three-quarters of the cases met our definition of attrition: any outcome less than a conviction on the highest arraignment charge.

This seeming inconsistency leads us to raise the question of what really constitutes "attrition". It is easy to set up an operational definition of attrition, as we did, but it is also true that the term "attrition" implies a value judgment: It has the connotation of something negative, a dysfunction in the criminal justice system that needs to be corrected. But in most of the "attrition" cases in our post-test data, the prosecutors found the outcomes acceptable, viewed in the context of the entire case. Thus, we are put in a position of labeling as "attrition" what the prosecutor of a case might label as a "just outcome".

While this is not the place to explore the issue further, we suggest that much of what is criticized as attrition could be seen as effective, appropriate case screening by prosecutors.

Handling Existing Evidentiary Problems

The questionnaire that we administered to State Police officers showed that some types of crime pose greater evidentiary problems for the police than do others. Of course, this is not the same as saying that the problems are avoidable and that they are major factors in post-arrest attrition of cases. For some types of crime -- arson, sex offenses, or homicide -- necessary evidence may simply not be available or special skills may be needed to collect the evidence. Because these types of crime are not the ones that police most commonly encounter, it does not seem efficient to address the problem by trying to train all police officers in special evidence-collecting skills. Rather, the approaches already taken by many police departments seem to be more appropriate: developing specialized, crime-specific units in larger departments and requesting outside technical assistance as needed in smaller departments.

While recognizing crime-specific variability in evidentiary problems, the officers we surveyed also expressed a great deal of confidence in their knowledge about the kinds of evidence needed by prosecutors. This was one of the factors in the decision to forgo development of crime-specific evidentiary checklists which was made during the course of this study.

It is possible that the perceived lack of need for crime-specific evidentiary checklists cannot be generalized beyond this study. The NYSP may simply have unusually well-trained, highly motivated officers. NYSP selection standards are high; all new recruits get 24 weeks of training at the State Police Academy; officers receive an additional two weeks of training when they move from the uniformed ranks to BCI. In addition, all NYSP officers receive periodic in-service training.

On the other hand, NYSP officers are not a special breed of "supercops". For most police departments, we suspect that well developed initial training, combined with in-service training to keep officers abreast of changes in laws and procedures, will prove more effective for improving case preparation skills than will trying to implement cumbersome, field-initiated evidence checklists.

Our final conclusions pertain to the roles of victims and witnesses in case attrition. Table 7 showed that prosecutors often cite "victim/witness problems" as a reason why a particular case did not result in a conviction on the highest charge, and Table 10 showed that police officers view victim/witness unreliability as a major contributor to attrition. In some instances, this may mean that the prosecutor found the testimonial evidence of a cooperative victim/witness to be inconclusive or unreliable. It is open to question whether such instances should be viewed as examples of avoidable evidentiary problems.

The more common situation is the one in which a victim or witness withdraws from or refuses to cooperate in the criminal justice process. There are a variety of complex reasons for withdrawal or non-cooperation, ranging from intimidation by suspects to rational weighings of costs and benefits to simple forgetfulness. Whatever the reason, we recommend that withdrawal or non-cooperation by victims and witnesses not be considered as simply another avoidable evidentiary problem. In fact, some of the difficulty may stem from treating victims and witnesses like evidence in the first place. Appropriate approaches must involve consideration of the human needs of victims and witnesses. And it may occasionally mean that those needs are best considered by respecting the person's decision to withdraw from the process.

REFERENCES

- Boland, Barbara, and Elizabeth Brady (1985) The Prosecution of Felony Arrests, 1980. Washington, DC: Bureau of Justice Statistics.
- Boland, Barbara, et. al. (1983) The Prosecution of Felony Arrests, 1979. Washington, DC: Bureau of Justice Statistics.
- Brosi, Kathleen. (1979) A Cross-City Comparison of Felony Case Processing. Washington, DC: U.S. Government Printing Office.
- Feeney, Floyd, Forest Dill, and Adrienne Weir. (1983). Arrests Without Convictions: How Often They Occur and Why. Washington, DC: U.S. Government Printing Office.
- Forst, Brian, et. al. (1982) Arrest Convictability as a Measure of Police Performance. Washington, DC: U.S. Government Printing Office.
- Forst, Brian, et. al. (1977) What Happens After Arrest? A Court Perspective of Police Operations in the District of Columbia. Washington, DC: Institute for Law and Social Research.
- McDonald, William F. (1982) Police-Prosecutor Relations in the United States: Executive Summary. Washington, DC: U.S. Government Printing Office.
- Vera Institute of Justice. (1982) Felony Arrests: Their Prosecution and Disposition in New York City's Courts. New York: The Vera Institute of Justice.

