

EVALUATION REPORT ON THE
FRANKLIN COUNTY PUBLIC
DEFENDER'S PROGRAM FOR THE
DEFENSE OF THE PROFESSIONAL
HABITUAL CRIMINAL

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ACQUISITIONS

Ronald C. Kramer

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PREFACE

This report presents the results of an evaluation of the Franklin County Public Defender's "Program for the Defense of the Professional Habitual Criminal."

The program was funded by a discretionary grant from the Law Enforcement Assistance Administration (LEAA) as a part of their national "Career Criminal Program." The "Program for the Defense of the Professional Habitual Criminal" was a direct response to the Career Criminal Program of the Franklin County Prosecutor's Office. There are only four such career criminal defense programs in the entire nation.

This evaluation covered a period of four months. Although this is a short period of time for an evaluation project like this, a large quantity of data was collected and analyzed. There are two major purposes for this evaluation report. The first is to provide information to LEAA concerning the operation of the program and the progress which the program has made towards meeting its stated goals and objectives. The second purpose is to provide critical feedback to the Franklin County Public Defender's office pertaining to their career criminal program. Hopefully, this report will give the Public Defender's office a valuable outside perspective on the operation of this program which will help them to continue to improve the services they provide to their clients in general.

Two points need to be made regarding this study. First of all, this evaluation was able to collect data for only the first ten months of the program. This is far too short a period of time for a complete evaluation to be made. As of June, 1977, the program had only been in operation for one year. More time is necessary for this program before more definite conclusions can be

drawn concerning its effectiveness. Thus, the findings in this report are to be considered tentative and should be interpreted cautiously. The second point is, that evaluation findings are only one input into the process of decision making about programs. No decision about the future of the "Program for the Defense of the Professional Habitual Criminal" should be based solely on this report.

The author of this report is a doctoral student in Sociology at The Ohio State University. This evaluation project was housed at the Academy for Contemporary Problems in Columbus, Ohio under the general supervision of John Conrad and Simon Dinitz. The author, however, is solely responsible for the contents of the report.

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This project could not have been completed without the help of a great number of people. I am especially indebted to the student volunteers who contributed so many hours and did such a great job in helping me collect the data. Sandy DuBois was a great help in arranging and conducting the client interviews. Mary Jane O'Brien and Mike Linnabary put in long hours at the Clerk's Office doing a super job of filling out data forms. Jim Porz, Debbie Wappner and Chet Barylak also provided able assistance.

I am grateful to Simon Dinitz and John Conrad of the Academy for Contemporary Problems who guided me to and through this project. I am appreciative of their many helpful suggestions and criticisms. I am also grateful to Sherry Flannery of the Academy for her assistance.

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I would also like to thank William Curlis and John Salimbene of the Franklin County Prosecutor's Office for their assistance in this project. I am also very grateful to Jim Lucks and the staff at the Franklin County Clerk of Courts Office, and Jill Kirk and her fine staff at the Pre-Trial Release Program of Franklin County. Without the assistance of Jim and Jill the data for Section III could have never been collected.

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EXECUTIVE SUMMARY

Since the late 1960's the United States government has been engaged in a "war against crime." The Law Enforcement Assistance Administration (LEAA), created in 1968, has played a large role in fighting this war. Recently, LEAA has focused on the problem of habitual or so called "career criminals." This emphasis on career criminals stems from the belief that a relatively small number of offenders are responsible for a large amount of serious crime. In 1975, LEAA made funds available to local jurisdictions for the creation of career criminal programs. Eleven jurisdictions originally set up career criminal programs and by 1977 there were 29 such programs around the country. These programs, which provide special prosecution for career criminals, have been credited with the recent reduction in serious crime by some officials.

Franklin County, Ohio was one of the 11 original jurisdictions to receive LEAA funding for a career criminal program in the Prosecutor's Office. The Franklin County Prosecutor's Career Criminal Program began operation in July of 1975. This program identifies defendants with serious criminal records (two or more felony convictions) and assigns them to a special career criminal task force within the Prosecutor's Office for special prosecution. This task force of five assistant prosecutors and several investigators is characterized by a much reduced caseload and early assignment to the case. The program is to expedite the prosecution process, minimize plea bargaining, convict career criminals and obtain long prison terms for them.

In an attempt to provide some balance into the process of prosecuting these so called "career criminals," the Franklin County Public Defender's Office applied for and received an LEAA grant to set up a similiar Career Criminal Unit. This unit began operation in June of 1976, almost one full year after the

Prosecutor's program began. The overall objective of the Public Defender's Career Criminal Unit is to provide competent, effective representation to indigents labeled as "career criminal." Three experienced attorneys and two investigators were assigned to this unit. The Career Criminal Unit was given a much reduced caseload and other support resources. Ideally, the unit was to have more time for case preparation and investigation to balance off the extra resources of the Prosecutor's Career Criminal Unit.

After several months, the Franklin County Public Defender's Office changed the name of the Career Criminal Unit to the Special Defense Unit. The Special Defense Unit handles three kinds of cases:

- 1) DESIGNATED CAREER CRIMINALS - cases officially designated as career criminal by the Prosecutor's Career Criminal Unit;
- 2) NON-DESIGNATED CAREER CRIMINALS - cases in which the client fits the Prosecutor's criteria but has not been officially designated by the Prosecutor's Career Criminal Unit as a career criminal (for unknown reasons);
- 3) NON-CAREER CRIMINAL - cases which do not fit the criteria for career criminal but are picked up by the Special Defense Unit for various reasons.

This report presents the results of an evaluation of the Franklin County Public Defender's Special Defense Unit. The first step in any evaluation research is to determine in clear, specific and measurable terms what the goals of the program are. This evaluation project concluded that the paramount goal of the Special Defense Unit was to provide effective representation or high quality representation to indigents labeled as career criminal or fitting the Prosecutor's

criteria as career criminal. (For the purposes of this report "effective representation" and "quality of representation" will be used interchangeably). Thus, this evaluation attempted to measure the effects of the Special Defense Unit on the quality of representation provided to indigent career criminals.

The concept of effective representation, however, is an abstract one. It is a concept which is hard to define and even harder to measure. A review of the literature revealed that there are three ways to approach the definition and measurement of effective representation. The first approach defines effective representation in terms of case outcomes (type of disposition and severity of sentence). This approach usually involves a comparative analysis of case outcomes between public defenders and private attorneys. The second approach defines effective representation as a defense systems compliance with objective national standards for defense services formulated by such groups as the A.B.A. and N.L.A.D.A. The third approach defines quality of representation from the perspective of the client. This approach attempts to determine the perceptions and evaluations of the clients of defense services.

In order to provide a more complete answer to the question of whether or not the Special Defense Unit was achieving its goal of providing effective representation it was decided to use all three approaches. Thus, a triangulated methodology was involved in the evaluation. In the comparative analysis of case outcomes, quasi-experimental designs were used with statistical techniques of data analysis. In the section using the national standards qualitative techniques of data collection and analysis were used (participant observation, specialized interviews and document analysis). In the section dealing with the perspective of the client specialized interviews were used exclusively. By using multiple data sources and multiple research methods it was hoped that the weaknesses and limitations of any particular data source or method could be overcome.

Before the evaluation of whether or not the Special Defense Unit is achieving its goal of providing effective representation to its clients, it might be helpful to profile the social and legal characteristics of those clients. The typical Special Defense Unit client is a single, male, black, 31 years of age with a 10th grade education and unemployed at the time of his arrest. This social profile is very similar to that of all Franklin County Career Criminals. Special Defense Unit career criminal clients have averaged 4.7 prior felony arrests, 3.1 prior felony convictions and have served an average of 68 months in prison. This legal profile of Special Defense Unit career criminal clients is roughly equivalent to the legal profile of all Franklin County Career Criminals.

The comparative analysis of case outcomes shows in general, that the Special Defense Unit is achieving its goal of providing effective representation to its clients. Special Defense Unit career criminal clients receive "better" case dispositions than the career criminal clients of the Public Defender Regular Trial Staff. Those Special Defense Unit career criminal clients who went to prison receive less severe sentences than career criminal clients of the Regular Trial Staff. Thus, the conclusion is that the Special Defense Unit has had an effect on the representation provided to career criminal clients by the Franklin County Public Defender Office, although the effect is not a large one.

The comparison between the Special Defense Unit and private attorneys shows sharper differences in case outcomes. Special Defense Unit career criminal clients receive "better" case dispositions than the career criminal clients of private attorneys and they also receive less severe sentences if sentenced to prison. Taking the two comparisons together, it is the conclusion of this report, that based on case outcomes, the Special Defense Unit provides effective representation.

The qualitative analysis of the Special Defense Unit's compliance with objective national standards for defense services shows that the Special Defense Unit is in overall compliance with the majority of these standards. The standards are: (1) standards relating to the availability of counsel and early entry in the case, (2) standards relating to the scope of services provided, (3) caseload standards, (4) standards relating to the attorneys duty to confer with his client, (5) standards relating to case preparation and investigation, and (6) standards relating to plea negotiations.

The only standards the Special Defense Unit is not in compliance with are the standards relating to availability and early entry. The reasons for this failure are: (1) an inadequate career criminal screening system at the Municipal office, (2) poor communication between the Municipal office and the Special Defense Unit, and (3) organizational pressures from both within and without the Public Defender's office. The Special Defense Unit is in substantial compliance with the standards relating to the scope of services provided and with the standards relating to the attorneys duty to confer with his client. Finally, the Special Defense Unit is in complete compliance with caseload standards, with standards relating to case preparation and investigation and with standards relating to plea negotiations. Therefore, from this approach, this report concludes that the Special Defense Unit is providing effective representation.

From the perspective of a slight majority of their former clients, the Special Defense Unit is not providing effective representation. This majority feels that the Special Defense Unit attorneys do not spend enough time with them, do not provide adequate information to them, are not well prepared for the case, do not give them good advice, are not concerned about their welfare and do not allow them to participate enough in the case. Furthermore, these clients do not trust their Special Defense Unit attorneys and they feel the attorneys put too

much pressure on them to plead guilty just to dispose of the case quickly. Although these clients do rate their Special Defense Unit attorneys slightly above other public defenders they have had in the past, they rate them far below the private attorneys they have had in the past.

Thus, from this perspective it appears that the Special Defense Unit is not providing effective representation. However, the results of this section should be interpreted very cautiously for a number of reasons. First of all, a sizeable minority of clients do feel that the Special Defense Unit attorneys did provide them with quality representation and they rated them highly on the client concerns listed above. Second, the sample of clients for these interviews was small and the sample was biased toward clients who had been convicted and sent to prison. This affects the validity of the general conclusion. Third, many of these clients have had "negative" experiences with public defenders in the past which affects their perception of all public defenders. Fourth, and finally, the generally bad reputation of public defenders appears to bias most clients evaluations of their attorney. Even with these cautions, however, the fact remains that a majority of Special Defense Unit clients do not feel that they received effective representation.

In conclusion, based on the triangulated analysis made by this evaluation, it seems fair to say that the Special Defense Unit is achieving its goal of providing effective representation and that the program in general has had a positive effect on the quality of representation provided by the Franklin County Public Defender's Office as a whole. The reason for this is simple. More attorneys, more investigators and more money allows an already highly competent office to do an even better job of providing representation to indigent defendants.

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SECTION I: INTRODUCTION

L.E.A.A. CAREER CRIMINAL PROGRAMS

During the social and political turmoil of the 1960's crime was again raised to a major political issue. In the wake of civil rights protests, opposition to the war in Vietnam and rising crime rates, "law and order" became a familiar political theme. Charges that the Warren Court was "coddling criminals" and "hand-cuffing the police" combined with the increase in crime rates and a genuine fear of crime on the part of the American public to produce a governmental declaration of a "war on crime." This new offensive against crime resulted in a Presidential Commission, the Omnibus Crime Control and Safe Streets Act of 1968 and the creation of the Law Enforcement Assistance Administration (LEAA). The 1968 Nixon Campaign was heavily laced with the rhetoric of "law and order" and the new administration continued to wage the war against crime, largely through the efforts of LEAA.

In the early 1970's political and social events (especially the Watergate scandal) tended to distract some attention from this war. Crime, however, remained as a major political issue and a serious social problem. Official rates of crime continued to climb and public fear of crime grew with it. Through the operation of LEAA, official concern with the issue of crime has remained high. The war on crime continues. In the middle 70's, this war has taken on a new focus. The Justice Department, LEAA and the American public have become increasingly concerned with repeat, habitual or career criminals and how to deal with them.

A. THE CONCEPT OF CAREER CRIMINAL

The current emphasis on habitual offenders or so called "career criminals" stems from the belief that a relatively small number of offenders are

responsible for a large amount of serious crime. Some officials suggest that between 50% and 80% of many serious crimes are committed by repeat offenders. Former President Ford, in an address to the International Association of Chiefs of Police on September 24, 1974 stated that, "most crime is the work of a limited number of hardened criminals and we must take the criminal out of circulation. Crime must be made hazardous and very costly." The idea that a core group of people make careers out of crime and account for a major portion of serious crime has become the conventional wisdom of the crime control establishment.

The concept of "career criminal" was popularized very rapidly and it soon became the focus for a new offensive in the war against crime. In his address to the International Association of Chiefs of Police, former President Ford announced an initiative for creating a special program to deal with the career criminal. Pursuant to this presidential initiative LEAA made funds available to jurisdictions around the country for the creation of Career Criminal programs. According to a newsletter (The Verdict, Vol. 1, No. 5) published by the National Legal Data Center for prosecutors who received career criminal project funds:

The Career Criminal Program as designed by LEAA, focuses the resources of the criminal justice system on the repeat and violent offender. The major thrust of the program is to quickly identify such offender for priority for prosecution, set his case for priority disposition, offer experienced and specialized treatment of his case as it moves through the criminal justice system, and to assure that the commission of repeat violent crime will be hazardous and costly to the convicted felon.

Initial Career Criminal Program grants, totaling over 4 million dollars were awarded to prosecutors in 11 cities. Programs were set up in: Houston, Dallas, New Orleans, San Diego, Boston, Manhattan, Columbus, Detroit, Salt Lake City, Albuquerque and Kalamazoo. Currently there are a total of 19 LEAA discretionary fund programs around the country dealing with career criminals. In addition,

there are now 10 career criminal programs utilizing sources other than LEAA discretionary funds.

According to The Verdict (Vol. 1, No. 5) the LEAA career criminal programs are designed to test the following hypotheses:

- 1) A small group of offenders is responsible for a disproportionate amount of dangerous and violent crime.
- 2) An accurate profile of such offenders (to distinguish them from other less dangerous offenders) can be developed and utilized by the criminal justice system so as to deal with the problem of the career criminal on a priority basis.
- 3) The career criminal has at least the four following characteristics:
 - A) Commits dangerous crimes regularly and habitually;
 - B) Will often have two or more open cases pending in the court system at any given time;
 - C) Utilizes his familiarity with the criminal justice system to avoid prosecution and punishment;
 - D) Has generally not been influenced by traditional social service programs.
- 4) The development of improved prosecutorial procedures will significantly increase conviction rates for violent and dangerous offenders.
- 5) Increased conviction rates for violent offenders may have a beneficial impact upon violent crime rates.
- 6) The results of pilot programs will stimulate the reallocation of resources within the criminal justice system so as to deal more effectively with the dangerous career criminal.

These LEAA funded career criminal prosecution programs appear to be a concrete effort to reduce crime and, indeed, the recent decline in overall serious crime is being attributed by many to these programs. At any rate, these programs

constitute an important criminal justice experiment and the concept seems to be spreading. Thus, these programs need to be examined carefully and evaluated to determine what impact they have on the criminal justice system as well as the crime rate.

B. THE FRANKLIN COUNTY PROSECUTOR'S CAREER CRIMINAL PROGRAM

Franklin County, Ohio, the seat of the state capital Columbus, was one of the original 11 jurisdictions to receive LEAA funding for a career criminal prosecution program. Franklin County is located almost at the center point of the state of Ohio. State government, The Ohio State University and light industry are the principal sources of jobs and income for the County. The population of Franklin County was estimated at 1,067,000 in 1974, and the city of Columbus proper has a population of over 500,000.

Early in 1975 the Franklin County Prosecutor's Office became aware that LEAA was preparing to launch a program that would target habitual or career criminals for special prosecution. Interest in such a program was high within the Prosecutor's Office and then an application for the available career criminal money was made to LEAA. In the application for federal assistance the Franklin County Prosecutor's Office outlined its need for such assistance. Citing the rising levels of crime reported to police, the increase in felony cases indicted by the Franklin County grand jury and the high rates of recidivism, the Prosecutor's proposal went on to state that:

The problem then in Franklin County is one of increasing criminal activities in (serious) crimes. Much of this increased crime is due to individuals who must be characterized as professional and/or habitual offenders. We identify the professional criminal as one who makes his living by crime but through his skill and expertise has not always been caught and held accountable for his crimes. The habitual criminal is one who also makes his livelihood from crime but because of his lack of skill has continually been caught and has been placed in the criminal justice system often.

In June, 1975 the Franklin County Prosecutor's Office became one of the first jurisdictions to be awarded a grant from LEAA for the purpose of creating a career criminal unit. The grant totaled \$240,000 and was matched by \$27,000 from the county. The new five lawyer, career criminal unit was established in July of that year. In addition to providing salaries for the five assistant prosecuting attorneys, the money provided for the hiring of several investigators, administrative assistants and secretaries and the purchase of equipment and other professional services. The objectives of the new program were as follows:

- 1) To identify the professional/habitual criminal in the criminal justice system.
- 2) To expedite the prosecution and to decrease the possibilities for plea bargaining of the professional/habitual criminal.
- 3) To increase the probability of convicting and sentencing the professional/habitual criminal.
- 4) To educate the public to report criminal activity and to cooperate with police and prosecutors in the prosecution of individuals identified as professional/habitual criminals.

The criteria used to identify a case as a career criminal case vary a great deal among the different jurisdictions that have the programs. Some jurisdictions use a complex rating system to decide to prosecute a case as career criminal while others use only a certain number of prior arrests. Franklin County uses prior convictions as the criteria to identify a case as a career criminal case. A defendant must have two prior felony convictions and be charged again with a felony to qualify for career criminal prosecution. However, if a person has one prior conviction for a crime of violence and is currently charged with a crime of violence he also is labeled a career criminal. These criteria seem

seem to be the most objective of all the programs since they deal only with actual felony convictions.

The Franklin County Prosecutor's Office hoped that the new career criminal program would allow them to expedite and upgrade the prosecution of habitual or career criminal cases. The primary mechanism for achieving this goal was to provide the five assistant prosecutors on the career criminal unit with reduced caseloads. Instead of having to handle 7 or 8 cases a week as the regular trial staff of the Prosecutor's office does, the career criminal unit has only 1 or 2 cases per week. This allows them the time necessary for the more thorough investigations and preparation of the cases. The single most important factor associated with the career criminal unit is the badly needed time it provides to the unit members.

Time, the most important factor, is not the only difference between the career criminal unit and the regular trial staff of the Prosecutor's office. Career criminal unit members often are assigned to cases at an earlier point of time, sometimes within days or even hours of an arrest. There are several reasons for this. One, in career criminal cases, the Prosecutor's office attempts to bypass preliminary hearings and bind over by obtaining direct indictments from the grand jury. Second, career criminal unit members, as much as possible, try and present evidence to the grand jury themselves. Thus, in many cases, the assistant prosecutor who will handle the case at trial receives the case within days after arrest and takes it all the way through from grand jury to trial and sentencing.