TABLE 1

SUMMARY OF RESEARCH SITE CHARACTERISTICS

| | <u>COUNTY</u> | <u>COUNTY POPULATION</u> | <u>MAJOR CITY (POPULATION)</u> | <u>NUMBER OF NYSP OFFICERS</u> | <u>NUMBERS OF PROSECUTORS</u> | <u>NUMBER OF LOWER CRIMINAL COURTS</u> | <u>PROSECUTION STRUCTURE</u> | <u>COMPUTERIZED PROMIS SYSTEM IN USE?</u> | <u>DATE LIAISON OFFICER PLACED IN PROSECUTOR'S OFFICE</u> |
|--------------------|---------------|--------------------------|--------------------------------|--------------------------------|----------------------------------|--|------------------------------|---|---|
| EXPERIMENTAL SITES | E1 | 1,015,472 | (360,000) | 96 | 76 | 40 | Horizontal | Yes | April, 1985 |
| | E2 | 702,238 | (200,000) | 64 | 62 | 28 | Vertical | No | May, 1985 |
| | E3 | 463,920 | (170,000) | 78 | 38 | 28 | Vertical | Yes | July, 1985, |
| | E4 | 158,158 | (30,000) | 78 | 6 ^a 8 ^b | 21 | Vertical | No | August, 1985 |
| COMPARISON SITES | C1 | 285,909 | (100,000) | 139 ^c | 18 | 17 | Vertical | No | Not Applicable |
| | C2 | 245,055 | (30,000) | 137 ^c | 17 | 16 | Vertical | No | Not Applicable |

^a Full time

^b Part time

^c The apparently large number of officers is due to the fact that State Police Troop headquarters are located within these counties.

TABLE 2

PERCENT OF ARREST AND ARRAIGNMENT CHARGES

| Offense | Highest Arrest Charge (N=3,534)* | Highest Arraignment Charge (N=3,534)* |
|---|-------------------------------------|--|
| Arson | 0.7% | 0.6% |
| Assault | 8.5 | 9.1 |
| Burglary | 19.6 | 20.1 |
| Criminal mischief | 3.1 | 3.5 |
| Criminal negligent homicide | 0.1 | 0.1 |
| Criminal possession of controlled substance | 3.6 | 3.2 |
| Criminal possession of marijuana | 1.5 | 1.8 |
| Criminal possession of stolen property | 8.1 | 7.5 |
| Criminal possession of a weapon | 4.0 | 4.2 |
| Criminal sale of controlled substance | 5.0 | 4.9 |
| Criminal sale of marijuana | 0.7 | 0.6 |
| Criminal trespass | 0.0 | 0.1 |
| Forgery | 10.8 | 10.0 |
| Garbling | 0.9 | 0.7 |
| Larceny | 17.6 | 16.5 |
| Manslaughter | 0.2 | 0.2 |
| Murder | 0.7 | 0.7 |
| Rape | 2.1 | 2.1 |
| Reckless endangerment | 1.4 | 1.7 |
| Robbery | 2.9 | 2.5 |
| Sexual abuse | 1.4 | 1.6 |
| Sodomy | 1.2 | 1.4 |
| Other property offense | 0.7 | 0.7 |
| Other personal offense | 0.5 | 0.4 |
| Other public order offense | 0.8 | 0.8 |
| Other | 3.8 | 4.1 |

*Excludes cases missing either arrest or arraignment charge.