Finally, the Franklin County Prosecutor's career criminal unit differs from the regular trial staff in its official policy toward plea bargaining. The policy of the career criminal unit is to eliminate or at least minimize plea bargaining in career criminal cases. The Prosecutor's addendum to their application for federal assistance states "Major violates unit (career criminal unit)

prosecutors will not negotiate pleas to lesser offenses in cases involving the professional habitual criminal program." The official stance of the Career Criminal Unit is that defendants designated as career criminals must either plead guilty to the indictment or go to trial.

Overall, the Franklin County Prosecutor's Career Criminal Program attempts to expedite the prosecution process, minimize plea bargaining, convict career criminals and obtain long prison terms for them. After its first year of operation, many were hailing the program as a success. On August 19, 1976 The Wall Street Journal, commenting on the Columbus Career Criminal Program stated that, "At a time when the nation appears to be losing its battle to reduce the spiraling crime rate, a year-old federally funded experiment in this state capital is holding out some hope that crime can be reduced." Likewise, Franklin County Prosecutor George Smith feels that the Career Criminal Program is having a significant effect. He recently was quoted in The Verdict as saying, "It is clear for Columbus, Ohio, the crime rate is down and it is clear that the decrease in the rate of crime began after the Career Criminal Program went into effect. The program has been, and if properly funded, will remain a success."

C. THE FRANKLIN COUNTY PUBLIC DEFENDER'S CAREER CRIMINAL PROGRAM

In early 1976 the Franklin County Public Defender's Office (at that time a part of the Columbus Legal Aid and Defender Society) began to recognize an increase in the number of designated career criminals among their clients. Fearing that the Franklin County Prosecutor's Career Criminal Program would continue to cause an increase in the number of their clients labeled as career criminal and in order to maintain proper balance between the State and the defense in the handling of these cases, the Franklin County Public Defender's Office applied for federal assistance to set up their own Career Criminal Program.

The objective of this program would be to provide competent representation to those indigents labeled as career criminal by the Prosecutor's Office.

The Public Defender's Office argued that the need for this was supported by the fundamental belief in the adversary system as the best tool for producing just results. As Franklin County Public Defender James Kura noted:

"Since Franklin County, Ohio has received substantial funds for prosecuting the so called "Criminal Criminal," it was deemed necessary and proper to add strength to the Public Defense Bar in the name of fair play, and the commitment by LEAA to encourage vigorous prosecution of the guilty while protecting the rights of the accused."

Officials of LEAA agreed with the Franklin County Public Defender's Office that a grant to add strength to the Public Defense Bar would complement the Prosecutor's program and be consistent with LEAA's intent of reducing crime by improving the judicial process. Therefore, in May 1976 the Franklin County Public Defender's Office received a LEAA discretionary grant of \$114,100 with matching county and state funds of \$12,687 for a total grant of \$126,778, to set up a Career Criminal Unit within the Public Defender's Office. This unit began operation on June 1, 1976 almost one full year after the Prosecutor's Career Criminal Program began.

The official objectives of the Franklin County Public Defender's Career Criminal Program are as follows:

- 1) To maintain proper balance between the state and the defense in handling of career criminal cases.
- 2) To guarantee the constitutional rights of all defendants.
- 3) To assure that indigent defendants labeled professional/habitual criminals are afforded a competent defense by competent and well trained defense counsel.
- 4) To assure that indigent defendants labeled professional/habitual criminals are afforded a complete investigation of their defenses and case, by defense counsel.

- 5) To assure that indigent defendants labeled professional/habitual criminals who are innocent are proved so, and assure that innocent people are not convicted and sent to prison solely because of past records.
- 6) To provide the Franklin County Public Defender's Office sufficient manpower to effectively handle the additional burden which will occur as a result of the Habitual Criminal Program now being instituted by the Franklin County Prosecutor's Office.

Section 2 of this report contains a more involved discussion of the objectives and goals of the Public Defender's Career Criminal Program.

In order to implement the stated objectives of the program, the Franklin County Public Defender's Office took the following steps:

- 1) They assigned three of their most experienced trial attorneys to the career criminal unit.
- 2) During the month of June 1976, they phased out the regular caseload of these attorneys, replacing it with a much reduced caseload of clients labeled as career criminal by the Prosecutor's office. This new caseload, reduced by greater than 50%, was thought to be the single most important factor in providing competent representation.
- 3) They hired additional investigative staff to be used by the career criminal unit in case preparation.
- 4) The three career criminal attorneys were placed on a single assignment case system to provide maximum continuous representation through the Common Pleas Court.
- 5) They made a substantial increase in the legal research materials available to this unit.
- 6) The career criminal unit systematically reported to the Municipal Court in order to make client contact as close to the arrest date as possible.
- 7) The career criminal attorneys and investigators attempted to interview witnesses prior to indictment to provide an early defense if one existed and to find weaknesses and strengths in the State's case.

The Franklin County Public Defender's Career Criminal Unit, thus, consisted of three very experienced defenders with significantly reduced caseloads

which allowed them more time to properly investigate and prepare career criminal cases. These attorneys, in addition to having more of that important element of time, received their cases much earlier in the criminal process. With the increased investigative capacity, the increased amount of support staff assistance and the increased amount of legal research materials, the career criminal unit was thought to have the resources necessary to reach the program objectives and provide competent and effective representation to indigents labeled as "career criminals."

During the first few months of its operation, the Franklin County Public Defender's Career Criminal Unit underwent several important changes. First, it shifted its focus slightly to include non-criminal cases requiring "special defense" in addition to the designated career criminal cases. The Career Criminal Unit, thus, changed its name to the "Special Defense Unit." Second, the Special Defense Unit was unable to work out an agreement with the Prosecutor's office to receive notification of the career criminal status of clients and therefore set up its own procedures for screening career criminal cases using the Prosecutor's criteria. As a result of these two changes, the Special Defense Unit has three distinct types of cases:

- 1) DESIGNATED CAREER CRIMINAL - cases officially designated as career criminal by the Prosecutor's Career Criminal Unit.
- 2) NON-DESIGNATED CAREER CRIMINAL - cases in which the client fits the Prosecutor's criteria but has not been officially designated by the Prosecutor's Career Criminal Unit as a career criminal (for unknown reasons).
- 3) OTHER (NON-CAREER CRIMINAL) - cases which do not fit the criteria for career criminal but are picked up by the Special Defense Unit because of special defense problems or because they are helping out the regular trial staff.

The following is an evaluation report on the operation of the Special

Unit. This report has two major purposes. The first purpose is to provide an overall description of the clients, the activities, and the effects of the Special Defense Unit. The second purpose is to evaluate the Special Defense Unit's progress in achieving its objectives and goals. Section 2 is a discussion of some of the methodological considerations involved in this study. It reviews the criteria used to evaluate the Special Defense Unit's progress toward achieving its goals and the methodological strategies these criteria imply.

SECTION II
EVALUATING THE PUBLIC DEFENDER'S
CAREER CRIMINAL PROGRAM:
METHODOLOGICAL CONSIDERATIONS

Social science research can be undertaken for a number of different purposes. Testing theoretical propositions, derivation of theory and the description of some aspect of social reality are among these purposes. Social science research can also be undertaken for the purpose of evaluating social programs and public policy. Evaluation uses all of the methods of social research and is distinguished from other kinds of social science research only by the purpose for which the research is done. As Weis (1972:4) has pointed out, "the purpose of evaluation research is to measure the effects of a program against the goals it set out to accomplish as a means of contributing to subsequent decision making about the program and improving future programming."

Evaluation research, thus, requires a research methodology with which to measure the effects of a given program or policy. In addition, it requires that the effects of a program be compared to the goals the program has been designed to achieve. Using explicit criteria or standards, a judgment is then made concerning how well the program achieved its stated goals. The evaluation researcher, then, needs to be very clear about what the goals of the program being evaluated are, and what criteria or standards will be used to make a judgment concerning the achievement of these goals, before a research design can be formulated.

A. THE GOALS OF THE PROGRAM

To find out, in clear, specific and measurable terms, what the goals of a social program are is often the most difficult task of the evaluation

researcher. Typically, the goals of a social program are abstract, vague, ambiguous and difficult to pin down. The goals of the Franklin County Public Defender's Career Criminal program were of this nature. It was very difficult to determine in any clear, specific and measurable way what the program was intended to do. Confusion as to the goals of the program was not limited to the researcher, newly arrived on the scene, it existed even among some of the staff members of the career criminal unit who found it difficult to express in a precise way what their unit was supposed to achieve.

The primary goal of any legal defense system is to provide competent and effective representation to clients. This representation should be of the highest quality possible. As the National Legal Aid and Defender Association (1976:14) has stated:

The goal of overall total high quality criminal defense representation must be kept paramount, with due regard for the fact that in most jurisdictions today, the concept of overall total high quality criminal defense representation tends to be an unrealized aspiration rather than an attained reality.

By reviewing the stated objectives of the Franklin County Public Defender's Special Defense Unit (SDU) listed in Section I and by interviewing the staff of the Special Defense Unit it became apparent that the goal of the Career Criminal Program was essentially no different from that of any public defender or legal defense system. The major objective of the Franklin County Public Defender's Office in general and the Special Defense Unit in particular is to provide a competent, effective and zealous defense for their indigent clients. Providing high quality representation is the major goal of both. The Career Criminal Program simply tries to furnish more resources to the Special Defense Unit in order to achieve this goal and to combat or balance out the increased resources which have been provided to the Prosecutor's office through its Career Criminal Program.

This evaluation project, therefore, concluded that the paramount goal of the Franklin County Public Defender's Career Criminal Program is to provide effective representation or high quality representation to indigent defendants labeled as "career criminals." (For the purpose of this report "effective representation," "quality of representation" and "quality of defense services" will all be used interchangeably). Thus, this evaluation will attempt to measure the effects of this program and determine, by using explicit criteria, whether or not the program has achieved its goal of providing effective representation or if it is making progress toward this goal. This entire evaluation project centers around the attempt to determine if the Special Defense Unit provides effective representation to its clients, or at least, more effective representation than the Regular Trial Staff of the Public Defender's Office can provide with its more limited resources.

The goal of providing quality representation to indigents labeled as career criminals is clear, however, is this goal specific and measurable? Admittedly, the concept of quality representation is an abstract one. It is a difficult concept to define and even more difficult to measure. To determine if any particular defense system is achieving this goal is a hard task. One Professor who is dealing with this problem recently confided (personal communication) that he has "become a bit discouraged concerning the possibility of formulating a good research methodology as it seems impossible (very difficult) to apply scientific criteria to the abstract art of defending an indigent offender."

The effort to evaluate the Public Defender's Career Criminal Program in its achievement of the goal of high quality of representation, however, seems justified by three facts. First, his goal is the most clear, specific and measurable goal which could be pinned down concerning the program and it seems

more worthwhile to evaluate the program's achievement of this goal than other, even more abstract or unimportant, objectives; or, to not have any evaluation at all. Second, in the last 5 to 10 years a number of commissions and associations (such as the A.B.A. and the National Advisory Commission on Criminal Justice Standards and Goals) have come out with a number of objective standards for indigent defense systems which can be used to evaluate the quality of defense services. Third and finally, a number of researchers (Alpert, 1977; Schneider and Feinman, 1977; Singer, 1977) have recently applied themselves to the question of measuring the quality of defense services and their work provides a firm foundation to start with and build on.

B. THE CRITERIA FOR EVALUATING EFFECTIVE REPRESENTATION

A review of the literature relating to the question of how to define and measure the abstract concept of effective representation or quality of defense services shows that there are three major approaches to this question; two of which stress "objective criteria" and one which uses what could be called "subjective criteria." The three approaches constitute three somewhat different perspectives on the concept of quality of representation.

These three different approaches to the definition and measurement of effective representation also provide three different sets of criteria which could be used to evaluate how well the Franklin County Public Defender's Special Defense Unit is achieving its goal of providing effective representation to indigents labeled as career criminals. Each approach will provide a different definition of the concept of quality representation and a distinctive research methodology to measure it. The evaluation researcher has to make the important decision of which approach to adopt, since the approach adopted determines the criteria to be used and the methodological strategy to be followed.

The first of these approaches defines effective representation in terms of the outcome of the case (type of disposition and severity of sentence). This approach usually involves a comparison of case outcomes between private and public counsel. An indigent defense system (the Special Defense Unit in this situation) would be achieving effective representation if the severity of sentences for their clients was roughly equivalent to the severity of sentences for non-indigents (controlling for relevant variables). This approach usually implies the dominant methodological strategy of evaluation research, that of using an experimental or quasi-experimental design with quantitative data and statistical techniques of analysis.

The second approach attempts to define effective representation as compliance with certain objective standards formulated by such groups as the American Bar Association and the National Legal Aid and Defender Association. This approach determines effective representation by how well an indigent defense system (the Special Defense Unit in this case) meets these objective national standards for the provision of defense services. This approach lends itself to research designs which use more qualitative techniques of data collection and analysis.

The third approach defines effective representation in terms of client satisfaction. One way to measure the quality of representation is to simply go to the clients and ask them how they feel about the type of representation they received. Were they satisfied with the defense they received? What is the client's perception and evaluation of the attorney who represented him? The criteria here, of course, are the subjective criteria of the client. The methodological strategy implied is specialized interviews and qualitative analysis.

The following discussion reviews these three approaches to the question of effective representation; the definitions they propose, the criteria they utilize and the methodologies they imply. An evaluation of the strengths

and weaknesses of each approach is also offered.

1) COMPARING CASE OUTCOMES

The first approach defines effective representation by the outcome of the case (type of disposition and severity of sentence). This approach insists that it is important to look at what ultimately happens to the defendant. Does he enter a guilty plea or go to trial? If he goes to trial is he found guilty or acquitted? What kind of a sentence does he receive? These are the kinds of questions this approach asks. Effective representation is that representation that results in "better" outcomes for the clients. Dismissals, nolle, acquittals and lower sentences are all indications of effective representation from this perspective.

The strongest case for evaluating effective representation for indigents in terms of case outcome is made by Schneider and Feinman (1977). They are critical of other sets of criteria for evaluating defense services, such as appellate court standards and objective national standards, as inadequate. Schneider and Feinman (1977:9) insist that a "far more satisfying definition of effective representation concerns whether the outcome of the case is 'fair' or 'just' in a more absolute manner." They go on to argue that effective counsel will achieve a "better" outcome for their clients than will ineffective counsel.

Schneider and Feinman recognize that critics of this approach will argue that justice is an individualized process and that no two cases are really alike, nor can the correct or just outcome of any particular case be defined with any precision. They contend, however, that their approach can be designed to overcome these criticisms. Schneider and Feinman (1977:10) assert that "one method of escaping this dilemma is to define effective representation for indigents as representation equal to that which he would have received had he not

been indigent." They go on to review research which has compared the outcomes of cases in which the accused retained private counsel. Schiender and Feinman (1977:10) claim that:

This approach permits a precise, measurable definition of effective representation for indigents: an indigent has received effective representation if he or she receives the same case outcome that would have been forthcoming if he or she had been able to retain counsel.

Although the definition falls short of a universal definition of effective representation for indigents and non-indigents alike, it is the most useful one for developing scientifically valid information concerning which methods of delivering defense services to the poor will produce the highest quality of representation.

This approach is certainly a valid way to address the question of effective representation. Looking at case outcomes does provide one rough measure of how effective the defense counsel was. Most defense attorneys assert that their primary objective is to have the client walk out free and clear, and if that is not possible to at least minimize the type and amount of punishment the client receives. Case outcome is one good way to define effective representation. If one type of defense attorney consistently produces fewer convictions and less severe sentences for his clients (controlling for relevant variables) then it can be concluded that that type of counsel produces more effective representation for his clients.

There are, however, several major weaknesses to this approach. First, it ignores the fact that a defense attorney could do everything humanly possible in a case and still have his client convicted and sentenced severely. In fact, in some court systems the more adversary the defense attorney is, the more defenses he raises, the harder he fights, the more he goes all out for his client in a trial, the more likely it is that the defendant will receive a more severe sentence if convicted. Case outcome is only a gross measure of effective

representation. It obscures the amount of quality of work that may have gone into a case. The particular facts of a case and the prior record of the defendant may have more to do with the outcome of a case than the quality of representation.

The second major weakness of this approach, as outlined by Schneider and Feinman is the assumption that private attorneys necessarily provide more effective representation and achieve the best outcomes. This is, in many cases an unwarranted assumption. Although earlier research (Sudnow, 1965; Blumberg, 1967) tended to show that private attorneys provide more effective representation than public defenders the most recent research (Schneider and Feinman, 1977) suggests that there is little or no difference between them in terms of case outcome when relevant variables are controlled. To start with the assumption that private attorneys offer more effective representation than public defenders is simply not justified. In fact, as Shelvin Singer (1977:8) has suggested, "the quality of private representation may hinge upon the quality of defender representation."

The third weakness, related to the second, is that comparisons between private attorneys and public defenders may not be valid due to the differences in types of clients. As Shelvin Singer (1977:8) notes:

...it is readily observable that most persons affluent enough to retain counsel, are also more defensible. They are more articulate, less impeachable as witnesses, and are more likely to have more articulate and less impeachable witnesses. Affluent clients are more likely to relate far better to judge, jury and prosecutor, than poor clients. Indeed the fact that the non-indigent client is more likely to go free on bond, and the lawyers relate better to him and his witnesses is usually critical to the outcome. These are only a few of the variables. Hence comparisons are simply inappropriate as a measure for quality.

The point is, that comparisons between private and public counsel must control for these critical variables and be interpreted with these differences in client characteristics in mind. The appropriate experimental and quasi-experimental designs along with the appropriate statistical techniques can insure that these comparisons are valid and reliable.

2) USING OBJECTIVE NATIONAL STANDARDS

The second approach defines effective representation in terms of an indigent defense system's compliance with certain objective national standards. This approach is not directly concerned with the outcome of individual cases, rather it is concerned with the characteristics of the system or program which provides defense services. The characteristics of the defense system are compared with standards developed by appellate court decisions, national associations such as the American Bar Association and the National Legal Aid and Defender Association, and national commissions like the National Advisory Commission on Criminal Justice Goals and Standards and the National Study Commission on Defense Services. If the defense system under question meets these objective national standards, then it is assumed that that system provides effective representation to its clients. At the least, the comparison of an indigent defense system with these national standards should provide some rough measure of the quality of representation provided by that system.

Recent articles by Singer (1977) and Goldberger (1977) advocate this approach of using the various national standards as criteria for evaluating the effectiveness of representation. Goldberger (1977:3) in his discussion of criteria for measurement of defender office effectiveness states that "formulation of what constitutes effective defense services can be obtained from sources such as the ABA's Standards for Criminal Justice, and the NLADA's Standards for Defender Services, and the National Advisory Commission's Criminal Justice

Standards and Goals. These standards each set forth guidelines for quality representation." Likewise, Singer (1977:13) has commented on the development of criteria for evaluating the effectiveness of representation:

The lawyering process is a work of art and not a science. Hence, the quality of representation, and the legal service provided, cannot be measured in quantitative terms that perhaps may prove useful in other area of behavioral activity. However, certain relatively objective criteria have been established which may serve to assess the delivery of effective legal services. The American Bar Association, the National Advisory Commission on Criminal Justice Standards and Goals, and the National Legal Aid and Defender Association have taken the leadership in developing these standards for legal services. The recently completed NLADA project, The National Study Commission on Defender Standards and Goals, has produced the most comprehensive and well documented set of standards available today. When an existing defense delivery system is compared against these standards, some assessment, though imperfect, can be achieved as to the quality of the legal services delivered. However, it should be cautioned, that to this writer's knowledge none of the Standards have been tested.