TABLE 3

HIGHEST ARRAIGNMENT CHARGE

| Offense | <u>Pre-Test</u> (Percent) | <u>Post-Test</u> (Percent) |
|---|------------------------------|-------------------------------|
| Arson | 0.9 | 0.3 |
| Assault | 8.4 | 10.1 |
| Burglary | 20.7 | 19.2 |
| Criminal mischief | 3.9 | 2.9 |
| Criminal negligent homicide | 0.1 | 0.0 |
| Criminal possession of controlled substance | 3.2 | 3.1 |
| Criminal possession of marijuana | 2.1 | 1.3 |
| Criminal possession of stolen property | 7.2 | 7.9 |
| Criminal possession of a weapon | 5.2 | 2.7 |
| Criminal sale of controlled substance | 4.3 | 5.9 |
| Criminal sale of marijuana | 0.8 | 0.4 |
| Criminal trespass | 0.1 | 0.2 |
| Forgery | 9.7 | 10.5 |
| Gambling | 0.3 | 1.3 |
| Larceny | 15.2 | 18.3 |
| Manslaughter | 0.1 | 0.3 |
| Murder | 1.0 | 0.4 |
| Rape | 2.1 | 2.1 |
| Reckless endangerment | 1.6 | 1.8 |
| Robbery | 2.7 | 2.3 |
| Sexual abuse | 1.2 | 2.2 |
| Sodomy | 1.4 | 1.3 |
| Other property offense | 0.3 | 1.2 |
| Other personal offense | 0.6 | 0.3 |
| Other public order offense | 0.9 | 0.8 |
| Other | 6.1 | 3.4 |

TABLE 4
PERCENTAGES OF FINAL DISPOSITIONS

| Disposition | Percent * |
|--|-----------|
| Conviction on all arraignment charges | 7.4% |
| Conviction on highest arraignment charge | 6.8 |
| (No attrition as defined in project) | (14.2) |
| Conviction on reduced charge | 58.5 |
| No conviction | 26.2 |
| <hr/> | |
| Number of cases | 3,647 |
| (Missing cases) | (45) |

*Percentages may not sum to 100 due to rounding.

TABLE 5
TYPE OF FINAL DISPOSITION

| Disposition | Pre-Test | | Post-Test | |
|--|--------------|------------|--------------|------------|
| | Experimental | Comparison | Experimental | Comparison |
| Conviction on All Arraignment Charges | 6.9%* | 4.5% | 17.6% | 3.4% |
| Conviction on Highest Arraignment Charge | 8.3 | 5.7 | 6.6 | 5.5 |
| (No attrition as defined in project) | (15.2) | (10.2) | (24.2) | (8.9) |
| Conviction on Reduced Charge | 60.8 | 60.4 | 53.1 | 58.8 |
| No Conviction | 23.9 | 29.1 | 22.7 | 32.3 |
| Number of cases** | 1,488 | 923 | 595 | 641 |

*Percentages may not sum to 100 due to rounding.

**Cases with missing information are excluded.

TABLE 6

HIGHEST FINAL DISPOSITION CLASSIFICATION
FOR FELONY ARRESTS CONVICTED ON ANY CHARGE

| Disposition Charge Classification | <u>Pre-Test</u> | | <u>Post-Test</u> | |
|--------------------------------------|-----------------|------------|------------------|------------|
| | Experimental | Comparison | Experimental | Comparison |
| A or B Felony | 4.0%* | 4.3% | 5.9% | 2.7% |
| C Felony | 6.3 | 4.5 | 8.9 | 4.1 |
| D Felony | 14.2 | 16.3 | 21.6 | 16.3 |
| E Felony | 14.3 | 9.1 | 12.9 | 8.1 |
| A Misdemeanor | 51.2 | 54.7 | 41.0 | 54.3 |
| B Misdemeanor | 4.4 | 4.9 | 4.4 | 3.5 |
| Unclassified Misdemeanor | 0.1 | 0.3 | 0.0 | 0.0 |
| Violation | 5.5 | 6.0 | 5.1 | 11.0 |
| Number of cases** | 1,125 | 651 | 460 | 434 |

*Percentages may not sum to 100 due to rounding.