This approach to the question of effective representation is certainly a valid way to measure the concept. Overall there are three main strengths to this approach. First, it provides explicit criteria to be used in measuring effective representation. Most of the national standards spell out exactly what things must be done to insure a high quality of representation for indigent defendants. Second, the standards have been developed, for the most part, by the legal profession itself. These are not idealistic standards imposed on defense systems by outsiders who are not familiar with the particular problems of criminal defense work. Rather, these standards come from the members of the criminal bar themselves, many who are experts in the area of criminal defense. In addition, there is a substantial amount of overlap and general consensus concerning the standards across the groups who have developed them.

The third strength, is perhaps the strongest point of all and that is,

that these national standards are sensitive to the fact that the representation of indigent defendants is a complex process. Effective representation is not simply a product that can be measured in quantitative terms and compared to other products of similar nature. Rather, it is a complex of interrelated activities and strategies which come together in a total configuration that is always shifting and changing. By focusing on a number of different activities and the relationship between them this approach allows for a more qualitative measure of the quality of representation. Assessing to what extent an indigent defense system meets the various national standards for effective representation requires a research methodology that utilizes more qualitative techniques of data collection and analyses. Specialized interviews, experience surveys, the analyses of records and documents and participant observation are some of the social research techniques to be used in collecting data for the purpose of making such an evaluation of effective representation.

According to its critics, however, this approach also has a number of weaknesses. First, they claim that compliance with these national standards does not logically or necessarily guarantee effective representation. As Schneider and Feinman (1977:9) point out "no empirical evidence is available to show that the standards recommended will, indeed, result in fair or just disposition of cases. No explicit theory of behavior or systems operation has been developed from which one could deduce that the standards recommended are more likely to result in effective representation than are some alternative sets of standards." If one defines effective representation in more individualistic terms - as Schneider and Feinman do by using case outcome - it is possible to see that an individual may have received ineffective representation in a system that is in overall compliance with the standards. The standards approach, however, makes the basic assumption that effective representation can best be measured by looking

at the characteristics of a system of defense services rather than looking at case outcomes. Therefore, although what Schneider and Feinman say is true, it is irrelevant within the perspective of the standards approach.

The other major weakness of this approach, charge the critics, is the use of qualitative research methods. Such methods, they contend, are not suitable for the evaluation of social policy issues since they do not permit rigorous, quantitative and controlled comparisons which are scientifically acceptable. This has been the traditional position. The ideal research methodology for the evaluation of the effectiveness of a social program or public policy has been the controlled experiment. Rigorous quantitative, experimental or quasi-experimental models have tended to dominate attempts at evaluation research in the past. The orthodox position was that experimental designs were the scientifically acceptable way to measure whether a program was achieving the goals set out for it.

Recently, this orthodox position has come to be challenged by some social researchers who feel that qualitative research methods have much to offer the evaluation researcher. Many social scientists have discovered the limits of experimental designs and have come to question their applicability to the evaluation of social action programs. As Ball (1976:45) points out:

Such designs may allow assessment of success or failure in some arbitrary terms; but they provide little indication as to "why," except for the questionable assumption that results may be attributed to the "independent variables." Qualitative methods, on the other hand, are ideally suited to an intensive consideration of the process by which effects are produced, particularly the possible influence of uncontrolled factors.

The point is, that depending on the types of questions being asked, the nature of the data available and the aspect of social reality being investigated, social research methods must change. Experimental designs and statistical techniques of analysis are appropriate for some kinds of problems and data and

qualitative techniques are more appropriate for others. Evaluations must use both.

3) THE CLIENT'S PERCEPTION AND EVALUATION

The third and final approach defines effective representation from the perspective of the client. What is the client's perception of the type of representation he received? What is the client's evaluation of the quality of the defense he received? The client's perspective on the quality of representation he had is another valid way to approach the question of effective representation. As consumers of the service, clients should have some idea of what effective representation is and when it is delivered. The client's perception and evaluation of the quality of representation they received is easily measured through the use of intensive, specialized interviews with former clients.

Although the clients perspective is important it has been virtually ignored in the past. There is very little research on effective representation that takes into account client attitudes. Two recent studies (Block et al, 1977; Alpert, 1977) have called attention to the importance of including the clients perception in any attempt to evaluate the quality of representation. Block, Block and Billups (1977:14) state that: "in future evaluations of criminal defense services, it is important to consider not only objective differences between types of criminal defense but also subjective difference in client attitudes." Alpert (1977:5) has also declared that, "Any attempt to measure the adequacy of defense counsel should require a complex multi-trait multi-method research design. ... One important part of that design would be to question the recipients of the service to ascertain their perceptions."

The fact that this approach depends entirely upon the client's own subjective perception and evaluation is both the major strength and major weak-

ness of this approach. While the criteria used to assess effective representation are the subjective criteria of the individual clients, which are open to considerable bias, it is also the subjective feelings of the individual client which are such an important dimension of quality representation. Defendants in criminal cases are real people and no matter how impersonal and bureaucratized the criminal justice process becomes they remain real people with real emotions and real attitudes toward that process. What they think and feel, especially about the type of representation they receive, is of considerable importance, even if it is biased or incorrect. As Alpert (1977:5-6) has pointed out:

While defendants and especially prisoners have neither the ability to observe nor the qualifications to evaluate most of their attorney's activities, attitudes toward and perception of their counsel will emerge based on impressions, contacts and discussions. The prisoner will construct what he believes to be a real situation and react to it regardless of its factual accuracy.

C. THE TRIANGULATION OF DATA SOURCES AND RESEARCH METHODS

These three approaches, then, are the three major ways of defining and measuring the concept of effective representation or quality representation which has been determined to be the primary goal of the Franklin County Public Defender's Special Defense Unit. The three different approaches provide three different sets of criteria which could be used to evaluate how well the Special Defense Unit is achieving its goal of providing effective representation to indigents labeled as career criminals. The three approaches also imply three different methodological strategies. Which of the three approaches should be selected for the evaluation of the Special Defense Unit?

This report takes the position that all three approaches, with the different sets of criteria and their different methodological strategies, should be selected. The concept of effective representation is such an abstract concept

which is so difficult to define and measure that it seems desirable to approach it in as many different ways as possible. Each of the three approaches that have been discussed are partial and incomplete. Each concentrates on a different dimension of the concept of quality representation and, thus, each provided only a partial answer to the question of how well the Special Defense Unit is achieving its goal. To provide a more complete answer to this question, all three approaches must be used together.

This strategy of using a combination of measures for the same phenomena has been called triangulation (Denzin, 1970). By using multiple data sources and multiple research methods it is hoped that the weaknesses and limitations of any particular data source or method can be overcome. The weakness of one type of data or research method is often the strength of another. Triangulation, thus, seems to be an excellent methodological strategy to adopt in the effort to measure a concept like effective representation, where any one particular method seems inadequate. As Block, Block and Billups (1977:16) note:

In future evaluations of court programs, and, we believe, in almost all evaluations, methodological triangulation is necessary to reach the "whole truth." Evaluation which gathers either subjective or objective data, no matter how carefully done, is incomplete. Objective data are necessary to explain subjective data; subjective data are necessary to explain objective data. Each takes on a different form when seen in the light of the other. Policy-makers should beware of making decisions based on data from only one angle of perspective.

D. AN OVERVIEW OF THE DATA SECTIONS

Section III which follows profiles the social and legal characteristics of Special Defense Unit clients. All characteristics are broken down by the client's Special Defense Unit status and comparisons are made with the sample of Franklin County Career criminals and a national sample of career criminals.

Section IV evaluates how well the Special Defense Unit is achieving its goal of providing effective representation, through a comparative analysis of case outcomes. Section IV uses the first approach discussed in this section, that of comparing case outcomes. After a general description of Special Defense Unit case outcomes, a comparison between SDU career criminal cases and Regular Trial Staff career criminal cases is made. This is followed by a comparison between the case outcomes of the SDU and the case outcomes of private attorneys.

Section V evaluates how well the Special Defense Unit is achieving its goal by using the second approach discussed in this section. A qualitative analysis of the Special Defense Unit's compliance with objective national standards for defense services is made.

Section VI uses the third approach discussed in this section to evaluate how well the Special Defense Unit is achieving its goal. Section VI uses the perceptions and evaluations of former SDU clients to assess the quality of Special Defense Unit representation.

SECTION III

A PROFILE OF THE SOCIAL AND LEGAL CHARACTERISTICS OF SPECIAL DEFENSE UNIT CLIENTS

As the concept of "career criminal" becomes the new focus for the continuing war on crime and with "career criminal" programs spreading to other jurisdictions around the nation, it seems important to ask the question, who is the "career criminal?" What type of person is the career criminal? What are the social and legal characteristics of these people? It is difficult to provide an answer to this question in any of its forms. The jurisdictions that have career criminal programs vary widely in the criteria they use to screen cases and the types of crime they focus on. However, all LEAA funded career criminal programs send information concerning their programs to the National Legal Data Center in Thousand Oaks, California. The NLDC frequently issues reports concerning the data they are collecting.

Earlier this year, the NLDC released a profile of the career criminal based on a national sample of 2940 cases reported to them from career criminal programs around the country. They report that the average age of career criminal defendants is 29, that 96% of them are male and 66% are single. Interestingly, they did not report the racial breakdown of career criminal defendants. In terms of legal characteristics they state that career criminal defendants averaged 10 prior arrests (both felony and misdemeanor included), 5.5 prior convictions (both felony and misdemeanor included) and that 44% of them were on some kind of legal restraint status at the time of their arrest (parole, probation or pre-trial release). While this profile is extremely limited, it does provide some rough indication of who career criminal defendants are, and it provides a comparison group for Special Defense Unit clients.

This section of the report describes the social and legal characteristics of Special Defense Unit clients. The profile is broken down according to the clients status with the Special Defense Unit: designated career criminal, non-designated career criminal or other (non-career criminal). A comparison is also made between Special Defense Unit designated career criminals and the total sample of designated career criminals in Franklin County.

A. SOCIAL CHARACTERISTICS

The typical Special Defense Unit client is a single, male, black, 31 years of age with a 10th grade education and unemployed at the time of his arrest. Table 1 presents a summary of the social characteristics of Special Defense Unit clients by their status with the unit.

Special Defense Unit clients are predominantly male and black, regardless of their status with the unit. The 96 percent figure for males appears to be considerably higher than the similar figure for a sample of regular clients of the Franklin County Public Defender's Office. A 1976 NLADA evaluation study revealed only 83 percent males in a sample of regular clients. The 56 percent figure for blacks among clients of the SDU is identical to the percentage of blacks found in the NLADA sample. Within the categories of the SDU the only difference is a slightly higher percentage of females and blacks for the non-career criminal group.

In terms of age, Special Defense Unit career criminal clients (both designated and non-designated) are on the average of 4 years older than the national sample of career criminals reported on by the National Legal Data Center. SDU career criminal clients also appear to be older than a sample of regular Public Defender clients since only 14 percent of the NLADA sample was over 30. Within the SDU non-career criminal clients are significantly younger (by an average

of 5 years) than either group of career criminals, which should be expected in light of the criteria for classifications as a career criminal.

Educational achievement for all 3 groups within the Special Defense Unit tends to be low. This is not surprising since, in general, indigents have lower levels of educational attainment. No data on educational achievement were reported for either the NLDC sample of career criminals or the NLADA sample of regular Public Defender clients in Franklin County.

In terms of employment status all 3 Special Defense Unit categories are characterized by a very high rate of unemployment, 68.5% overall; again, not surprising for indigents in our society. No data on employment status were presented by either the NLDC or the NLADA. The figures for marital status, however, show that an almost identical percentage of SDU clients and regular Public Defender clients have never married (52%). The percentage of career criminals nationally who have never married is higher at 66%. For SDU designated career criminals, however, it is much lower (40%) as they tend to marry and divorce more often.

Table 2 presents a summary of the social characteristics of all designated career criminals in Franklin County along with the social characteristics of the Special Defense Unit designated career criminals.

Franklin County career criminals differ in several ways from the national sample of career criminals. First, they tend to be older by an average of 4 years. Second, they tend to marry and divorce much more than those in the national sample. Special Defense Unit designated career criminals tend to be white more often than the total sample of Franklin County career criminals and they also are male in all cases compared to the 5.5 percent of females in the Franklin County sample. In all other social characteristics, SDU designated career criminals are roughly equivalent to the total sample of designated career criminals in Franklin County.

B. LEGAL CHARACTERISTICS

Special Defense Unit clients show wide variation on legal characteristics according to their status with the unit, which they should since prior record is the determining factor in being classified as a career criminal. Again, the Prosecutor's criteria for classifying a defendant as a career criminal are: 1) two prior felony convictions and a current charge, or 2) one prior felony conviction for a crime of violence and a current charge of violence. Some defendants, for unknown reasons, escape being designated by the prosecutor as a career criminal. Since the Special Defense Unit, however, uses the same criteria, non-designated career criminals are encountered. Table 3 presents a summary of the legal characteristics of Special Defense Unit clients by their status with the unit.

Designated and non-designated career criminals both were likely to have some legal restraint status at the time of their arrest. 65% of the designated career criminal clients of the SDU were on some type of legal restraint status when arrested; 37.5% were on parole, 15% were on probation and 12.5% were on pre-trial release. This is much higher than the national average for career criminals of 44% as reported by the National Legal Data Center. The percentage of non-designated clients of the SDU who were on some type of legal restraint status at the time of arrest is also much higher than the national average. 58.3% of non-designated career criminal clients had some type of legal status at arrest with 39.6% being on parole, 14.6% being on probation and 4.1% on pre-trial release. Needless to say, this type of legal status makes it even more difficult, at times, for the defense attorney to achieve a favorable outcome for his client.

The Special Defense Unit Other (non-career criminal) clients differed greatly from the two career criminal groups on this variable and in fact on all

legal characteristics. Only 24.3% of the "other" group were on some kind of legal restraint status at the time of arrest. 9.1% of them were on parole, 15.2% were on probation and none of them were on pre-trial release. This non-career criminal group, as a whole, has little or no prior criminal record and they rank low on all legal characteristics recorded.

In terms of prior arrests, Special Defense Unit career criminal clients averaged 2.6 prior misdemeanor arrests and 4.8 prior felony arrests. This is higher than the arrest averages for non-designated clients, who averaged 2.2 prior misdemeanor arrests and 3.8 prior felony arrests. Both the career criminal groups of the Special Defense Unit had much higher arrest averages than the sample of regular Public Defender clients reported on by the NLADA. The two Special Defense Unit groups, however, were well under the average for prior arrests (both misdemeanor and felony) reported by the NLDC for the national sample of career criminals. (10)

The same patterns hold for prior convictions. The SDU designated career criminals had higher averages for prior convictions (2.2 for misdemeanor convictions and 3.1 for felony convictions) than the SDU non-designated career criminals (1.7 for misdemeanor convictions and 2.7 for felony convictions). The averages for both of these groups, however, were well above the averages for prior convictions of the sample of regular Public Defender clients. Again, however, the two SDU groups were below the national average of prior convictions for career criminals of 5.5 reported by the National Legal Data Center.

The Special Defense Unit designated career criminals have averaged more times in jail than the non-designated career criminals (1.6 to 1.1) and more previous time served in jail (4.4 months to 2.5 months). The SDU designated career criminals have also averaged more times in prison than the non-designated group (2.2 to 2.0) and averaged more previous time served in prison (68.8 months

to 55.2 months). Thus, although it is not known why the non-designated group escapes classification as career criminals by the Prosecutor's Office, it appears that they do have slightly less serious prior criminal records.

As Table 3 shows, the Special Defense Unit Other (non-career criminal group) has significantly lower averages on all of these legal characteristics than the other two groups. They average just over 2 prior arrests and well under 1 prior convictions. They also average well under 1 time in either jail or prison and have averaged far less jail or prison time. Again, this should not be surprising for a group of non-career criminals since prior record is the determining factor in classifying someone as a career criminal.

Table 4 presents a summary of the legal characteristics of all designated career criminals in Franklin County along with the legal characteristics of the Special Defense Unit designated career criminals.

Franklin County career criminals differ in 3 ways from the national sample of career criminals. According to the NLDC career criminals nationally were on some type of legal restraint status in 44% of the cases. In Franklin County the percentage is much higher (57.2%). 36% of the career criminals in Franklin County were on parole, 12% were on probation and 8.2% were on pre-trial release. The second way Franklin County career criminals differ from the national sample is that they have a lower average for prior arrests, both misdemeanor and felony (7.4 to 10). Finally, Franklin County career criminals have a lower average for prior convictions, both misdemeanor and felony (4.5 to 5.5).

Franklin County designated career criminals are roughly equivalent to the Special Defense Unit designated career criminals, although, as Table 4 shows the SDU career criminals have slightly higher averages on most of the characteristics. The only major difference appears in previous time served in prison. SDU career criminals average over 10 months more time served in prison than Franklin County career criminals as a whole.

SECTION IV
THE SPECIAL DEFENSE UNIT AND CASE OUTCOMES
A COMPARATIVE ANALYSIS

The major question which this evaluation report is attempting to answer concerns whether the Franklin County Public Defender's Career Criminal Program is achieving its goal of providing effective representation to indigents who are labeled as career criminals. As Section 2 pointed out, there are three ways to define and measure the concept of effective representation. This evaluation report will attempt to "triangulate" the analysis of the Franklin County Public Defender's "Special Defense Unit" by using all three of these approaches to measure whether or not they are achieving effective representation. Three different measurements will hopefully provide a more complete evaluation of whether or not they are achieving this goal.

This section will use the first approach to the measurement of effective representation: a comparative analysis of case outcomes. This approach defines effective representation in terms of the outcome of cases (types of dispositions and sentences). This approach insists that it is more important to look at what ultimately happens to the defendant in order to determine what kind of representation he or she received. Did the defendant plead guilty or go to trial? If he did have a trial, was he found guilty or acquitted? What kind of sentence did convicted defendant receive? These are the kind of questions this approach asks. Effective representation is that representation that results in "better" case outcomes for the defendants. Therefore, acquittals, nolle, reduced charges, probation, and lower minimum sentences are all rough indicators of effective representation.

An examination of case dispositions and sentences for the clients of the Special Defense Unit should allow some judgment to be made concerning the quality of representation these clients received. Thus, a higher percentage of acquittals over convictions at trial, a higher percentage of probation sentences over prison sentences and a low average for minimum prison sentences would all be rough measures of effective representation. Of course, these figures would not be particularly meaningful without some basis for comparison to other types of defendants. Statistics relating to the clients of the Special Defense Unit will mean more if they are compared to statistics concerning other types of defendants in Franklin County. Fortunately, there are two major comparison groups which can be used for this purpose.

A. METHODS

The Franklin County Public Defender's Career Criminal Program constitutes somewhat of a natural social experiment which can be studied both longitudinally and cross-sectionally. Since the Franklin County Prosecutor's Career Criminal Program has been in operation for one full year longer than the Special Defense Unit there is a group of indigent career criminals who were defended by the Regular Trial Staff of the Public Defender's Office. The case outcomes of this group of career criminals can be compared to the case outcomes of the career criminals defended by the Special Defense Unit to see which defender unit provided more effective representation, that is, achieved better case outcomes for its clients. This is the longitudinal study.

Also, since many of the designated career criminals are defended by private attorneys (both retained and court appointed) there is another large comparison group available. The case outcomes of this group of career criminals can also be compared to the case outcomes of the career criminals defended by the

Special Defense Unit to see which type of attorney provided more effective representation. This is the cross-sectional study. Therefore, there are two quasi-experimental designs available to evaluate whether the Special Defense Unit is providing effective representation. The first compares case outcomes for career criminals defended by the Franklin County Public Defender's Office before and after the Special Defense Unit was created. The second is a comparison of case outcomes for career criminals defended by private attorneys and career criminals defended by the Special Defense Unit.

To collect the data necessary for this kind of a comparative analysis several steps were taken. First, a list of the names and the case numbers of all people designated as career criminals by the Franklin County Prosecutor's Career Criminal Unit since the beginning of their program was obtained from the Prosecutor's Office. Second, a list of all clients of the Special Defense Unit since the unit began was obtained from the files of the Franklin County Public Defender's Office. Third, a data form was developed which had 3 major sections: 1) a section for recording social demographic information, 2) a section for recording information about a defendant's prior criminal record and, 3) a section for recording all facts relating to the present case from arrest to sentence.

One data form was then filled out for each case on the Prosecutor's career criminal list and for each case on the Special Defense Unit's client list. The source of data for sections 1 and 2 of the data form were the interview files of the Columbus Pre-Trial Release Program, which includes FBI "rap" sheets. The source of data for section 3 of the data form were the case files of the Franklin County Clerk of Courts Office. Once the data forms were filled out, the data was coded and punched on computer cards for the purpose of analysis.

B. THE VARIABLES

For the purpose of data analysis the following variables are designated as independent variables:

- 1) Special Defense Unit Status
 - a) Designated career criminal
 - b) Non-designated career criminal
 - c) Other (non-career criminal)
- 2) Type of Case
 - a) All career criminal cases
 - b) All Special Defense Unit cases
- 3) Type of Public Defender
 - a) Special Defense Unit
 - b) Regular Trial Staff
- 4) Type of Attorney
 - a) Private-retained
 - b) Private-court appointed
 - c) Public Defender-Regular Trial Staff
 - d) Public Defender-Special Defense Unit

The following variables are designated as dependent variables:

- 1) Type of disposition
 - a) No prosecution (includes no bill, nolle and dismissed)
 - b) Acquittal at trial (both jury trial and bench trial)
 - c) Guilty plea to misdemeanor (from original felony charge)
 - d) Guilty plea to lesser offense
 - e) Guilty plea with counts dropped
 - f) Guilty plea for other considerations (i.e., probation termination or recommendation for minimum sentence)
 - g) Guilty plea to the indictment
 - h) Guilty at trial (both jury trial and bench trial)
- 2) Type of sentence
 - a) Fine or suspended
 - b) Probation
 - c) Jail
 - d) Prison
- 3) Minimum sentence (mean)

4) Severity of sentence (in terms of minimum sentence)

- a) Light 1 - 12 months
- b) Medium 18, 24, or 36 months
- c) Heavy 48, 60, 72 months
- d) Very heavy . . . 84+ months

The following variables are designated as control variables:

1) Race

- a) White
- b) Black

2) Age

- a) Under 25
- b) 25 - 34
- c) 35 - 49
- d) Over 49

3) Bail status

- a) In jail
- b) On bond

4) Type of offense

- a) Personal violence (murder, rape and assault)
- b) Robbery
- c) Burglary
- d) Theft (includes forgery, receiving stolen property)
- e) Drugs
- f) All other

5) Prior record (in terms of felony convictions)

- a) Light . . . 0 - 2
- b) Medium . . . 3 - 4
- c) Heavy . . . 5 - 8

6) Legal status at time of arrest (bond, probation or parole)

- a) Yes
- b) No

C. THE DISTRIBUTION OF SPECIAL DEFENSE UNIT CASE OUTCOMES

Before moving to the multi-variate analysis involving the Special Defense Unit and the two comparisons groups, it may be useful to examine the general distribution of case outcomes for the Special Defense Unit and for all Franklin

County career criminals. Case outcomes will be broken down to: 1) type of case disposition, 2) type of sentence, and 3) average length of minimum sentence.

1) TYPE OF CASE DISPOSITION

Table 5 presents a cross-tabulation of the type of case disposition by clients status within the Special Defense Unit. The breakdown under type of disposition is quite refined covering the full range of dispositional outcomes. For designated career criminal clients of the SDU guilty pleas in one form or another account for over 75% of the dispositions. The largest single category is that of guilty pleas with counts dropped (23.6%). Trial dispositions account for only 12.6% of the total. From this table it is apparent that the SDU achieves some kind of plea bargained outcome for their designated career criminal clients in the vast majority of cases.

This is also true for the non-designated career criminal clients as guilty pleas in one form or another constitute 62% of their dispositions also. However, there are some major differences between these two career criminal groups. The largest single category for non-designated career criminals is guilty pleas to misdemeanor (22.4%). Only 10.9% of the designated career criminals got misdemeanors. Another very interesting fact is that the "no prosecution" categories (no bill, nolle and dismissed) for non-designated career criminal clients of the SDU represent 24.1% of all their dispositions or almost one-fourth. The "no prosecution" categories combined with the misdemeanor category equal 46.5% of the non-designated career criminal dispositions. From these figures it is clear that the Special Defense Unit achieves much better outcomes for their non-designated career criminal clients than they do for their designated career criminal clients.

One of two reasons might explain why such a high percentage of non-designated career criminal clients achieve such favorable case outcomes compared

to designated career criminal clients. (Remember that non-designated clients fit the Prosecutor's criteria for inclusion in the career criminal program but for some reason are not included.) One reason might be that the Prosecutor's program is highly successful in achieving felony convictions of designated career criminals. The other reason may be that the Prosecutor's office screens out the "weak" cases and does not designate them as career criminal, even though they fit the criteria, in order to maintain a high conviction rate. Of course, both of these reasons could be correct or neither of them could be. It is impossible to know for sure.

For the non-career criminal clients one form or another of a guilty plea accounts for 63.2% of their case dispositions. It is interesting to note that the largest single category for this group is also the guilty plea to misdemeanor disposition (28.9%). In addition, 10.6% of the dispositions for the non career criminals were acquittals at trial, and 15.8% were of the no prosecution categories. Overall, the non-career criminal clients of the SDU appear to do fairly well in terms of case disposition.

One final note, if all Special Defense Unit clients are lumped together and the "no prosecution" categories are combined with the acquittal categories and the misdemeanor category, these combined categories account for 43.8% of all Special Defense Unit case dispositions. That means that out of all SDU clients charged with felonies, over 40% of them escape without a felony conviction.

Table 6 is a cross-tabulation of type of case disposition by type of case. This table compares case dispositions for all designated career criminals in Franklin County to all designated career criminal clients of the SDU. Plea bargained dispositions account for the majority of cases for both groups. The only significant differences appears to be in the plea to indictment and guilty at trial categories. 14.6% of the total sample of career criminals plead guilty

to the indictment as compared to only 7.3% of the SDU designated career criminals. 15.4% of the total sample of career criminals were found guilty at trial while only 3.6% of the SDU career criminals were.

2) TYPE OF SENTENCE

Table 7 presents a cross-tabulation of type of sentence by Special Defense Unit status. Of the designated career criminals who were convicted, 84.1% of them were sentenced to prison. None of them received probation or only a fine. For the non-designated career criminals clients who were convicted, however, only 58.5% were sent to prison, quite a bit lower than for the designated clients. A total of 14.6% of the non-designated clients also received either probation or just a fine as their sentence. These figures may show that the Prosecutor's career criminal program is indeed achieving its objective of prison sentences for career criminals. For the non-career criminal clients, 22.2% got either probation or a fine while only 48.2% received a prison sentence. For the SDU as a whole, convicted clients were sentenced to prison in 66% of the cases while only 10.8% of the clients received a fine or probation.

Table 8 presents a cross-tabulation of type of sentence by type of case. This table compares type of sentence for the total sample of career criminals in Franklin County to the designated career criminal clients of the SDU. There are no major differences here. The vast majority of convicted career criminals receive prison sentences.

3) AVERAGE LENGTH OF MINIMUM SENTENCE

Table 9 presents the average length of minimum sentence, both the mean and the median, by Special Defense Unit status. The mean minimum sentence for designated career criminal clients is 28.2 months as compared to 39.8 months for non-designated career criminal clients. This is somewhat surprising, but the

difference is really caused by several extreme minimum sentences in the non-designated client sample. The median, which is not effected by extreme scores, shows that actually the two groups are not that far apart in terms of average sentence. The mean for the non-career criminal clients is only 17.7 months and the mean for the SDU clients as a whole is 29.9 months with a median minimum sentence of exactly 1 year. Thus, the minimum sentence for half of all SDU clients sentenced to prison is 1 year or less.

Table 10 presents the average length of minimum sentence, both the mean and the mode, by type of case. This table compares minimum sentences for the total sample of Franklin County career criminals to the designated career criminal clients of the SDU. This table shows a very large and very significant difference between the two groups. The mean minimum sentence for all career criminals is 42.4 months while for the career criminal clients of the SDU it is only 28.2 months, a difference of 1 year and 2 months. Even using the median to avoid the effect of extreme scores, there is still a difference of 5 months between the two. Just from this table it would appear that SDU attorneys do better in representing their career criminal clients than other types of attorneys. However, such a judgment should await the results of the multi-variate analysis.

D. PUBLIC DEFENDER CAREER CRIMINAL CASE OUTCOMES BEFORE AND AFTER THE SPECIAL DEFENSE UNIT

The Franklin County Public Defender's Office was handling designated career criminal cases for one full year before the Special Defense Unit began operation. How do the case outcomes of those career criminal cases handled by the Regular Trial Staff compare to the case outcomes of those career criminal cases handled by the Special Defense Unit? With its reduced caseload, more time and more investigative resources the Special Defense Unit should achieve better case outcomes for its clients, thus demonstrating that it has made progress toward

its goal of providing effective representation for labeled career criminals. A comparison will be made between Special Defense Unit cases and Regular Trial Staff cases for each of the three dependent variables.

1) TYPE OF CASE DISPOSITION

Table 11 presents a cross-tabulation of type of case disposition by type of public defender (Special Defense Unit or Regular Trial Staff). This table appears to show that SDU clients receive more favorable case dispositions than Regular Trial Staff clients. A greater percentage of SDU clients are acquitted at trial (7.5 to 5.6), a greater percentage of SDU clients get misdemeanors (11.3 to 8.3) and charges reduced to lesser offenses (24.5 to 19.4). A greater percentage of SDU clients plead guilty for other considerations like probation terminations and minimum sentence recommendations (11.3 to 0). In addition, Regular Trial Staff clients are more likely to plead directly to the indictment (15.3 to 7.5) and they are much more likely to be found guilty at trial (15.3 to 3.8).

The Chi square value for this table is 14.6, which is statistically significant at .04. This means that there is a systematic relationship between the variables of case disposition and type of public defender. Chi square, however, is only a test of statistical significance, it does not indicate the strength or direction of the association between two variables. Another type of statistics is needed to provide this information. Assuming an ordinal level of measurement for the data, Gamma was used as the measure of association. An ordinal level of measurement simply means that the attributes of the variables can be ranked in some order. The categories under case disposition are assumed to run from high (best case outcome) to low (worst case outcome) and the two types of public defenders are ranked high (Special Defense Unit) to low (Regular Trial Staff) also.

The Gamma value of +.13 indicates that there is a mild relationship between these two variables. Gamma measures the predictability of order on one variable from order on another. It is a proportional reduction of error statistic which can range from -1.0 to +1.0. For these two variables the +.13 can be interpreted in this way: being high on type of public defender (Special Defense Unit) is mildly associated with being high on type of case disposition (better case outcome). Thus, for the variable of type of case disposition it appears that SDU clients receive better case dispositions overall than Regular Trial Staff clients, which is what was expected. However, the differences between the two are not really very large ones.

Perhaps the Gamma of +.13 will disappear when certain other important variables are controlled for. If so, the relationship between case disposition and type of public defender would then be described as spurious or false. Table 12 presents the summary zero-order and summary partial Gammas for the independent variables of type of public defender and the 3 dependent variables, controlling for bail status, type of offense, prior record, legal status at arrest, race and age. This table shows that the zero order relationship for case disposition and type of public defender holds even when those six variables are controlled for. Thus, more confidence can be placed in the conclusion that there is some association between these two variables.

2) TYPE OF SENTENCE

Table 13 presents the cross-tabulation of type of sentence by type of public defender. The measure of association for this table is -.19 (not significant below .10). This indicates that there is a mild relationship between these two variables but in the opposite direction from what was expected. That is, being low on type of public defender (Regular Trial Staff) is related to being

high on type of sentence (better outcome). As Table 12 shows this relationship also holds for all control variables and is thus not spurious. This relationship is completely the reverse of what was expected and casts some doubt on whether the Special Defense Unit does provide more effective representation than the Regular Trial Staff did for career criminals. A closer look at Table 13, however, shows that the vast majority of clients for both types of public defenders receive prison sentences. Thus, it may be that the more important dependent variable to examine is severity of sentence.

3) SEVERITY OF SENTENCE

The zero order relationship between severity of sentence and type of public defender is only +.04. However, it must be suspected that the zero order relationship between these two variables is not as important as the relationship between them controlling for type of offense, since it is well known that type of offense significantly effects the severity of sentence. Table 12 confirms this, as the measure of association grows from +.04 to +.29 (not significant below .10) when type of offense is controlled. This relationship is the strongest one reported yet, but it still is not the strongest of relationships in general. The other summary partial measures of association between these two variables also increase which suggests that there is a definite relationship between severity of sentence and type of public defender, even though it is only a mild one.

In summary, there is a definite relationship between the type of public defender and case outcomes in general. It does appear that the Special Defense Unit does achieve somewhat better case outcomes for its career criminal clients than the Regular Trial Staff did. Thus, the SDU does provide slightly more effective representation than the Regular Trial Staff did. The differences, however, are not that strong, although they may grow stronger the longer the SDU is in operation.

E. A COMPARISON OF SPECIAL DEFENSE UNIT CASE OUTCOMES WITH CASE OUTCOMES FOR PRIVATE ATTORNEYS

Private attorneys (either retained or court appointed) have handled 60.6% of all designated career criminal cases in Franklin County. The majority of career criminals are indigent (69.8%) but the private bar, for some reason, has been appointed in a large number of these cases (29.4%). How do the case outcomes of those career criminal cases handled by private attorneys compare to the case outcomes of those career criminal cases handled by the Special Defense Unit? As the discussion in Section 2 pointed out, private attorneys are often assumed to provide more effective representation than public defenders. The kind of representation provided by private attorneys is often taken as the standard by which indigent representation is measured. Schneider and Feinman (1977:10) for example state that: "an indigent has received effective representation if he or she receives the same case outcome that would have been forthcoming if he or she had been able to retain counsel."

Past research has discovered differences in case outcomes between private attorneys and public defenders and attributed these differences to differences in performance by the respective attorneys. More recent research (Huff, 1974; Lehtinen and Smith, 1970; Taylor et al, 1972) however has found no significant differences between private and public counsel when type of offense, prior record and bail status were statistically controlled for. The following analysis will control for these relevant variables and others. Furthermore, this report will make the assumption that for the Special Defense Unit to be providing effective representation, their case outcomes must, at the least, be equal to those of private attorneys.

1) TYPE OF CASE DISPOSITION

Table 14 presents a cross-tabulation of type of case disposition by

by type of defense attorney (Public Defender Regular Trial Staff included). This table shows that, even without any controls, Special Defense Unit clients receive more favorable case dispositions than private attorneys (retained or court appointed). A greater percentage of SDU clients are acquitted at trial (7.5 to 4.0 to 2.2), and a greater percentage of SDU clients get misdemeanors (11.3 to 6.1 to 7.5) and reductions to lesser offenses (24.5 to 11.11 and 10.8) also. SDU clients plead guilty for considerations like probation terminations and recommendations for minimum or concurrent sentences much more often than clients of private attorneys (11.3% to 0% to 1.1%). In addition, clients of private attorneys are much more likely to plead guilty directly to the indictment (19.2% and 18.3 to 7.5%) and they are much more likely to be found guilty at trial (25.3% and 17.2% to 3.8%).

It is interesting to note that career criminal defendants who retained private counsel either plead guilty directly to the indictment or were found guilty at trial in 44.5% of the cases as compared to only 11.3% of the SDU clients. Clearly, the Special Defense Unit is achieving better outcomes for its career criminal clients than private counsel and thus is providing more effective representation.

The Chi square value for Table 14 is 50.8 which is statistically significant at .0003. Again, an ordinal level of measurement was assumed for the data with privately retained counsel as high and going down to the Special Defense Unit as low on the independent variable of type of defense attorney. The dependent variable type of case disposition was again assumed to run from high (best case disposition) to low (worst case disposition). The Gamma value for this table is -.17 which indicates that there is mild relationship between these two variables. Being low on type of defense attorney (Special Defense Unit) is associated with being high on type of case disposition (better case disposition). Table 15, which

presents the summary zero order and summary partial Gammas for type of defense attorney and the 3 dependent variables controlling for all control variables, shows that this relationship holds even for all control variables.

Remember, this report is making the assumption that the Special Defense Unit is achieving its goal of providing effective representation if SDU clients receive case outcomes that are at least as good as those received by clients of private attorneys. Thus, a Gamma of 0, showing no relationship between type of defense attorney and type of case disposition would have been enough to conclude that SDU clients are receiving effective representation. However, the Gamma of $-.17$ (which holds for all controls) indicates that SDU clients not only receive dispositions as good as those of private attorney clients, they receive case dispositions that are somewhat better. Therefore, in terms of case dispositions, the Special Defense Unit provides effective representation.

2) TYPE OF SENTENCE

For the dependent variable of type of sentence, the results are somewhat different. The zero order Gamma for type of defense attorney and type of sentence is $+.17$, (not significant below $.10$) exactly the reverse of what was found with case disposition dependent. This indicates that there is mild relationship between these two variables in the positive direction. Being high on type of attorney (private attorney) is related to being high on type of sentence (better type of sentence). As Table 15 shows this relationship also holds for all control variables and is thus not spurious. Because of this finding, the judgment that the Special Defense Unit achieves overall better case outcomes is in doubt. An inspection of the cross-tabulation between type of defense attorney and type of sentence (Table 16) however, reveals that the vast majority of convicted career criminals, for all defense attorneys, receive prison sentences.

Therefore, the more important dependent variable to examine may be severity of sentence.