**Cases with missing information are excluded.

TABLE 7

PROBLEMS ASSOCIATED WITH CASE CAUSING REDUCTION OR
DISMISSAL OF HIGHEST ARRAIGNMENT CHARGE FOR POST-TEST DATA

| Problem | Burglary (N=167) | Criminal Possession of Stolen Property (N=62) | Forgery (N= 93) | Larceny (N=166) |
|--|---------------------|---|--------------------|--------------------|
| All necessary evidence to support most serious charge available, but <u>nature of specific case</u> did not warrant pursuing highest charge | 38%* | 37% | 55% | 59% |
| All necessary evidence to support most serious charge available, but <u>defendant's prior record</u> did not warrant pursuing highest charge | 32 | 32 | 45 | 54 |
| All necessary evidence to support most serious charge available, but <u>defendant's testimony needed in other case</u> | 5 | 8 | 0 | 2 |
| Reasonable probability that defendant did not commit crime specified in most serious charge | 13 | 8 | 1 | 2 |
| Victim/witness problem | 13 | 16 | 14 | 23 |
| Constitutional problem | 1 | 3 | 2 | 0 |
| Non-constitutional evidentiary problem (state criminal procedure law) | 12 | 6 | 3 | 3 |
| Other technical problem | 5 | 10 | 3 | 2 |

*Percentages do not sum to 100 due to multiple responses.

TABLE 8

PROSECUTORS' OPINIONS OF CASE OUTCOMES
FOR THOSE ARRESTS RESULTING IN A REDUCTION OR
DISMISSAL OF HIGHEST ARRAIGNMENT CHARGE

| Prosecutors' Opinions | <u>Experimental Counties</u> | | <u>Comparison County*</u> | |
|--------------------------------------|----------------------------------|---------|-------------------------------|---------|
| | Number | Percent | Number | Percent |
| Final disposition was satisfactory | 413 | 93.7 | 461 | 96.6 |
| Final disposition was unsatisfactory | 28 | 6.3 | 16 | 3.4 |
| (No response) | (10) | | (1) | |
| Number of cases | 441 | 100.0 | 477 | 100.0 |

*Excludes one comparison county in which case processing worksheets were not filled out.

TABLE 9

PROSECUTORS' OPINIONS OF WHETHER THE
 LIKELIHOOD OF A SATISFACTORY OUTCOME COULD BE
 IMPROVED THROUGH MORE CAREFUL CASE PREPARATION BY POLICE
 (FOR THOSE CASES RESULTING IN UNSATISFACTORY DISPOSITIONS);
 POST-TEST DATA

| Prosecutors' Opinions | <u>Experimental Counties</u> | | <u>Comparison County*</u> | |
|----------------------------|----------------------------------|---------|-------------------------------|---------|
| | Number | Percent | Number | Percent |
| Case could be improved | 3 | 10.7 | 2 | 12.5 |
| Case could not be improved | 25 | 89.3 | 14 | 87.5 |
| Number of cases | 28 | 100.0 | 16 | 100.0 |

*Excludes one comparison county in which case processing worksheets were not filled out.

TABLE 10

MEAN SCORES OF STATE POLICE OFFICER RATINGS
OF FACTORS CONTRIBUTING TO ATTRITION

| Factor | Mean Score* |
|---|-------------|
| 1. Plea to lower charge accepted or case dismissed because of workload pressure on courts or prosecutors | 3.2 |
| 2. Facts of the specific case do not warrant pursuit of highest charge ("best interest of justice") | 4.2 |
| 3. Victim/witness changes mind about testifying or changes story for reason other than intimidation | 4.7 |
| 4. Insufficient evidence: evidence not available | 4.8 |
| 5. Insufficient evidence: evidence available but not admissable | 4.9 |
| 6. Testimony of accused needed for another case | 5.4 |
| 7. Victim/witness can't be found or has moved away | 5.7 |
| 8. Victim/witness changes mind about testifying or changes story because of intimidation by accused or friends of accused | 5.7 |
| 9. Insufficient evidence: evidence was available but was not collected. | 5.8 |
| 10. New information (since arrest) warranted modification of charge | 5.9 |
| 11. Accused transferred to another jurisdiction in which a more serious charge was pending | 5.9 |
| 12. Accused not guilty of charge | 6.3 |

* 1 = very significant contributor to attrition
7 = not a significant contributor to attrition

TABLE II

UNIFORMED AND BCI OFFICER RATINGS OF HOW ADEQUATE
THEIR TRAINING IS IN PREPARING THEM TO DEAL
WITH EVIDENTIARY ISSUES IN THE FIELD

| Rating | Uniformed | BCI |
|-----------------|-----------|-----|
| Very adequate | 16% | 26% |
| Adequate | 55 | 58 |
| Barely adequate | 24 | 16 |
| Nbt adequate | 5 | 0 |
| Number of cases | 131 | 62 |

TABLE 12

UNIFORMED AND BCI OFFICER RATINGS OF VARIOUS
SOURCES OF ADVICE ON EVIDENTIARY ISSUES

| Can you get accurate, timely advice from: | If you need advice about: | | | |
|---|---------------------------|-----------|-------------------|-----------|
| | Types of evidence | | Evidence Handling | |
| | Uniformed | BCI | Uniformed | BCI |
| Your supervisors? | | | | |
| Yes | 55% (57%)* | 71% (72%) | 56% (58%) | 64% (67%) |
| Sometimes | 40 (41) | 23 (23) | 37 (38) | 32 (33) |
| Nb | 2 (2) | 5 (5) | 4 (4) | 0 (0) |
| Never solicited | 4 | 2 | 4 | 3 |
| District attorney's office? | | | | |
| Yes | 36% (42%) | 60% (61%) | 30% (38%) | 42% (46%) |
| Sometimes | 46 (54) | 32 (33) | 40 (51) | 43 (47) |
| Nb | 3 (4) | 6 (7) | 8 (11) | 6 (7) |
| Never solicited | 15 | 2 | 22 | 8 |
| Laboratory? | | | | |
| Yes | 38% (56%) | 42% (48%) | 45% (64%) | 60% (64%) |
| Sometimes | 28 (40) | 44 (50) | 21 (30) | 32 (34) |
| Nb | 3 (4) | 2 (2) | 4 (5) | 2 (2) |
| Never solicited | 31 | 13 | 30 | 6 |

* Percentages in parentheses exclude respondents who reported never soliciting advice from the particular source.

TABLE 13

MEAN SCORES FOR EVIDENTIARY PROBLEMS
POSED BY CERTAIN CRIMES

(1 = Severe Problem 7 = No Problem)

| Offense | All Officers | Uniform Patrol | (Rank Order) | BCI | (Rank Order) |
|---|-----------------|-------------------|-----------------|------|-----------------|
| Arson | 2.29 | 2.51 | (1) | 1.87 | (1) |
| Forcible rape/sodomy/sexual abuse | 2.68 | 2.77 | (2) | 2.53 | (2) |
| Homicide | 3.10 | 3.22 | (3) | 2.89 | (3) |
| Burglary | 3.35 | 3.40 | (4) | 3.25 | (5) |
| Robbery | 3.67 | 3.85 | (5) | 3.23 | (4) |
| Promoting prostitution | 3.97 | 3.90 | (6) | 4.13 | (7) |
| Criminal sale of controlled substance | 4.20 | 3.96 | (7) | 4.72 | (8) |
| Promoting gambling/possession of gambling records | 4.29 | 4.06 | (8) | 4.80 | (9) |
| Larceny | 4.53 | 4.80 | (9) | 4.06 | (6) |
| Other assault | 5.13 | 5.22 | (12) | 5.00 | (10) |
| Possession of forged instrument | 5.17 | 5.20 | (11) | 5.13 | (11) |
| Criminal possession of stolen property | 5.19 | 5.14 | (10) | 5.33 | (14) |
| Domestic assault | 5.31 | 5.43 | (13) | 5.15 | (12) |
| Criminal possession of controlled substance | 5.38 | 5.44 | (14) | 5.23 | (13) |
| Criminal possession of a weapon | 5.77 | 5.76 | (15) | 5.85 | (15) |
| Number of cases | 193 | 131 | | 62 | |