3) SEVERITY OF SENTENCE

The zero order relationship between severity of sentence and type of defense attorney is only $-.09$. This relationship is very weak, but in the direction of the Special Defense Unit. Again, it must be suspected that this relationship is influenced greatly by type of offense, since it is well known that type of offense affects severity of sentence. Controlling for type of offense, the relationship between severity of sentence and type of defense attorney grows to $-.18$. This indicates that there is a mild relationship between these two variables in the negative direction. Thus, being low on type of defense attorney (Special Defense Unit) is related to being high on severity of sentence (lower sentence). A similar relationship exists for most of the other control variables. Once again, given the assumption that the Special Defense is providing effective representation if their case outcomes are equal to those of private attorneys, a Gamma of 0 would indicate that the Special Defense Unit is providing effective representation. However, the Gamma of $-.18$ indicates that SDU clients not only receive sentences that are as good (low) as those of private attorney clients, they receive sentences that are somewhat lower overall. Therefore, in terms of severity of sentence, the Special Defense Unit provides effective representation.

In summary, the Special Defense Unit achieves somewhat better case dispositions and somewhat lower sentences for their clients than do private attorneys. Although the opposite is true for type of sentence, overall the Special Defense Unit appears to achieve better case outcomes than private attorneys. Thus, it is the conclusion of this report, that based on case outcomes, the Special Defense Unit provides effective representation for indigents labeled as career criminals.

F. SUMMARY

The comparative analysis of case outcomes shows in general, that the Special Defense Unit is achieving its goal of providing effective representation to its clients. SDU career criminal clients receive "better" case disposition than the career criminal clients of the Public Defender's Regular Trial Staff. Those Special Defense Unit career criminals who went to prison receive less severe sentences than career criminal clients of the Regular Trial Staff. Thus, the conclusion is that the Special Defense Unit has had an effect on the representation provided to career criminal clients by the Franklin County Public Defender's Office, although the effect is not a large one.

The comparison between the Special Defense Unit and private attorneys shows sharper differences in case outcomes. SDU career criminal clients receive "better" case dispositions than the career criminal clients of private attorneys and they also receive less severe prison sentences. Taking the two comparisons together, it is the conclusion of this report, that based on case outcomes, the Special Defense Unit provides effective representation.

SECTION V
A QUALITATIVE ANALYSIS OF THE
SPECIAL DEFENSE UNIT'S COMPLIANCE
WITH NATIONAL STANDARDS

The primary question this evaluation report is addressing itself to is how well the Franklin County Public Defender's Special Defense Unit is achieving its major goal of providing effective representation, or high quality representation, to indigents labeled as career criminals. The previous section attempted to answer this question through a comparative analysis of case outcomes. This evaluation, however, is committed to the methodological strategy of triangulation and thus it is attempting to approach this question in as many different ways as possible. Each approach is partial and incomplete. By using a combination of measures it is hoped that the weaknesses and limitations of any particular method will be overcome and that a more complete answer to the question can be developed.

This section attempts to answer the question of how well the Special Defense Unit is achieving its goal of quality representation for indigents labeled as career criminals by using the second approach described in Section 2. This approach defines effective representation in terms of an indigent defense system's compliance with certain objective national standards. This approach is not directly concerned with case outcomes, rather it is concerned with the more qualitative characteristics of the system providing defense services. To evaluate the quality of representation, this approach compares these qualitative characteristics of the defense delivery system to the objective national standards. If the defense system meets these standards then it is assumed that the system provides effective representation to its clients.

A. METHODS

Qualitative methods of data collection and analysis were used for this section. Much of the data was collected by participant observation in the Franklin County Public Defender's Office. The evaluator spent a great deal of time with the Special Defense Unit - in the office, over lunch and in the courthouse - over a 3-month period. Handwritten notes and tape recorded observations were made at the end of most days. In addition, the evaluator had long, intensive background interviews with all members of the Special Defense Unit in the beginning and again at the end of the data collection period. Informal conversations and interviews with other Public Defenders, law clerks, social workers and investigators served to supplement the primary data collection.

Data was also collected by participant observation in the Prosecutor's office along with intensive interviews with career criminal prosecutors. Finally, data was collected from numerous documents and case files in the Public Defender's office. An attempt was made to collect data from as many different sources as possible in order to tap as many different perspectives as possible and to help to validate and cross-check the information gathered.

B. STANDARDS

The standards used in this section are a composite from many different sources. The primary sources include:

- 1) Relevant case law
- 2) The American Bar Association Standards Relating to the Defense Function
- 3) The National Advisory Commission on Criminal Justice Standards and Goals
- 4) The National Legal Aid and Defender Associations Proposed Standards for Defender Services
- 5) The National Study Commission on Defense Services

The selection of standards for use in this evaluation were based on the following criteria. First, the standard must be one that the Special Defense Unit could effect in some way. Standards relating to eligibility, to the best method of delivery of defense services, to appeals, to compensation and several others were excluded since the Special Defense Unit itself had no direct effect on them. Second, there must be considerable consensus among the different sources on the importance of a particular standard. The standard must be considered important in at least 3 of the 5 sources to be selected. Finally, the standard must be one for which enough data could be collected to make a valid assessment.

Using the sources and the criteria mentioned above, the following standards were selected for use in this section of the evaluation:

- 1) Standards relating to the availability of counsel and early entry to the case.
- 2) Standards relating to the scope of services provided.
- 3) Caseload standards.
- 4) Standards relating to the attorney's duty to confer with his client.
- 5) Standards relating to investigation and other support capabilities.
- 6) Standards relating to plea negotiations.

The following, then, are the findings of the evaluation relating to each of these standards. These findings constitute both a description of the operation of the Special Defense Unit and an evaluation of what progress the Unit has made in achieving these standards.

C. STANDARDS RELATING TO THE AVAILABILITY OF COUNSEL AND EARLY ENTRY TO THE CASE

The National Advisory Commission on Criminal Justice Goals and Standards has stated that:

Public representation should be made available to eligible defendants in all criminal cases at their request, or at the request of someone acting for them, beginning at the

time the individual either is arrested or is requested to participate in an investigation that has focused upon him as a likely suspect.

This is a very important standard. The indigent must be able to consult with an attorney as soon as he or she is arrested or becomes involved in a criminal investigation. Availability of counsel implies "early representation. As Rovner-Piecznenck, Rapoport and Lane (1976:III-20) point out:

It is well known among participants in the criminal justice system that the assistance of counsel in the first few hours after arrest is crucial to effective representation, particularly if interrogation takes place. Statements made at this time by the client without legal counsel may make it difficult or impossible for the attorney to provide effective assistance under the 6th Amendment to the U. S. Constitution.

Many important rights of the defendant can only be protected by the early entry and prompt action of counsel. The attorney must be available as soon as possible to advise the defendant of his rights and to take all necessary action to protect those rights and secure the release of the defendant on bond as soon as possible. Another important reason for the earliest possible entry to the case is to begin the defense investigation immediately. As the NLADA (1976:6) points out:

Defense investigation at the earliest possible stage had become a routine expectation in most sophisticated judicial arenas. Attendance by defense attorneys at lineups (which are frequently held during pre-arrest stages of proceedings) has become a norm in those jurisdictions paying conscientious heed to the mandates of our law. The need, from a defense point of view, to call in one's own scientists and other experts before perishable or transitory evidence is lost forever, is becoming increasingly frequent as our courts come to depend more and more on science and technology to assist them in resolving issues of fact.

What progress has the Franklin County Public Defender's Special Defense Unit made in achieving the goals of immediate availability and early entry? In some individual cases, the SDU has made excellent progress, however, for the typical

career criminal case the Special Defense Unit has been inadequate in meeting these standards. The Special Defense Unit has failed to achieve these goals for several reasons, not all of them related to the program itself.

The first reason for this failure can be attributed to the two tier trial court system in Ohio. The first level in this system is usually the Municipal Court, which has jurisdiction over all misdemeanor cases through final trial cases through final trial disposition and over felony cases through preliminary hearing and bind over to the grand jury. When a case is bound over to the grand jury or taken directly there, the Court of Common Pleas (organized by county) assumes jurisdiction for the remainder of the trial stage. In Franklin County, the Municipal Court and Court of Common Pleas are physically separated from each other. The Franklin County Public Defender's Office, thus, is forced to have both a Municipal unit and a Common Pleas unit which are also physically separated from each other.

Standards relating to the availability of counsel and early entry to the case are more the concern of the overworked, understaffed Municipal Defender's Unit. Normally, the Common Pleas defender does not receive the case or visit the client until post-arraignment. The same goes for the Special Defense Unit attorney. In most cases they are not available immediately after arrest and they do not enter a case at an early point. Despite their lowered caseloads and the increased amount of time they have, SDU attorneys are not immediately available to career criminal clients and they do not provide the early representation described above due to the fact that they are physically separated from the Municipal Court.

The other reason for the Special Defense Unit's failure to achieve these goals relating to availability and early entry is an inadequate and haphazard screening system for career criminal cases. Presently, there are four ways in which a case can be referred to the Special Defense Unit: (1) a law clerk or attorney

at the Municipal Defender's office determines that a client fits the prosecutor's criteria and makes note of the fact on the Municipal Defender Bindover file. When the file reaches the Common Pleas office (which may take some time) the file is referred to the Special Defense Unit. (2) A Common Pleas Unit law clerk visits a client, who has been bound over, in jail for an initial interview and determines that the client fits the criteria. The clerk then refers the case to the SDU. (3) At arraignment, a SDU attorney or a Regular Trial Staff attorney determines that a defendant fits the criteria and refers the case to the SDU. (4) A Regular Trial Staff attorney discovers during the preparation of a case that the client fits the criteria. In this situation he or she has the option of referring the case to the SDU or keeping it.

As a career criminal case moves further along these steps before being referred to the SDU it also moves further and further from the benefits to be gained by early representation. Even at the earliest point of determination of career criminal status there is a substantial delay in the case's movement to a SDU attorney. The screening system for career criminal cases at the Municipal office is clearly inadequate. Even if it were adequate, there seems to be a lack of communication between the Municipal office and the Common Pleas office, in most part, due to their physical separation from each other.

Even in those situations where there has been an early referral of a case to the SDU it appears that SDU attorneys do not get to the client for an initial interview until a few days after arraignment. Although this is faster than Regular trial Staff attorneys get to their clients, it is not as fast as was expected of the Special Defense Unit. Aside from inadequate screening and poor communication between the Municipal office and Common Pleas office there are several other reasons why the SDU does not get to clients for an initial interview earlier than they do in the majority of cases.

First of all, the overall caseload of the Franklin County Public Defender's Office has increased since the SDU began operation. Regular Trial Staff members have approximately 60 open cases at any one time. The SDU has, thus, been forced to handle a lot more of the miscellaneous activities of the office such as arraignments, bond hearings and, in effect, anything that comes up on short notice. A lot of the extra time they are to have for preparation and investigation is eaten up by these miscellaneous activities. The second reason that SDU attorneys do not get to clients as fast as expected is the Prosecutor's Office new policy of direct indictments. The Prosecutor's Office attempts to expedite cases by presenting evidence directly to the grand jury (within 5 days of arrest), and obtaining an early indictment thereby eliminating preliminary hearings and bindovers. This means that many defendants, especially career criminal defendants, are being arraigned in as little time as 1 or 2 weeks following arrest.

The fact that the SDU is not getting to clients for initial interviews as fast as expected due to these two factors illustrates nicely that no experimental social program exists in a vacuum. Social programs are always affected by the organizational setting in which they are placed and by outside organizations with which they must interface. Large caseloads and lack of resources within the Public Defender's office as a whole, and a change in policy in the Prosecutor's office can impinge upon the Special Defense Unit and keep it from operating in the way, ideally it should.

In summary, the Special Defense Unit is not in complete compliance with the standards relating to availability and early entry to the case. The reasons for this failure are: 1) an inadequate career criminal screening system at the Municipal office, 2) poor communication between the Municipal office and the SDU and 3) organizational pressures from both within and outside the Public Defender's Office.

D. STANDARDS RELATING TO THE SCOPE OF SERVICES PROVIDED

According to Rovner-Piecznenck (1977:8) "representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention." This is another important standard. Representation should be provided to defendants for the full range of hearings and proceedings possible in the criminal process to insure a fair and just process. The scope of services provided should be as wide as possible. These services should include at least the following:

- 1) Police interrogation
- 2) Lineup
- 3) Preliminary hearing
- 4) Bond hearings
- 5) Probation Revocation hearings
- 6) Parole Revocation hearings
- 7) Extradition hearings
- 8) Prison disciplinary hearing

What progress has the Special Defense Unit made in achieving this goal?

In general, the SDU has made substantial progress toward achieving this goal. Although not in complete compliance with the standard the SDU has made a good effort to provide a wide range of representation to their clients. By doing this, they have also helped to expand the scope of representation for the Public Defender's Office as a whole. There is, however, still room for even more improvement.

The weakest areas relating to the scope of services provided are police interrogation, lineups, preliminary hearings and prison disciplinary hearings. Except for major cases (murder with death specifications) the Special Defense Unit does not appear at police interrogations, lineups or preliminary hearings. This is due primarily to the reasons which were discussed above in the section concerning availability and early entry. SDU attorneys have indicated a strong desire to expand the scope of their services to include interrogation, lineups and preliminary hearings if the problems of screening and communication with the Municipal office were resolved.

The Franklin County Public Defender's Office does not provide representation to clients in prison disciplinary hearings or parole release hearings. Even with their added time and increased resources, the Special Defense Unit is unable to provide this service. With present resources it is an impossible task. Nationwide no defender agency provides this service on a full time basis. The fact that Ohio has eight different correctional institutions further prohibits this type of representation.

The Special Defense Unit has made great progress in providing services at bond hearings, probation revocation hearings, parole revocation hearings and extradition hearings. The SDU almost always provides these services to their own clients and they often help out by filling in for the Regular Trial Staff at such hearings. Because of the Special Defense Unit, the Franklin County Public Defender Office has greatly expanded the scope of their services relating to these areas. Overall, the Special Defense Unit is in substantial compliance with this standard.

E. CASELOAD STANDARDS

High caseloads have been a way of life and a persistent problem for defender agencies for a long time. High caseloads have been blamed for poor quality representation by public defenders in the past. A very high caseload affects every other aspect of providing defense services and in a more general sense turns our criminal courts into bureaucratic assembly lines. With heavy caseload pressure, the bureaucratic value of efficiency takes precedence over the value of justice and results in the tremendous emphasis on negotiated guilty pleas as the prime mechanism for moving cases and clearing dockets.

All of the groups proposing national standards for the delivery of defense services emphasize the importance of reduced caseloads for public defenders. All of them attempt to set an optimum caseload figure which they suggest should

not be exceeded. The National Advisory Commission on Criminal Justice Standards and Goals recommended that the caseload of a defender office should not exceed 150 cases per attorney per year for felony cases. The National Study Commission on Defense Services recommended 30 pending cases at any one particular time as the optimum caseload. Others have mentioned 45 pending cases as the maximum caseload.

Whatever level that is suggested as either the optimum or maximum caseload for a public defender, the Special Defense Unit caseload is well below it. In fact, what makes the SDU such a radical criminal justice experiment is the fact that the caseloads for the SDU members actually approach minimum levels. SDU members were expected to have a caseload of around 20 pending cases at one time. Actually, their caseloads have been closer to 15 pending cases. The major idea behind all career criminal programs, whether for the prosecution or the defense, is to provide the attorney with a much reduced caseload to allow him or her more time to adequately prepare and investigate cases which are, ideally, going to trial. The Special Defense Unit, thus, is in total compliance with this standard.

The SDU, in addition, has helped to relieve caseload pressure from the Regular Trial Staff. Before the SDU was created, the Regular Trial Staff handled around 230 cases per attorney per year; or in terms of pending cases, each attorney had a caseload of 60. Since the middle of 1976 the number of cases assigned to the Franklin County Public Defender's Office has increased greatly due to the fact that the county ran out of money to appoint members of the private bar to indigent cases. Because of the SDU, however, overall caseloads for the Regular Trial Staff have not increased. Current caseloads for Regular Trial Staff attorneys remain at around 60 pending cases. If it were not for the SDU their caseloads could be as high as 75 pending cases.

F. STANDARDS RELATING TO THE ATTORNEY'S DUTY TO CONFER WITH HIS CLIENT

U. S. Court of Appeals Judge Bazelon in the United States v. DeCoster opinion stated that:

Counsel should confer with his client without delay and as often as necessary to elicit matter of defense, or to ascertain that potential defenses are unavailable. Counsel should discuss fully potential strategies and tactical choices with his client.

One of the specific duties owed by counsel to a client is the duty to confer with him or her early, as often as is necessary, and to discuss as fully as possible all aspects of the case. This duty is important not only for its relationship to effective representation but also for its impact on the subjective mental state of the defendant. In the past, public defenders were often accused of not fulfilling this duty due to crushing caseloads, lack of resources and an inability to cross the gap between different social class backgrounds. The Special Defense Unit with its reduced caseload and added time should be able to fulfill this duty as well as any public defender unit.

What progress has the SDU made toward achieving this goal and fulfilling this duty? Overall, the SDU has made substantial progress toward meeting this standard. The Franklin County Public Defender's Office as a whole appears to be in compliance with this standard and to be fulfilling this duty as well as possible considering their large caseloads. The Special Defense Unit has continued to fulfill this duty and has even made some progress in the unit's overall compliance with the standard. Given the SDU's time and resources, however, they are not fulfilling this duty to confer as well as they might.

The SDU's compliance with the duty to confer "early" has already been discussed in connection with the standards relating to availability and early entry. Regarding the duty to confer as "often" as is necessary to provide an

effective defense, and to discuss the case as "fully" as possible with the client, the Special Defense Unit appears to be in complete compliance. The SDU, however, appears to downplay the importance these conferences have for the mental state of the client. Although it may well be "handholding" and "babysitting" it is important to the client to receive some socio-emotional support during a difficult period in his or her life. Providing such support to the client may not be related to the effectiveness of representation in the case but it is an important factor to be taken into account as part of the overall duty to confer.

G. STANDARDS RELATING TO CASE PREPARATION AND INVESTIGATION

The American Bar Association (1970:224) in their commentary accompanying the Standards Relating to the Defense Function, has noted that:

Public attention tends to become focused on the dramatic aspects of the lawyer's work during a trial, but it is axiomatic among trial lawyers and judges that cases are not won in the courtroom but by the long hours of laborious investigation and careful preparation and study of legal points which precede the trial.

The standards relating to case preparation and case investigation are probably the most important standards relating to the provision of defense services. No two activities are more important to effective representation than these. As the ABA (1970:225) went on to point out "investigation and preparation are the keys to effective representation in the broad sense in either a trial or a plea disposition." Traditionally, public defender agencies have been very weak in these two areas. With large caseloads, few resources and no investigative staff, public defenders often prepared and investigated cases in the hall before court began by talking to the client and the prosecutor for a few minutes each. If he or she were lucky, the public defender might get to talk to the witnesses for a few minutes before rushing in to court to dispose of yet another case for that day.