APPENDIX A

CASE PROCESSING WORKSHEET
USED IN POST-TEST

FELONY ATTRITION PROJECT WORKSHEET

May 1985

| SECTION I - ARREST DATA (To be completed by Arresting Officer) | |
|---|------------------------|
| Defendant _____ | Date of Arrest _____ |
| Arresting Officer (Name) _____ | Primary Case No. _____ |
| Primary Felony Arrest Charge (List additional charges on reverse) _____ | |

| SECTION II - ARRAIGNMENT AND INDICTMENT DATA (To be completed by District Attorney's Office) | | |
|--|-------------------------|---------------------|
| D.A. Case No. _____ | Arraignment Court _____ | Arraign. Gate _____ |
| Highest Arraignment Charge (List additional charges on reverse) _____ | | |
| Was most serious charge reduced or were any charges dropped? Yes ___ No ___ | | |
| If "Yes", was this action taken because of evidentiary weakness that could have been avoided through more careful or thorough case preparation by the police? Yes ___ No ___ | | |
| Was defendant formally charged? Yes ___ No ___ If "Yes", date of indictment or information _____ | | |
| Highest indictment/information charge (list additional charges on reverse) _____ | | |

| SECTION III - DISPOSITION DATA (To be completed by District Attorney's Office) | |
|--|---|
| Court of Final Disposition _____ | Date of Final Disposition _____ |
| <u>Type of Disposition (Circle One)</u> | |
| A. Prosecution Declined B. Concurrence in defense motion for dismissal C. Dismissal by court (without prosecutor's concurrence) D. No true bill | E. Acquitted on all charges F. Referred to Juvenile Court (only if VJO-eligible) G. Convicted on any charge H. Other (Specify) _____ |

| | |
|----------------------------|---|
| If convicted on any charge | Convicted by: Plea _____ Trial _____ Sentence _____ |
| | Highest charge convicted of _____ (List additional charges on reverse) |

| | | |
|--|---|--|
| If convicted on most serious arraignment charge (Circle Yes or No) | (1) Were any accompanying charges dropped or dismissed because of evidentiary problems? Yes No | |
| | (2) If conviction by trial, was defendant acquitted of any accompanying charges? Yes No | |
| | (3) If conviction by plea, was there any agreement on sentence or agreement the prosecutor would not oppose defendant's sentencing recommendation? Yes No | |

| | | |
|--|--|--|
| If not convicted on most serious arraignment charge (Circle Yes or No) | (4) Was all the necessary evidence to support the most serious charge available and admissible, BUTnature of specific case did not warrant pursuing most serious charge. Yes Nodefendant's prior record did not warrant pursuing most serious charge. Yes Nodefendant's testimony needed in other case. Yes No | |
| | (5) Reasonable probability that defendant did not commit crime specified in most serious charge. Yes No | |
| | (6) Victim/witness problem(s) Yes No | |
| | (7) Constitutional problem(s) Yes No | |
| | (8) Non-constitutional (CPL) evidentiary problem(s) Yes No | |
| | (9) Other technical problem(s) Yes No | |

| | | |
|---|-----|----|
| From the perspective of the prosecutor's office, did this case result in a satisfactory disposition? | Yes | No |
| If "No", could the likelihood of a satisfactory outcome have been improved through more careful or thorough case preparation by police? | Yes | No |

| | |
|-------------------------------|-------------|
| Prosecuted by (ADA):(1) _____ | Date: _____ |
| (2) _____ | Date: _____ |
| (3) _____ | Date: _____ |

NOTE: Erie, Monroe, Onondaga and Ulster Counties - Forward completed form to New York State Police Liaison Officer assigned to District Attorney's Office.

Albany and Dutchess Counties - Forward completed form to District Attorney for subsequent pickup by research staff.

APPENDIX B

QUESTIONNAIRE ADMINISTERED TO
NEW YORK STATE POLICE OFFICERS
IN EXPERIMENTAL AND COMPARISON COUNTIES

NEW YORK STATE POLICE OPINION SURVEY

Reducing Avoidable Case Attrition

Prepared by: Hindelang Criminal Justice Research Center
State University of New York at Albany

April 1986

The State Police and several prosecutor's offices are involved in a project that is aimed at reducing the attrition rate of felony arrests by improving police-prosecutor coordination. The Criminal Justice Research Center at SUNY-Albany is assessing the progress of the project, and the attached questionnaire is part of the assessment.