This kind of preparation and investigation, obviously, does not constitute effective representation. Today, appellate courts are beginning to hint that such practices may not be tolerated much longer. Judge Bazelon in his famous DeCoster opinion stated that "Counsel must conduct appropriate investigations, both factual and legal to determine what matters of defense can be developed." Case preparation and investigation are central to any adequate defense system. The Special Defense Unit was set up to provide its members with enough time to adequately prepare cases. The LEAA grant, setting up the SDU also made provisions for the hiring of two additional investigators and other support staff. The SDU, thus, was set up to maximize case preparations and case investigation in the representation of indigents labeled as career criminals.

Again, the question is, what progress has the SDU made in achieving these two goals? Overall it appears that the Special Defense Unit has made tremendous progress in improving the preparation and investigation of their cases. Not only has the SDU made great advances in these two areas but also the Franklin County Public Defender's Office as a whole has been able to upgrade the preparation and investigation of cases in both the Common Pleas and Juvenile units due to the SDU and the two new investigators it brought with it. As one high official in the Public Defender's Office stated, "case investigation has been the biggest dynamic change associated with the program." Another person in the office noted that "the big thing with this program has been the increase in backup investigation." Almost everyone associated with the Public Defender's Office agreed that because of the SDU and the two new investigators, the majority of felony cases in the office were better prepared and more fully investigated and that the quality of representation provided by the office as a whole had improved greatly.

What does case preparation and investigation involve and how has the Special Defense Unit had an impact on these practices? The best statement

concerning what constitutes an adequate case investigation can be found in the National Study Commission on Defense Services report. The National Study Commission (1976:1053) states that:

Full investigation embraces, at a minimum, a full interview with the client, full discovery from the prosecution, interview of both prosecution and defense witnesses and examination of physical evidence, including the scene of the crime. All issues of law raised by the facts, procedures, charges or statutes involved in a case must be thoroughly explored.

The first step, thus, in preparing and investigating a case is a full intensive interview with the client. The Special Defense Unit's compliance with this standard has already been discussed above, under Standards Relating to the Attorney's Duty to Confer. The SDU appears to do a very good job in this regard and in many cases the staff investigator assigned to the case will begin his investigation by interviewing the client also. The second step in the preparation and investigation of a case is to obtain full discovery from the Prosecutor's Office. In general, the Public Defender's Office and the Prosecutor's Office in Franklin County have a very good working relationship with one another. Overall, the two offices appear to respect, trust, and deal honestly with each other. Discovery is informal and complete in most cases.

Another important aspect of case preparation and investigation is the interview with witnesses for both the prosecution and the defense. These interviews are often the crux of the investigation. The staff investigators handle the majority of these witness interviews, however, the SDU has been very innovative and gone out to interview witnesses themselves in many cases. In the past, these kinds of interviews were almost never done. The investigative staff was too small and lacked the training to perform this duty. The attorneys with large caseloads were simply too busy. These interviews, thus, just never got

done. The result of this lack of investigation was, as one attorney commented that "we had to run around on the day of trial, hope for a continuance, a delay, some time to make contacts and talk to witnesses before trial. However, in a lot of cases we just had to wing it."

The increase in the number of investigators (from 2 to 4) has aided, not only the Special Defense Unit, but also the entire Public Defender's Office as well. Witnesses in the majority of Common Pleas and Juvenile cases are now interviewed routinely by the staff investigators. The SDU in particular, and the Public Defender's Office as a whole, are now in almost complete compliance with this standard, whereas only a year ago they were not.

The examination of physical evidence, including the scene of the crime, is another important element in the preparation and investigation of a criminal case. This examination, however, is often neglected. As the National Study Commission on Defense Services (1976:1055) points out: "The most neglected aspect of investigation is the scene of the crime. Perhaps this is because a visit to the scene is frequently inconvenient. More likely it is that attorneys fail to understand fully the significance of such a visit." The staff investigators of the Public Defender's Office do, in many cases, visit the scene of a crime. Once again, it should be noted that SDU attorneys themselves have been very innovative and have gone out often to visit the scene of the incident in a number of their cases. As with the interviewing of witnesses, this practice has been picked up by other attorneys in the office. In the past, examinations of physical evidence, visits to the scene of the crime and other important investigative activities were simply not done. Now, however, they are done quite frequently. Overall, the Special Defense Unit and the Franklin County Public Defender's Office as a whole are in substantial compliance with this standard.

Another important element of criminal defense work is to insure that all appropriate issues of law are raised and explored. Legal research and written motions to the court can often be as crucial to the outcome of a case as the interviewing of witnesses or the examination of physical evidence. Public defenders, because of their large caseloads, often do not have the time to do the kind of legal research they would like to. In many cases they are forced to rely on the legal research of their law clerks and to use form motions rather than tailoring a motion to the particular case. The Special Defense Unit, however, has the time to do more intensive legal research in those cases that demand it. When they write motions in their cases they do not have to use form motions, rather they have the time to write motions for the particular issues involved in their particular case. In general, the Special Defense Unit takes advantage of these opportunities in the cases where they feel it is appropriate thereby improving the quality of representation in these cases.

In summary, case preparation and investigation is one area in which the Special Defense Unit has had a great impact. The setup of the SDU provided for a much reduced caseload for the attorneys in this unit. These lowered caseloads allow the attorneys more time to prepare and investigate their cases. Although much of this extra time is often used in miscellaneous activities, for the most part, Special Defense Unit attorneys can use this time to prepare and investigate their cases. They can talk to clients more frequently and for longer periods of time if necessary, they can go out and interview prosecution and defense witnesses when necessary, they can examine physical evidence when available, they can visit the scene of the crime if need be, they can do more legal research and they can tailor motions to the particular case. As a result, it appears that their cases are more fully investigated and more fully prepared than were their cases in the past when many of the elements of investigation just simply did not get done.

Although the extra time is not always used for the intended purposes, SDU members do feel that because of this extra time they do a better job in preparing their cases and that is important to do so. As one member of the SDU expressed it:

"...now you know what you're dealing with. You know the realities of the case. You have a much better understanding of the case as a whole. Because of the investigation and the time spent preparing, talking to witnesses personally, visiting the scene of the crime, you feel better about the case. Even if it doesn't really make any difference, I just have more confidence that I am making the right decision."

H. STANDARDS RELATING TO PLEA NEGOTIATIONS

The American Bar Association Standards Relating to the Defense Function (1970:163) state that:

When the lawyer concludes, on the basis of full investigation and study, that under controlling law and the evidence a conviction is probable, he should so advise the accused and seek his consent to engage in plea discussions with the prosecutor, if such appears desirable.

Since the vast majority of criminal cases are settled by a guilty plea after, often extensive, negotiations between the state and the accused through his attorney, it seems imperative that there be some standards relating to the defense attorney's role in these negotiations. The defense attorney is usually the prime agent in plea bargaining, going back and forth between the prosecution and the defendant negotiating a plea of guilty in exchange for some favor from the state. For most defense attorneys, trials are rare and plea bargaining constitutes a large part of their daily routine.

Although the stated policy of the Franklin County Prosecutor's Career Criminal Program is to force the defendant to either plead guilty directly to the indictment or to go to trial, a large number of career criminal cases involve plea negotiations and some type of plea bargain. Of all the designated career criminal

cases that were scheduled for trial in 1975 or 1976 and went to some kind of final disposition, 58% of them were settled by some type of plea bargain. Most of the Career Criminal Unit prosecutors readily admit that plea negotiations go on in almost every career criminal case. They feel that the "no bargain" policy is impossible to follow as a general rule. The prosecutors insist that what they attempt to do in career criminal cases is to try and minimize the bargaining as much as possible, take a hard line as to what type of plea bargain they will accept and try to insure that career criminal defendants receive a prison sentence upon conviction.

When the Special Defense Unit was created, its members felt that they would be going to trial quite often. In reality, the SDU attorneys probably go to trial less frequently than they did as members of the Regular Trial Staff. SDU members report that they engage in plea negotiations with the prosecutor in the vast majority of career criminal cases. What effect, if any, has the SDU had upon plea negotiations? How does the Special Defense Unit measure up to the standards relating to plea negotiations?

This evaluation report concludes that the Special Defense Unit complies completely with the standards relating to plea negotiations. This report also concludes that SDU members often achieve plea bargains which are very favorable to their clients despite the tough bargaining policy of the career criminal prosecutors.

The best statement of a set of standards relating to plea negotiations and the defense attorneys role in plea bargaining is that of the National Study Commission on Defense Services. The National Study Commission (1976:1016) states that:

The defense attorney must function in the guilty plea process as both a counselor and an advocate. As counselor, the attorney is responsible for providing his client with certain information and advice relevant to decisions concerning case strategy.

More specifically, counsel's duties in this context are three-fold. Initially, the attorney should perform the necessary factual and legal case preparation to assess the defendants chances of acquittal at trial. Moreover, in the event that the accused decides to consider a proposed plea bargain, counsel should explain the various consequences of entering a plea of guilty to the specified charge. Finally, the attorney should advise the client of the preferable strategic choice, fully exploring the reasons for his opinion, but being careful not to coerce the defendant into pleading guilty.

Comparing the Special Defense Unit to these standards, this evaluation concludes that SDU attorneys are more than adequate in fulfilling their responsibilities of informing and advising the client regarding his or her decision to accept or reject a plea offer. Special Defense Unit attorneys are also more than adequate as advocates for their defendants in the negotiation process. In the majority of the cases, the SDU attorney has conducted a full investigation into the facts of the case and is well prepared regarding the legal issues involved. SDU attorneys thus, are on equal ground with the prosecutors in these negotiations and are in a good position to reach a settlement which is in the best interests of the client.

Special Defense Unit attorneys do an excellent job of explaining to their client the consequences of entering a plea of guilty to the specified charge. In all cases, they make sure that the client understands the important trial rights he or she is giving up. SDU attorneys also do a good job of offering their advice to the client concerning whether to accept or reject an offer from the prosecutor. However, at times, the tactics that Special Defense Unit attorneys use to convince a client to accept a "good deal" from the prosecutor and plead guilty borders on psychological coercion. These tactics are often justified by the attorney as being in the "best interests of the client" although they raise some disturbing questions about the role that defense attorneys should play in the plea bargaining process.

Overall, the Special Defense Unit is in complete compliance with the standards relating to plea negotiation. This compliance, however, appears to be related more to the characteristics of the individual attorney rather than to the effect of the program itself.

I. SUMMARY

The qualitative analysis of the Special Defense Unit's compliance with objective national standards for defense services shows that the SDU is in overall compliance with the majority of these standards. The standards are:

- 1) Standards relating to the availability of counsel and early entry in the case,
- 2) Standards relating to the scope of services provided, 3) Caseload standards,
- 4) Standards relating to the attorney's duty to confer with his client, 5) Standards relating to case preparation and investigation, and 6) Standards relating to plea negotiations.

The only standards the Special Defense Unit is not in compliance with are the standards relating to availability and early entry. The reasons for this failure are: 1) an inadequate career criminal screening system at the Municipal office, 2) poor communication between the Municipal office and the Special Defense Unit and 3) organizational pressures from both within and without the Public Defender's Office. The SDU is in substantial compliance with the standards relating to the scope of services provided and with the standards relating to the attorneys duty to confer with his client. Finally, the SDU is in complete compliance with caseload standards, with standards relating to case preparation and investigation and with standards relating to plea negotiations. Therefore, from this approach, this report concludes that the Special Defense Unit is providing effective representation.

SECTION VI
THE CLIENT'S PERCEPTION AND EVALUATION
OF THE SPECIAL DEFENSE UNIT

The third and final approach to the question of whether the Franklin County Public Defender's Special Defense Unit is achieving its goal of providing effective representation to its clients is to go to the clients and ask them what they think and feel about the type of representation they received. This approach is not concerned with case dispositions or sentences, nor is it concerned with whether the defense system under question complies with the national standards for defense services. What this approach is concerned with is the perceptions and evaluations of the consumers of defense services, the clients. What is the client's perception of the type of representation he received? What is the client's evaluation of the quality of representation he received?

This section attempts to answer these questions in regard to the Special Defense Unit. Through an examination of the attitudes of SDU clients toward their attorneys, this report will develop a third perspective on the larger question of whether the Special Defense Unit is achieving its goal of providing effective representation to indigents labeled as career criminals. Some may question whether the perceptions and evaluations of former clients, many of whom were convicted, is a valid measurement of the quality of representation provided by the SDU. While it is true that many clients are very biased toward their former attorneys and that many of them are not qualified to judge the legal activities of these attorneys, this evaluation report believes that as consumers of the service, the client's perspective must be included in any worthwhile attempt to evaluate whether a particular kind of defense system is providing effective representation or not. The client's perspective is only a partial way of addressing this question, but an essential one.

A. METHODS

The data for this section was collected through specialized interviews with former clients of the Special Defense Unit. These interviews were somewhat structured in certain sections, but the primary section of the interview was as open-ended as possible to allow the clients to express in their own words what their thoughts and feelings are toward the SDU attorney who represented them. An attempt was made to contact the total population of SDU clients for the first six months of the program. The clients that were contacted were asked to fill out and return a form indicating whether or not they would like to be interviewed. Arrangements were made to schedule and conduct the interview.

A total of 32 interviews were held. All of these interviews were conducted in the various correctional institutions of the Ohio prison system with convicted clients of the Special Defense System. Although a major effort was made to contact and interview SDU clients who were not sentenced to prison or who were not convicted, none could be located who would agree to be interviewed. Few of the persons who fall into these two categories could even be located despite repeated mailings and phone calls. The sample, thus, is very biased in the direction of convicted, incarcerated clients and the results should be interpreted with this fact in mind.

B. CLIENT CONCERNS

The defendant's perspective on the American criminal justice system has been almost totally ignored in the past. There has been very little empirical research on defendant's attitudes, especially their attitudes toward their defense attorneys. There are, however, two studies which have dealt with the issue of what clients think about public defenders (Casper, 1972; Wilkerson, 1972). Jonathan Casper is one of the social scientists who has done research on the defendant's

perspective. In his book he devotes a whole chapter to the defendant and his attorney. Casper reports that there is a generalized mistrust and suspicion of public defenders. Private attorneys are thought to be better and most public defender clients who were convicted feel that a private attorney could have got them off.

Casper probed for the reasons behind these attitudes. He discovered that public defenders were mistrusted because they were regarded as agents of the state. Public defenders were viewed as employees of the court who have no financial incentive for fighting hard for clients. Defendants felt that public defenders did not care about them as a person and further that many public defenders were actually cooperating with the prosecutor in an effort to get them convicted. Most defendants wanted a private attorney because they wanted some control over the choice of their attorney. In addition, the financial exchange between the client and private attorney seemed to be extremely important. As Casper (1972:112) points out, "paying a lawyer not only provided some assurance that he is on the defendant's side, but also gives the defendant a sense of leverage over his attorney, a sense that he is in a position of some autonomy."

Overall, the defendants that Casper interviewed seemed to be of the opinion that private attorneys are more experienced, more competent and better able to achieve favorable outcomes for their clients. But, as Casper (1972:113) notes expectations regarding private attorneys may be somewhat unrealistic:

The common view among all men represented by the public defender was, then, "If only I'd had a street lawyer, I'd have come out much better." Yet, looking at the charges against the defendants, their reports of the evidence against them, their past records, and the like, this expectation often appeared to be somewhat unrealistic, for many seemed to have come out fairly well.

Glen Wilkerson has also done some research on this topic. He interviewed former clients of the public defender's office in Denver, Colorado. Although

Wilkerson's study, like the research reported on in this section, has many limitations due to sampling problems it does provide some indication of public defender client concerns. Wilkerson found that the most widely shared concern of public defender clients was that defenders do not contact them as often as they would like. Wilkerson also reports that there is, in general, widespread skepticisms and cynicism about the effectiveness of public defenders. Like Casper, he found that many clients had the suspicion that public defenders often cooperated with the prosecutor instead of being their adversaries.

Other concerns of public defender clients that Wilkerson's interviews revealed were the large caseloads of public defenders, real or imagined pressure to plead guilty, and disagreements over trial strategy. In summary, Wilkerson (1972:145) states that:

In summary, client's complaints vary widely, from insufficient contact between client and defender and a lack of confidence in the defender to the defenders lack of spine and excessive readiness to enter a guilty plea for the client.

From a review of the Casper and Wilkerson research it is possible to formulate a list of "client concerns" for public defender clients. These "client concerns" appear to operate as the criteria by which clients evaluate the performance of their attorneys and the type of representation they received. These concerns include:

- 1) The time that the attorney spends with a client.
- 2) The information concerning the case that the attorney provides to the client.
- 3) The attorneys preparation.
- 4) The advise the attorney gives to the client.
- 5) The legal knowledge of the attorney.
- 6) The concern the attorney shows for the client as a person.
- 7) The amount of control or participation the attorney allows the defendant to have in the defense strategy.
- 8) Trust.
- 9) Plea bargaining.

These are some of the specific issues which the Special Defense Unit clients were asked to address in the structured part of the interview. Questions concerning the satisfaction of the client with the representation he received and whether or not he trusted the attorney were also included in this section. Many of these same issues were raised again in different kinds of questions in the open-ended section of the interview. The open-ended section allowed the clients to express in their own words their thoughts and feelings on these concerns. In addition, the issue of plea bargaining was raised in this section of the interview along with the issue of private attorney versus public defender. The clients suggestions for improving the public defender's office were also elicited in the open-ended section of the interview.

The interviews with former clients of the SDU always began with questions concerning the clients previous experiences with criminal lawyers. Then, clients were questioned about their knowledge of public defender systems in general. The questions concerning the clients perception and evaluation of their SDU attorney were next, with both structured and open-ended sections. Finally, background information concerning the clients was collected in the final part of the interview. The findings of the research will be presented in the same format.

C. PREVIOUS HISTORY RELATED TO CRIMINAL LAWYERS

The clients interviewed averaged 3 prior experiences with lawyers in criminal cases (felonies as adults). The interviews always started with questions related to these previous experiences. This was done for several reasons. First, it was felt that a client's previous experiences with criminal lawyers would likely color his perception of his most recent experience with the SDU. These prior experiences would most likely serve as a basis for comparison for the client. Second, it was hoped that these questions would force the client to start thinking about the issue of effective representation and allow him to focus his ideas about this

issue before he was asked the open-ended questions concerning the SDU.

35% of all previous experiences with criminal lawyers were with private attorneys and 65% were with public defenders. The clients were asked to take 1 or 2 of these previous experiences and rate the attorney as either A) VERY GOOD, B) ADEQUATE or C) POOR - on the following concerns: 1) the time the attorney spent with him, 2) the information concerning the case that the attorney gave to him, 3) the preparation of the attorney, 4) the advice the attorney gave him, 5) the legal knowledge of the attorney, 6) the concern of the attorney for him as a person, and 7) the amount of control the attorney allowed him to have in the case. Table 16 summarizes the responses to these questions.

As Table 16 shows, private attorneys are rated as very good by a substantial majority of clients in each of the seven categories. The percentage of clients rating them as very good is 50% or higher for six of the seven concerns. The percentage of clients rating them as adequate or very good is 70% or higher in all categories.

When the clients were asked whether they trusted the attorney who had handled their case a very high 86% answered yes for private attorneys. Furthermore, when asked to rate their overall satisfaction with the attorney and the representation he provided on scale from 1 (lowest) to 10 (highest), clients who had private attorneys gave them an average rating of 7.6 which is very high. Clearly, this sample of clients rates their previous experiences with private defense attorneys very highly. Conversely, this sample of clients rates their previous experiences with public defenders very low.

As Table 16 shows, a substantial majority of clients rate public defenders as poor in six of the seven categories. Only on the issue of legal knowledge do a majority of clients rate the public defenders as very good. The percentage of clients rating the public defenders as poor is close to or above 50% on the

other six concerns. Less than 1/4 of the clients rate them as very good on these six categories.

In terms of trust, only 35% said that they trusted the public defenders who represented them. In addition, the overall satisfaction rating of the public defenders was only 4.6, a full 3 points below that of the private attorney.

On the whole, this sample of clients seems to have had more bad experiences with public defenders than good, and more bad experiences with public defenders than with private attorneys. In general, then, this sample of clients seems to have held negative attitudes toward public defenders even before they were represented by the Special Defense Unit due to their previous experiences with public defenders.

D. KNOWLEDGE ABOUT PUBLIC DEFENDERS

The interviews also attempted to determine how much these clients know about public defender systems in general. It is possible that the kind of information or misinformation that these former clients have concerning public defenders may have an influence on their perception of the Special Defense Unit attorneys. Thus, the clients were asked how they first found out about public defenders, what kind of a reputation public defenders had at that time, who public defenders work for and who pays them, and finally, what the requirements are for the job of being a public defender.

The vast majority of the clients first heard about public defenders from the court the first time a public defender was appointed to represent them. The reputation of public defenders that these clients heard about from friends, family or fellow inmates ranged from bad to horrible. Although a few clients reported hearing good things or at least neutral things, about public defenders, the majority heard nothing but bad. One client reported that "a lot of people said don't

get one, they won't help you." Another client stated that "When I first heard of public defenders the inmates said you better watch yourself, because all they're gonna want to do is try to make you a deal and get you to cop out to get you a lower sentence or out on probation."

In talking to clients about what they first heard about public defenders, many of the same themes noted by Casper and Wilkerson were noted. The idea that the public defender is part of the system was expressed frequently. As one client put it, "They have to go along with the people they are working under until they get on their own. As a result they don't fight too hard." Another frequently voiced concern was that the public defender was cooperating with the prosecutor in one way or another. One client said, "They're just assistant prosecutors in disguise. They try to get rid of the case as quickly as possible. If you have been down once, they'll stick you again." Finally, the idea that public defenders have no financial incentive to do a good job was heard repeatedly. As one client put it, "No matter if they do a good job or bad job they still get paid so it don't matter to public defenders if they won or lost."

Every single client that was interviewed knew that the public defender was paid by the state and this fact was significant to most of them. In fact, this may be the most important factor in explaining the overall attitude of public defender clients toward public defenders. One client, when asked who public defenders work for, said "Well, they're supposed to work for you once they take your case, but you really wonder how much pressure they can put on the courts since they're getting paid by the courts." Another stated that "The judge, prosecutor, and the public defender all work for the state and my case is against the state, now how am I supposed to get a fair representation? The public defender won't fight hard for me because his job is on the line. He feels as though he is indebted to the state." Mistrust of and cynicism toward public defenders stems largely from the

clients perception that public defenders are paid by the state and therefore must be agents of the state and the prosecution.

Finally, concerning the requirements for being a public defender, most of the clients interviewed knew that public defenders, like all lawyers, had graduated from college, graduated from law school and passed the bar exam. Many of them thought that all public defenders were inexperienced lawyers who were gaining their experience at the expense of the client in the courtroom. As one client put it, "I always had the feeling that for public defenders I was sort of a legal guinea pig that he practiced on until he perfected his technique." And, there was a small group of clients who thought that public defenders were either law students or simply college students who had an interest in law. One client said, "I imagine they're seniors in law school, called interns."

In summary, it appears that both a client's previous experience with criminal lawyers and his prior knowledge about public defenders will significantly affect his perception and evaluation of the Special Defense Unit. Because of these two factors, most of the SDU clients that were interviewed appeared to have already formed very definite opinions and attitudes about public defenders in general. This fact must be taken into account in interpreting their evaluation of the SDU attorney who handled their case.

E. EVALUATION OF THE SPECIAL DEFENSE UNIT ATTORNEY

According to this sample of Special Defense Unit clients, the SDU does not rate much higher than regular public defenders they have had in the past and the unit rates far below the private attorneys they have had in the past. When this sample of former SDU clients was asked to rate their overall satisfaction with their SDU attorney and the representation he provided them with on a scale of 1 (lowest) to 10 (highest) they gave the SDU an average rating of 4.6. This

rating is identical to the one which these clients gave to public defenders who had represented them in the past and far below the rating these clients gave to private attorney who represented them in the past. On the more specific "client concerns" the Special Defense Unit tends to rate more highly than the regular public defenders but still far below the private attorneys. Again, clients were asked to rate their SDU attorney as either A) VERY GOOD, B) ADEQUATE, or C) POOR for the seven specific client concerns. Table 19 presents these ratings. The following are the former clients evaluation of the SDU for each of these specific issues.

1) THE TIME ATTORNEY SPENT WITH CLIENT

One of the most common complaints of public defender clients is that they do not get to see their attorney very often and that when they do see him they do not get to spend enough time with him. Similar comments were heard from the SDU clients that were interviewed, however complaints about the amount of time clients spent with SDU attorneys were less frequent than such complaints concerning regular public defenders clients had had in the past. Most of the clients had been visited by the SDU attorney an average of 2 times and the visits averaged between 20 and 30 minutes each. Even though there were fewer complaints concerning the amount of time SDU attorneys spent with these clients compared to regular public defenders they had had in the past, the SDU was not rated any higher on this concern than the regular public defenders.

The former SDU clients were asked to rate their SDU attorneys as either, A) VERY GOOD, B) ADEQUATE, or C) POOR on the 7 "client concerns" discussed earlier. Table 19 presents these ratings. On the issue of time that the attorney spent with the client, 50% of the former SDU clients rated their SDU attorney as "poor." This sample of clients had rated 54% of their previous public defenders as poor in this regard. 32% of the former clients rated their SDU attorney as "adequate"



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concerning the amount of time he spent with them and 18% rated him as "very good." These same clients, however, rated their previous private attorneys much higher with 43% rating them as "very good."

The SDU with its lowered caseload and greater investigative resources should, ideally, have more time to visit their clients more frequently and to spend longer periods of time on these visits than regular public defenders. According to this sample of former clients they are not doing this. Of course, it may be that clients who are in jail and threatened with prison would never be completely satisfied with the time their attorney spends with them even if he came every day for an hour. Also, most public defenders feel that it is more to the client's advantage that they be out investigating and preparing the case rather than in jail "holding the client's hand" as they put it. In addition, it was noted earlier that much of the SDU's time is taken up by a variety of miscellaneous activities. Despite all of this, the fact still remains, that from the client's perspective, public defenders do not visit them enough and do not spend enough time with them, and SDU clients feel the same about SDU attorneys.

2) THE INFORMATION ATTORNEY GAVE TO CLIENT

Another frequent complaint of public defender clients is that public defenders do not keep them informed about what is happening in their case. Related to this is the fact that many clients do not feel that the public defender discusses their case thoroughly with them. The former SDU clients did not have much to say about these two topics. It did not appear to be that important to them, at least not as important as other issues on which they commented a great deal. When the clients were asked to rate the SDU attorney who represented them regarding the information he provided to them concerning their case, 57% rated them as either "adequate" or "very good" and 43% rated them "poor." This was a slight improvement over their ratings for previous public defenders but far below the

ratings they gave to previous private attorneys that had had.

In the open-ended section of the interview, clients were asked if the SDU attorney had discussed the case thoroughly with them and the majority responded "yes." Several clients felt quite strongly that the attorney did not discuss the case thoroughly with him at all. In general, however, from the perspective of the client, the SDU does a fairly good job of discussing the case with them and providing them with information concerning their case.

3) THE PREPARATION OF THE ATTORNEY

Another major concern of clients is the preparation of the attorney for their case. According to Casper and Wilkerson, public defender clients often feel that public defenders do not prepare their cases well either because of large caseloads or incompetence. Since the essential feature of this program is to provide more time and more resources to the Special Defense Unit for the investigation and preparation of cases, it might be expected that SDU clients would rate their attorneys more highly on this issue. When the former SDU clients were asked to rate their attorney on his case preparation, however, 52% of them rated his as "poor," while only 18% rates him as "adequate," and 30% rated him as "very good."

Although these ratings are slightly better than the rating for previous public defenders they are far far below the ratings for previous private attorneys and far below what the program might have expected. Section V pointed out that there has been a dramatic change in case preparation and investigation for not only the SDU but for the Franklin County Public Defender's Office as a whole after this program began operation. The tremendous improvement in case preparation and investigation, however, is not apparent to SDU clients. From their perspective, the preparation in these cases is only slightly better than in cases handled by regular public defenders and far below the preparation of private attorneys.

While it may be that clients are not qualified to judge the legal activities of their attorneys, and that much of the improvement in investigation and preparation is not visible to clients, it still should be a matter of great concern to the SDU that 52% of their clients perceive the preparation in these cases to be "poor."

4) THE ADVICE THE ATTORNEY GAVE TO THE CLIENT

The advice that the attorney gives to his client is also a matter of great concern to the client. Research indicates that public defender clients often feel that they do not get "good" advice from public defenders. This concern is related to the fact that clients perceive a constant pressure from public defenders to "cop out," to accept the "deal" being offered by the prosecutor. Client attitudes toward plea bargaining will be discussed later in this section. As for the general issue of "advice" the majority (56%) of former SDU clients rate the SDU as "adequate" or "very good." This is slightly better than the rating they give to their previous public defenders, but again far below the rating they give to their previous private attorneys. In general, however, SDU clients seem to feel that the advice the SDU attorney gave to them was sufficient.

5) LEGAL KNOWLEDGE OF THE ATTORNEY

Clients are also concerned about the legal knowledge of their attorney. The conventional wisdom among public defender clients is that private attorneys are more knowledgeable about the law and more competent than public defenders. Many a public defender has had to suffer the indignity of having a client tell him that he wished he had a "real lawyer." An earlier discussion in this section pointed out that a sizeable minority of clients think that public defenders are law students. In the face of all this, it is somewhat surprising to see that this sample of clients actually rated public defenders fairly high on their legal knowledge. 40% of the former SDU clients rated the SDU as "very good" on their

knowledge, while another 32% rated them as "adequate." Only 28% rated them "poor." Overall, the SDU rated higher on legal knowledge than previous public defenders, although 48% of the clients rated them as "very good." Again, the clients rated private attorneys the highest of all (77% rated them as "very good"). Overall, however, the majority of clients feel that the SDU attorneys are knowledgeable and competent.

6) CONCERN OF ATTORNEY FOR CLIENT

One of the most critical concerns of almost all of the SDU clients that were interviewed was that the public defender be on "their side," that he be concerned about them as persons. Clients want very much for the public defender to be concerned about their welfare and to show a genuine interest in them. At the end of the interviews, clients were asked if they had any suggestions for the public defenders to help them improve their service. One of the most frequent responses was that public defenders should be more concerned about the client as a person. One client said, "they should show more concern for the person rather than for getting the case over with." Another client stated that, "I like to feel he's concerned for me - it makes a difference." And still another said, "It seems to me that there is a general lack of interest on the public defenders part and too much emphasis is placed on getting the case disposed of as soon as possible. The greatest thing they could do would be to develop a genuine and sincere interest in the person they are supposed to be defending."

Past research has indicated that clients of the public defender do not feel that he is on their side or concerned about what happens to them. Many of the SDU clients feel the same way. 50% of them rated the SDU attorney as "poor" regarding his concern for the client, while 29% rated him as "adequate" and 21% as "very good." These ratings were slightly better than the ratings for previous public defenders, but once again they were far below the ratings for previous

private attorneys. 57% of the clients rated their previous private attorneys as "very good" in their concern for the client, while only 14% rated them as "poor."

There is a sizeable minority of clients who feel that the SDU attorney was concerned about their welfare. When asked if he felt that the public defender was on his side, one client answered, "yes, more so than the private attorney.

_____ showed a lot of concern and put in a lot of preparation for my case." Another client said, "He seemed real concerned. I thought he did a good job." Another client when asked if he thought that the public defender was on his side said, "Yes. I think _____ wanted me to fight the case rather than concede as I did. I think _____ would have enjoyed being my attorney if we could have fought the case."

There were many other clients, however, who did not feel that the SDU attorney was on their side or concerned about them. One client stated that, "He was not on my side at all." Another client said, "He sold me out and didn't make enough effort to get me an acquittal. He wasn't so much concerned with me as a person, but me as a client. He made it clear that he would just chalk this one up for the other side." Still another client when asked if he thought the public defender was on his side answered, "No. _____ and the prosecutor were working together against me."

Overall, a slight majority of former SDU clients did not feel that their SDU attorney was concerned about them as a person, while a large minority of them did. Almost all of them, however, did feel that the concern of the attorney for the client was a very important issue.

7) THE PARTICIPATION THE ATTORNEY ALLOWS THE CLIENT TO HAVE IN THE CASE

Public defender clients also seem very concerned about how much participation they are allowed to have in the decisions being made concerning their case. Clients like to feel that they have some control over their defense. A slight

majority of SDU clients felt that they did not have much control over their case and that they were not allowed to participate much in the decisions being made. 54% of them rated their SDU attorney as "poor" concerning how much participation he allowed them to have while 46% rated him as "adequate" or "very good." Again, the same pattern manifests itself. The ratings for the SDU are slightly above the ratings for previous public defenders while they are much below the ratings for previous private attorneys.

Clients who felt that their attorney did not allow them to participate in decisions relating to their defense felt frustrated and suspicious. As one client put it, "I always felt that there was something going on behind closed doors that I wasn't made fully aware of." These clients also tended to feel that the attorney wasn't really interested in defending them. As another client put it, "He wasn't defending me, he was just looking for a cop-out so he could get himself done with the case. I told him about the illegal search which I knew was illegal and he didn't follow it up at all. I ended up pleading guilty and got 6-25 years."

Clients who reported that they were allowed to participate in all decisions relating to their defense seemed to have very positive feelings toward their attorney even though they were all convicted and sentenced to prison. A number of clients stated that they had full participation in all matters relating to their case. One client said, "He didn't make a move without first consulting me." Another said, "He wouldn't make a move unless he would ask my opinion about how I wanted it done." And still another stated, "I participated as much as possible with this type of case."

Almost all of the clients interviewed stated that their participation in the case was important to them. However, the results are mixed as to how many clients actually felt that they had been allowed to participate by the SDU. Those

who felt that they were not allowed to participate were a slight majority.

8) TRUST

Since trust seems to be such an important element in the client-attorney relationship it would also seem to be a very good indirect way to measure the clients evaluation of the quality of representation his attorney has provided. If a client does not trust his attorney that is a good indication that the client does not feel that he has received effective representation from that attorney. This is, of course, a very subjective measure of effective representation, but it must be remembered that the criteria for effective representation being used throughout this section are the subjective criteria of the clients of the SDU. From this perspective then, whether the client trusted his SDU attorney or not is a valid way to try to measure the quality of representation provided by the SDU.

The question is, therefore, do the clients of the SDU trust their SDU attorneys. In general, the answer is no. When this sample of former SDU clients were asked whether they trusted the public defender who handled their case, 60% of them said "no," and 40% said "yes." The majority of clients did not trust the SDU. Clients trusted their SDU attorneys only slightly more than they trusted previous public defenders and they trusted the SDU attorney a great deal less than their previous private attorney. Table 17 presents the percentages.

Clients were often emphatic in stating their distrust of SDU attorneys. When asked if he trusted the public defender who represented him, one client stated simply, "no way!" Another client said "not at all!" The overall reputation of public defenders and their positions in the social structure of the court are two reasons for much of this mistrust. As one client put it, "It's kind of hard to trust him when you know he doesn't have anything to lose one way or the other." Another client stated that "Public defenders lie to you. They won't put it on the line and be real with you. They don't want you to get emotionally upset. That's not showing you respect at all."

It appeared that very often a client would start out trusting the SDU attorney but by the time he was convicted or sentenced he no longer trusted him. One client, when asked if he trusted the public defender, said, "In the beginning, but in the end, not at all." Another stated, "At first, yes. Not in the end." And another client answered, "Until I was sent to prison."

Again, however, the overall responses were mixed. A sizeable minority did trust the SDU attorneys and many of them were also very emphatic about the way they felt. One client said, "Of all the attorneys I've had in the past I've trusted _____ more than any of them." Another client stated, "Yes, very much. He even went out to my house to talk to my wife - stuff like that, and that's unusual for a public defender." And another client said, "Yes, he was honest with me right off. He said he'd be as honest with me as he could and wanted me to do the same."

In summary, the majority of SDU clients did not trust the attorney who handled their case and if this is taken as a measure of whether or not the SDU is providing effective representation then the conclusion is that, from the clients perspective, they are not. This judgment, however, must be tempered by the fact that a large minority of SDU clients did trust their attorney very much. Thus, it is very difficult to make a definitive statement one way or the other due to such mixed results.

9) PLEA BARGAINING

One of the greatest concerns of public defender clients is the process of plea bargaining. Clients frequently complain that public defenders are always talking about "copping a plea" or accepting a good "deal" from the prosecutor. Many of them feel that public defenders are only interested in disposing of cases as quickly as possible and thus they pressure clients into pleading guilty rather than fighting the case in court. Whether these and other client criticisms

concerning plea bargaining are valid or not, from the perspective of the client, pressure to engage in plea bargaining is a serious problem. In the interviews with the former SDU clients, the issue of plea bargaining emerged quite frequently.

Public defenders engage in plea bargaining because they feel that it is in the "best interests" of their clients. And without a doubt, plea bargaining often is in the best interests of the client. Even so, clients often expressed resentment over, what they perceive, as constant pressure to "cop out." As one client stated, "The emphasis of all public defenders is on getting the least amount of time possible, not on trying to beat the thing in court." Another client stated that, "A prosecutor is hired to prove your guilt and a public defender is hired to prove your innocence so he shouldn't act as a mediator for the state." Still another client said, "He practically begged me to do that plea bargaining, but I just wanted to get it in court and let them decide. He wanted me to settle it today and get it over with."

Of course, many clients engage in plea bargaining willingly and many recognize that they can benefit a great deal from such negotiations. As one client said, "I was glad to have the plea bargaining take place." A majority of SDU clients however, seemed to be angry and upset over the fact that they did plead guilty and they most often blamed the attorney for pressuring them into it. One client noted, "Right from the start he wanted me to cop out. He told me my record would be used against me and to plead guilty. He said they would get me on both charges if I didn't cop out." Another client stated that, "He put a lot of psychological pressure on me by constantly reminding me that the original charge carried 4 to 25 years contrasted to what he offered me with a 1 to 5 years. He also told me what a hard judge _____ was and that I should forget about any kind of break whatsoever."

Plea bargaining is, of course, an essential part of the job of being a

public defender. Even though the SDU attorneys themselves do not like the overwhelming emphasis the criminal justice system places on guilty pleas, they feel compelled to engage in plea bargaining out of a genuine and sincere concern for the "best interests" of their clients. In a system where a defendant is often punished more harshly for exercising his constitutional right to a trial, public defenders must engage in some form of plea bargaining. However, SDU members should be aware that a majority of their clients are distrustful of the plea bargaining process and resentful of the constant pressure placed on them to "cop a plea" rather than to fight the case all the way.