Please respond to the questionnaire carefully. Your experiences and opinions are important to the project.

The questionnaire is meant to be anonymous; there is no need to put your name on it. However, we do ask that you complete the items listed below before turning to the questionnaire itself. These items will help us to determine whether the experiences and opinions of State Police Officers differ according to years of service, duties, and so forth.

Troop _____

County in which most of your duties are performed _____

Primary Duties: Check appropriate assignment and current rank:

Uniform Patrol

Trooper _____
Sergeant _____

BCI

Investigator _____
Senior Investigator _____

Years in State Police _____

Years in current primary duty (Uniform Patrol or BCI) _____

Years in current rank _____

Years in current troop _____

Approximate number of felony arrests made during past year _____

In answering the following questions, we would like you to draw on your experiences with criminal justice systems in "Upstate" New York (all areas outside of New York City, Long Island, and Westchester) and your knowledge about felony arrests (excluding DWI) made by the State Police in "Upstate" areas.

1. How frequently do you receive information about the final dispositions of the felony arrests you make?

- Never
 - Hardly ever
 - Occasionally
 - Usually
 - Almost always
- Skip to Question #2
- Answer Questions 1a, 1b, and 1c before going to Question #2

a. Who usually provides this information to you? _____

b. Is the information helpful to you in developing ways to improve how you investigate or prepare felony cases?

- Very helpful
- Somewhat helpful
- Rarely helpful
- Not helpful at all

c. When you receive information that a felony arrest you made resulted in some disposition that was less than a conviction on the most serious arrest charge, does the information include the reason for the disposition that was reached?

- Yes, always or usually
- Yes, but only occasionally
- No, or rarely

2. Do you think that routine feedback (automatically forwarded by District Attorney's Office) about the final dispositions of the felony arrests you make in the future would be helpful to you?

- No
 - Uncertain
 - Yes
- If routine feedback were given, what kinds of information about dispositions would be most useful to you?

3. Some types of felonies pose greater problems than others when it comes to collecting the evidence necessary to gain a conviction. A number of types of felonies are listed below. Please rate each one in terms of the evidentiary problems it generally poses for police officers. The rating scale for each felony ranges from "severe evidentiary problems" at one end, to "no evidentiary problems" at the other end. Mark the rating line at any point that best reflects your opinion.

| | <u>Severe evidentiary problems</u> | <u>No evidentiary problems</u> |
|---|--|--|
| a. Robbery | ----- | |
| b. Homicide | ----- | |
| c. Possession of weapon | ----- | |
| d. Domestic assault | ----- | |
| e. Other assault | ----- | |
| f. Burglary | ----- | |
| g. Possession of stolen property | ----- | |
| h. Sale of controlled substance | ----- | |
| i. Possession of controlled substance | ----- | |
| j. Promoting gambling/possession of gambling records | ----- | |
| k. Possession of forged instrument | ----- | |
| l. Forcible rape/sodomy/sexual abuse | ----- | |
| m. Larceny | ----- | |
| n. Arson | ----- | |
| o. Promoting prostitution | ----- | |

4. Our attention shifts now from types of felonies to types of evidence. Using the same procedure as in the preceding question, please rate each aspect of evidence collection listed below in terms of the problems it poses for police officers.

| | <u>Severe problems</u> | <u>No problems</u> |
|---|----------------------------|------------------------|
| a. Statements by suspects | ----- | |
| b. Statements by victims/witnesses (other than identification) | ----- | |
| c. Eyewitness identifications | ----- | |
| d. Search and seizure | ----- | |
| e. Collection of physical evidence | ----- | |
| f. Preservation or processing of physical evidence | ----- | |

5. In your opinion, how adequate is the training you receive in preparing you to deal with evidence issues in the field?

- | | |
|--|--|
| <input type="checkbox"/> Very adequate | <input type="checkbox"/> Barely adequate |
| <input type="checkbox"/> Adequate | <input type="checkbox"/> Not adequate |

6. If you need advice about what types of evidence are needed for a particular case, can you get accurate, timely advice from:

- | | |
|---|---|
| a. Your supervisors? | c. Laboratory? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |
| <input type="checkbox"/> Sometimes | <input type="checkbox"/> Sometimes |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Advice never solicited | <input type="checkbox"/> Advice never solicited |
| b. The district attorney's office? | d. Counsel's Office? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |
| <input type="checkbox"/> Sometimes | <input type="checkbox"/> Sometimes |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Advice never solicited | <input type="checkbox"/> Advice never solicited |

7. If you need advice about how a particular type of evidence should be handled, can you get accurate, timely advice from:

a. Your supervisors?

- Yes
- Sometimes
- No
- Advice never solicited

c. Laboratory?

- Yes
- Sometimes
- No
- Advice never solicited

b. The district attorney's office?

- Yes
- Sometimes
- No
- Advice never solicited

d. Counsel's Office?

- Yes
- Sometimes
- No
- Advice never solicited

8. It has been suggested that checklists might be developed to aid evidence collection in the field. The checklists would be developed for the specific types of felonies that pose the greatest evidentiary problems. They would list the items of evidence which past experience has demonstrated are most useful for the successful prosecution of each specific type of felony, and they would contain reminders about procedures for each item of evidence. In your opinion, how helpful would crime specific checklists like these be for case preparation?

- Very helpful
- Somewhat helpful
- Rarely helpful
- Not helpful at all

9. This question deals with reasons for the attrition of felony cases that are processed through the criminal justice system.

By attrition we mean: Any final disposition of a felony arrest that is less severe than a conviction on the most serious arrest charge. Examples of felony case attrition include convictions on lesser charges, acquittals, and dismissals. It is recognized that some attrition is unavoidable (e.g., the suspect turns out to be innocent), while some is avoidable (e.g., the speedy trial rule is violated).

A variety of reasons for felony case attrition are listed on the next three pages. For each reason, please do two things. First, by marking the rating line, rate the reason in terms of how significantly it contributes to felony case attrition. Second, if the reason is particularly relevant for some type(s) of crime rather than others, write the type(s) of crime in the space provided.

If you feel you do not have adequate knowledge of a particular issue, please mark "N/A" on the rating scale provided for that issue.

Remember, we are asking you to base your opinions on your knowledge and experiences with criminal justice systems in "Upstate" New York and with felony arrests other than DWI.

Very significant
contributor
to attrition

Not a significant
contributor
to attrition

- a. Facts of the specific case do not warrant pursuit of highest charge ("best interests of justice")



Specific crime(s)?

- b. Plea to lower charge accepted or case dismissed because of workload pressures on courts or prosecutors.



Specific crime(s)?

- c. Insufficient evidence: evidence not available



Specific crime(s)?

- d. Insufficient evidence: evidence available but not admissible.



Specific crimes(s)?

Very significant
contributor
to attrition

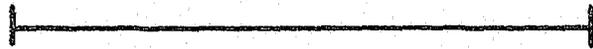
Not a significant
contributor
to attrition

- e. Insufficient evidence:
evidence was available but
was not collected.



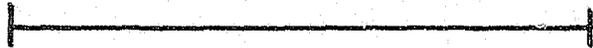
Specific crime(s)?

- f. Testimony of accused needed
for another case.



Specific crime(s)?

- g. Accused not guilty of charge.



Specific crime(s)?

- h. Accused transferred to
another jurisdiction in which
a more serious charge was
pending.



Specific crime(s)?

Very significant
contributor
to attrition

Not a significant
contributor
to attrition

- i. Victim/witness can't be found
or has moved away.



Specific crime(s)?

- j. Victim/witness changes mind
about testifying or changes
story for reason other than
intimidation.



Specific crime(s)?

- k. Victim/witness changes mind
about testifying or changes
story because of intimidation
by accused or friends of
accused.



Specific crime(s)?

- l. New information (since arrest)
warranted modification of
charge.



Specific crime(s)?