F. SUMMARY

From the perspective of a slight majority of their former clients, the Special Defense Unit is not providing effective representation. This majority feels that SDU attorneys do not spend enough time with them, do not provide adequate information to them, are not well prepared for the case, do not give them good advice, are not concerned about their welfare and do not allow them to participate enough in the case. Furthermore, these clients do not trust their SDU attorneys and they feel that the attorneys put too much pressure on them to plead guilty just to dispose of the case quickly. Although these clients do rate their SDU attorneys slightly above other public defenders they have had in the past, they rate them far far below the private attorneys they have had in the past.

Thus, from this perspective it appears that the Special Defense Unit is not providing effective representation. However, the results of this section should be interpreted very cautiously for a number of reasons. First of all, a sizeable minority of clients do feel that the Special Defense Unit attorneys did provide them with quality representation and they rated them highly on the client concerns listed above. Second, the sample of clients for these interviews was small

and biased toward clients who had been convicted and sent to prison. This affects the validity of the general conclusion. Third, many of these clients have had "negative" experiences with public defenders in the past which affects their perception of all public defenders. Fourth and finally, the generally bad reputation of public defenders appears to bias most clients evaluations of their attorney. Even with these cautions, however, the fact remains that a majority of Special Defense Unit clients do not feel that they received effective representation.

SECTION VII

CONCLUSION

No evaluation study comes up with final and unequivocal findings about the worth of a program and this evaluation is no exception. This research has attempted to determine if the Franklin County Public Defender's Special Defense Unit provides effective representation to indigent defendants labeled as career criminals. In general, the answer is yes.

The study used three different approaches to try and answer that question and come up with that answer. A comparative analysis showed that the SDU achieves better case dispositions and less severe sentences for its clients than the Public Defender Regular Trial Staff and private attorneys do. A qualitative analysis showed that the Special Defense Unit is in substantial or complete compliance with the majority of objective national standards that relate to the provision of defense services. And even though the majority of former Special Defense Unit clients do not feel that they received effective representation, a sizeable minority do.

Thus, based on the triangulated analysis made by this evaluation, it seems fair to say that the Special Defense Unit is achieving its goal of providing effective representation and that the program in general has had a positive effect on the quality of representation provided by the Franklin County Public Defender's Office as a whole. The reason for this is simple - more attorneys, more investigators and more money allows an already highly competent office to do an even better job of providing representation to indigent defendants.

TABLE 1 - SOCIAL CHARACTERISTICS OF SPECIAL DEFENSE UNIT CLIENTS*

SOCIAL CHARACTERISTICS	SPECIAL DEFENSE UNIT STATUS						
	DESIGNATED CCR		NON-DESIGNATED CCR		OTHER (NON-CCR)	TOTAL	
<u>SEX</u>							
Male	42	(100%)	47	(97.9%)	31	(88.6%)	120
Female	0	(0%)	1	(2.1%)	4	(11.4%)	5
<u>RACE</u>							
White	19	(45.2%)	23	(47.9%)	13	(37.1%)	55
Black	23	(54.8%)	25	(52.1%)	22	(62.9%)	70
<u>AVERAGE AGE</u>	33.9		33.3		26.2		314
<u>AVERAGE EDUCATION</u>	9.8		10.4		11.0		103
<u>EMPLOYMENT STATUS</u>							
Employed	11	(26.2%)	16	(33.3%)	12	(35.3%)	39
Unemployed	31	(73.8%)	32	(66.7%)	22	(64.7%)	85
<u>MARITAL STATUS</u>							
Single	17	(40.5%)	29	(60.4%)	20	(58.8%)	66
Married	11	(26.2%)	6	(12.5%)	9	(26.4%)	26
Separated/Divorced	14	(33.3%)	13	(27.1%)	5	(14.8%)	32

*Some cases are missing from a few categories. They are excluded from the percentages.

TABLE 2 - SOCIAL CHARACTERISTICS OF ALL DESIGNATED CAREER CRIMINALS IN FRANKLIN COUNTY AND SPECIAL DEFENSE UNIT DESIGNATED CAREER CRIMINAL CLIENTS*

SOCIAL CHARACTERISTICS	TYPE OF CASE	
	ALL CAREER CRIMINALS	SDU CAREER CRIMINALS
<u>SEX</u>		
Male	273 (94.5%)	42 (100%)
Female	16 (5.5%)	0 (0%)
<u>RACE</u>		
White	113 (39.2%)	19 (45.2%)
Black	175 (60.8%)	23 (54.8%)
<u>AVERAGE AGE</u>	33.0	33.9
<u>AVERAGE EDUCATION</u>	10.4	9.8
<u>EMPLOYMENT STATUS</u>		
Employed	78 (30%)	11 (26.2%)
Unemployed	182 (70%)	31 (73.8%)
<u>MARITAL STATUS</u>		
Single	101 (38.8%)	17 (40.5%)
Married	80 (30.8%)	11 (26.2%)
Separated/Divorced	79 (30.4%)	14 (33.3%)

*Some cases are missing from a few categories. They are excluded from the percentages.

TABLE 3 - LEGAL CHARACTERISTICS OF SPECIAL DEFENSE UNIT CLIENTS

LEGAL CHARACTERISTICS	SPECIAL DEFENSE UNIT STATUS					
	DESIGNATED CCR		NON-DESIGNATED CCR		OTHER (NON-CCR)	ALL
<u>LEGAL STATUS</u>						
Yes	26	(65%)	28	(58.3%)	8	(24.3%)
No	14	(35%)	20	(41.7%)	25	(75.7%)
<u>ARRESTS</u>						
Prior Misdemeanor	2.9		2.2		1.4	
Prior Felony	4.7		3.8		1.7	
<u>CONVICTIONS</u>						
Prior Misdemeanor	2.2		1.7		1.1	
Prior Felony	3.1		2.7		0.5	
Violent Crimes	1.3		1.1		0.1	
<u>AIL</u>						
No. Of Times In	1.6		1.1		0.5	
Previous Time Ser.	4.4 Months		2.5 Months		1.2 Months	
<u>PRISON</u>						
No. Of Times In	2.2		2.0		0.3	
Previous Time Ser.	68.8 Months		55.2 Months		5.6 Months	

TABLE 4 - LEGAL CHARACTERISTICS OF ALL DESIGNATED CAREER CRIMINALS IN FRANKLIN COUNTY AND SPECIAL DEFENSE UNIT DESIGNATED CAREER CRIMINAL CLIENTS.

LEGAL CHARACTERISTICS	TYPE OF CASE	
	ALL CAREER CRIMINALS	SDU CAREER CRIMINALS
<u>LEGAL STATUS</u>		
Yes	150 (57.2%)	26 (65%)
No	117 (43.8%)	14 (35%)
<u>ARRESTS</u>		
Prior Misdemeanor	2.6	2.9
Prior Felony	4.8	4.7
<u>CONVICTIONS</u>		
Prior Misdemeanor	1.8	2.2
Prior Felony	2.7	3.1
Violent Crimes	1.2	1.3
<u>JAIL</u>		
No. Of Times In Previous Time Ser.	1.4 3.6 Months	1.6 4.4 Months
<u>PRISON</u>		
No. Of Times In Previous Time Ser.	1.9 58.6 Months	2.2 68.8 Months

TABLE 5 - TYPE OF CASE DISPOSITION BY SPECIAL DEFENSE UNIT STATUS

TYPE OF DISPOSITION	SPECIAL DEFENSE UNIT STATUS							
	DESIGNATED CCR		NON-DESIGNATED CCR		OTHER		ALL SDU	
No Bill	1	1.8%	4	6.9%	1	2.6%	6	4.0%
Nolle	4	7.3%	9	15.5%	5	13.2%	18	11.9%
Dismissed	0	0%	1	1.7%	0	0	1	0.7%
Plea-Indictment	4	7.3%	2	3.4%	2	5.3%	8	5.3%
Plea-Counts Dropped	13	23.6%	8	13.8%	6	15.8%	27	17.9%
Plea-Reduced Charge	10	18.2%	5	8.6%	2	5.3%	17	11.3%
Plea-Counts Dropped Reduced Charge	3	5.5%	4	6.9%	1	2.6%	8	5.3%
Plea-Misdemeanor	6	10.9%	13	22.4%	11	28.9%	30	19.9%
Plea-Other Considerations	6	10.9%	4	6.9%	2	5.3%	12	7.9%
Jury Trial-Guilty	2	3.6%	3	5.2%	0	0%	5	3.3%
Bench Trial-Guilty	0	9%	2	3.4%	3	7.9%	5	3.3%
Jury Trial-Acquittal	2	3.6%	1	1.7%	2	5.3%	5	3.3%
Bench Trial-Acquittal	2	3.6%	1	1.7%	2	5.3%	5	3.3%
Jury Trial-Hung	1	1.8%	0	9%	0	0	1	0.7%
Missing Cases	1	1.8%	1	1.7%	1	2.6%	3	2.0%
TOTAL	55	100%	58	100%	38	100%	151	100%

TABLE 6 - TYPE OF CASE DISPOSITION BY TYPE OF CASE

TYPE OF DISPOSITION	TYPE OF CASE			
	ALL CAREER CRIMINAL CASES		SDU CAREER CRIMINAL CASES	
No Bill	7	2%	1	1.8%
Nolle	34	9.7%	4	7.3%
Dismissed	2	0.6%	0	0%
Plea To Indictment	51	14.6%	4	7.3%
Plea-Counts Dropped	82	23.4%	13	23.6%
Plea-Reduced Charge	29	8.3%	10	18.2%
Plea-Counts Dropped & Reduced Charge	19	5.4%	3	5.5%
Plea-Misdemeanor	25	7.1%	6	10.9%
Plea-Other Considerations	7	2.0%	6	10.9%
Jury Trial-Guilty	34	9.7%	2	3.6%
Bench Trial-Guilty	20	5.7%	0	0%
Jury Trial-Acquitted	6	1.7%	2	3.6%
Bench Trial-Acquitted	8	2.3%	2	3.6%
Jury Trial-Hung	1	0.3%	1	1.8%
Missing Cases	25	7.1%	1	1.8%
TOTAL	350	100%	55	100%

TABLE 7 - TYPE OF SENTENCE BY SPECIAL DEFENSE UNIT STATUS

TYPE OF SENTENCE	SPECIAL DEFENSE STATUS							
	DESIGNATED CCR		NON-DESIGNATED CCR		OTHER		ALL SDU	
Fine	0	0%	3	7.3%	2	7.4%	5	4.5%
Probation	0	0%	3	7.3%	4	14.8%	7	6.3%
Jail	5	11.4%	6	14.6%	4	14.8%	15	13.4%
Prison	37	84.1%	24	58.5%	13	48.2%	74	66.00%
Suspended	2	4.5%	5	12.2%	1	37%	8	7.1%
Split/Shock	0	0%	0	0%	3	11.1%	3	2.7%
TOTAL	44	100%	41	100%	27	100%	112	100%

TABLE 8 - TYPE OF SENTENCE BY TYPE OF CASE

TYPE OF SENTENCE	TYPE OF CASE			
	ALL CAREER CRIMINAL		SDU CAREER CRIMINAL	
Fine	2	0.7%	0	0%
Probation	13	4.9%	0	0%
Jail	17	6.4%	5	11.4%
Prison	211	79.0%	37	84.1%
Suspended	10	3.7%	2	4.5%
Split/Shock	14	5.2%	0	0%
TOTAL	267	100%	44	100%

TABLE 9 - AVERAGE MINIMUM SENTENCE BY SPECIAL DEFENSE UNIT STATUS

MINIMUM SENTENCE	SPECIAL DEFENSE UNIT STATUS			
	DESIGNATED CCR	NON-DESIGNATED	OTHER	ALL SDU
Mean	28.2 Months	39.8 Months	17.7 Months	29.9 Months
Median	13.5 Months	11.7 Months	11.7 Months	12.0 Months

TABLE 10 - AVERAGE MINIMUM SENTENCE BY TYPE OF CASE

MINIMUM SENTENCE	TYPE OF CASE	
	ALL CAREER CRIMINAL	SDU CAREER CRIMINAL
Mean	42.2 Months	28.2 Months
Median	18.4 Months	13.5 Months

TABLE 11 - CROSS TABULATION OF CASE DISPOSITION BY TYPE OF PUBLIC DEFENDER

CASE DISPOSITION	TYPE OF PUBLIC DEFENDER				
	SPECIAL DEFENSE UNIT		REGULAR TRIAL STAFF	TOTAL	
No Prosecution	5	9.4%	9	12.5%	14
Acquittal At Trial	4	7.5%	4	5.6%	8
Plea Misdemeanor	6	11.3%	6	8.3%	12
Plea Lesser Offense	13	24.5%	14	19.4%	27
Plea Counts Dropped	13	24.5%	17	23.6%	30
Plea Other Considerations	6	11.3%	0	0%	6
Plea To Indictment	4	7.5%	11	15.3%	15
Guilty At Trial	2	3.8%	11	15.3%	13
TOTAL	53		72		125

CHI SQUARE = 14.6
SIGNIFICANCE = .04
GAMMA = .13



TABLE 12 - ZERO ORDER GAMMAS AND SUMMARY PARTIAL GAMMAS FOR THE 3 DEPENDENT VARIABLES BY TYPE OF PUBLIC DEFENDER

INDEPENDENT VARIABLE	TYPE OF PUBLIC DEFENDER						
	CONTROLLING FOR						
	ZERO	BAIL	OFFENSE	PRIOR RECORD	LEGAL STATUS	RACE	AGE
CASE DISPOSITION	.13**	.19**	.07	.18	.05	.11	.15
TYPE OF SENTENCE	-.19	.00	-.14	-.13	-.21	-.21	-.19
SEVERITY OF SENTENCE	.04	.10	.29	.13	.12	.12	.11

** P = .05

TABLE 13 - CROSS TABULATION OF TYPE OF SENTENCE BY TYPE OF PUBLIC DEFENDER

TYPE SENTENCE	TYPE OF PUBLIC DEFENDER		TOTAL
	SPECIAL DEFENSE UNIT	REGULAR TRIAL STAFF	
FINE/SUSPENDED	2 4.5%	1 1.7%	3
PROBATION	0 0%	6 10.2%	6
JAIL	5 11.4%	6 10.2%	11
PRISON	37 84.1%	46 78.0%	83
TOTAL	44	59	103

CHI SQUARE = 5.32

SIGNIFICANCE = .14

GAMMA = -.19



TABLE 14 - CROSS TABULATION OF TYPE OF CASE DISPOSITION BY TYPE OF DEFENSE ATTORNEY

CASE DISPOSITION	TYPE OF ATTORNEY								
	PRIVATE RETAINED		PRIVATE COURT ASSIGNED		PUBLIC DEFENDER REGULAR STAFF		SPECIAL DEFENSE UNIT		TOTAL
No Prosecution	13	13.1%	9	9.7%	9	12.5%	5	9.4%	36
Acquittal At Trial	4	4.0%	2	2.2%	4	5.6%	4	7.5%	14
Plea-Misdemeanor	6	6.1%	7	7.5%	6	8.3%	6	11.3%	25
Plea-Lesser Offense	11	11.1%	10	10.8%	14	19.4%	13	24.5%	48
Plea-Counts Dropped	21	21.2%	31	33.3%	17	23.6%	13	24.5%	82
Plea-Other Consideration	0	0%	1	1.1%	0	0%	6	11.3%	7
Plea-To Indictment	19	19.2%	17	18.3%	11	15.3%	4	7.5%	51
Guilty At Trial	25	25.3%	16	17.2%	11	15.3%	2	3.8%	54
TOTAL	99		93		72		53		317

CHI SQUARE = 50.8

SIGNIFICANCE = .0003

GAMMA = .17

TABLE 15 - ZERO ORDER GAMMAS AND SUMMARY PARTIAL GAMMAS FOR THE 3 DEPENDENT VARIABLES BY TYPE OF DEFENSE ATTORNEY

INDEPENDENT VARIABLE	TYPE OF DEFENSE ATTORNEY CONTROLLING FOR						
	ZERO	BAIL	OFFENSE	PRIOR RECORD	LEGAL STATUS	RACE	AGE
DEPENDENT VARIABLE							
CASE DISPOSITION	-.17*	-.21*	-.13	-.20	-.15*	-.16*	-.17
TYPE OF SENTENCE	.17	-.13	.16	.17	.13	.12	.23
SEVERITY OF SENTENCE	.09	-.19	-.18	-.12	-.07	-.11	-.05

SUMMARY GAMMAS * .05

TABLE 16 - CLIENT CONCERNS BY TYPE OF ATTORNEY

CLIENT CONCERNS	TYPE OF ATTORNEY					
	PRIVATE ATTORNEY			PUBLIC DEFENDER		
	Very Good	Adequate	Poor	Very Good	Adequate	Poor
Time Attorney Spent With Client	6 (43%)	4 (28.5%)	4 (28.5%)	4 (15%)	8 (31%)	14 (54%)
Information Attorney Gave To Client	7 (50%)	3 (21.5%)	4 (28.5%)	6 (23%)	7 (27%)	13 (50%)
Preparation Of Attorney	7 (50%)	3 (21.5%)	4 (28.5%)	6 (23%)	5 (19%)	15 (58%)
Advice Attorney Gave To Client	8 (57%)	3 (21.5%)	3 (21.5%)	5 (20%)	8 (32%)	12 (48%)
Legal Knowledge Of Attorney	10 (77%)	2 (15%)	1 (8%)	11 (48%)	3 (13%)	9 (39%)
Concern Of Attorney For Client	8 (57%)	4 (28.5%)	2 (14.5%)	4 (15%)	6 (23%)	16 (52%)
Participation Attorney Allowed Client To Have	7 (54%)	2 (15%)	4 (31%)	5 (19%)	6 (23%)	15 (58%)

TABLE 17 - RESPONSE TO THE QUESTION: "DID YOU TRUST THAT ATTORNEY?"

TRUST	TYPE OF ATTORNEY		
	PRIVATE	PUBLIC DEFENDER	SPECIAL DEFENSE UNIT
YES	12 (86%)	8 (35%)	11 (40%)
NO	2 (14%)	15 (65%)	16 (60%)

TABLE 18 - SATISFACTION RATING BY TYPE OF ATTORNEY

AVERAGE SATISFACTION RATING ON A SCALE OF 10	TYPE OF ATTORNEY		
	PRIVATE	PUBLIC DEFENDER	SPECIAL DEFENSE UNIT
	7.6	4.6	4.6

TABLE 19 - CLIENT CONCERNS

CLIENT CONCERNS	SPECIAL DEFENSE UNIT CLIENTS		
	Very Good	Adequate	Poor
Time Attorney Spent With Client	5 (18%)	9 (32%)	14 (50%)
Information Attorney Gave To Client	7 (25%)	9 (32%)	12 (43%)
Preparation Of Attorney	8 (30%)	5 (18%)	14 (52%)
Advice Attorney Gave To Client	8 (30%)	7 (26%)	12 (44%)
Legal Knowledge Of Attorney	10 (40%)	8 (32%)	7 (28%)
Concern Of Attorney For Client	6 (21%)	8 (29%)	14 (50%)
Participation Attorney Allowed Client To Have	6 (23%)	6 (23%)	14 (54%)

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