

DEFENSE SUPPORT MECHANISM FOR THE CAREER
CRIMINAL BUREAU: SPECIALIZED TRIAL BUREAU

One Year Evaluation Report
#76-DF-06-0028
October 1, 1976 - September 30, 1977

Submitted to the
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
Washington, D. C.

Robert Grimes, Director

and

The Louisiana Commission on Law Enforcement and
Administration of Criminal Justice
Baton Rouge, Louisiana

Colonel Wingate White,
Executive Director

by the

Mayor's Criminal Justice Coordinating Council
New Orleans, Louisiana

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ACQUISITIONS

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MAYOR'S CRIMINAL JUSTICE COORDINATING COUNCIL

ONE YEAR EVALUATION REPORT

Project: Specialized Trial Bureau

Project Number: 76-DF-06-0028

Funding Source: Law Enforcement Assistance Administration

Subgrantee: City of New Orleans.

Operating Agency: Orleans Parish Indigent Defender Program

Subgrant Period: October 1, 1976 - September 30, 1977

Date of Report: December, 1977

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Grant Award: LEAA - \$99,997
Subgrantee - 18,106

Total Budget - \$118,103

Project Director: Numa Bertel

Operating Director: Frank De Salvo

Authorized Official: Moon Landrieu, Mayor
City of New Orleans

I

INTRODUCTION

The funding and establishment of the Orleans Parish Specialized Trial Bureau (STB) was initiated as a result of the development of the Career Criminal Bureau (CCB). The Career Criminal Bureau is operated by the Orleans Parish District Attorney and was established to reduce crime by identifying and expediting the successful prosecution of professional criminals. It was suspected that many of the defendants prosecuted under the CCB concept would be candidates for the Indigent Defender Program. Because of the seriousness of charges resulting from CCB prosecutions and the amount of defense preparation time required, it was determined that the existing public defender office did not have sufficient personnel resources to meet projected increases in workloads. It was to the benefit of defendants and the concept of CCB that adequate protection of defendants' Sixth Amendment Rights be preserved.

The Specialized Trial Bureau is operated by the Orleans Parish Indigent Defender Program (OIDP). The OIDP was awarded an LEAA discretionary grant in the amount of \$99,997 for the period October 1, 1976 through September 30, 1977. Local cash matching funds brought the total budget to \$118,103.

An interim evaluation report describing the implementation and status of the STB was issued during May, 1977. The results of that report indicated that the STB was implemented

without delay and was operating in an efficient manner. In addition, it was discovered that about one half of the defendants prosecuted under the CCB program were represented by STB attorneys; however, projected case loads were not as high as expected. During this same period, the program was visited by the LEAA regional monitor and no programmatic deficiencies were noted.

This one year report describes the operation and status of the STB during its first year of operation. Operations are described, costs are viewed, and conclusions are made relative to the system improvement goals of the project.

II

PROGRAM DESCRIPTION

The Specialized Trial Bureau was designed as a companion grant to the Career Criminal Bureau to assure adequate representation to indigents prosecuted under CCB without straining the resources of the indigent defense staff. The STB grant was basically for personnel and included the following supplemental positions to the OIDP:

1. Five experienced attorneys (one acting as supervisor)
2. Two investigators
3. One secretary

In addition to defense duties directly related to STB cases, the attorneys were designated as ad hoc supervisors for the purpose of training other OIDP staff.

Rather than a project aimed at crime reduction, the STB should be viewed as a system improvement project. In addition to being a corollary to the CCB, it was anticipated that it would assist in preventing backlogs for other OIDP attorneys.

Three specific goals for the project were listed in the grant application:

1. To increase the quality and amount of preparation available to OIDP attorneys handling CCB cases from the existing two weeks to one month and thereby increase the overall quality of the defense.
2. To act as defense counsel for all qualified individuals prosecuted through the CCB.

3. To prevent the development of increasing caseloads of OI DP attorneys resulting from the activities of the CCB.

In the grant application, there is some uncertainty as to the number of cases expected by the STB; however, based on results from the interim evaluation, a baseline was derived. During the first six months of operations, an average of 24 cases were received resulting in an average caseload of five per attorney. An average of three trials per month were held which averaged three per attorney for the six month period.

III

EVALUATION PROCEDURES

Data for this evaluation came primarily from three sources: quarterly narrative, statistical, and fiscal reports submitted by project personnel. These reports were supplemented by interviews with the project director, operating supervisor, and the LEAA and LCLE monitors for court projects. In addition, the statistical reports on project operations of the Career Criminal Bureau were reviewed.

Given the nature of this grant, i.e., an attempt to provide a more efficient and likely delivery of justice, this assessment of project operations is based primarily on measures of efficiency. Since project operations are not directly aimed at impacting the crime problem in New Orleans, no attempt was made to evaluate effectiveness. This analysis explores the ability of the project to offset the growing number of cases being prosecuted as a result of the CCB, thus keeping the number of cases being handled by ODP at a level not substantially higher than currently exists. Measures of efficiency are basically descriptive in that they assess project procedures or methods rather than outcomes. In the previous report on this project, the ability of the project to become operational was viewed, and in this report the level of operation for the first year is presented.

IV

PROGRAM OPERATIONS

This section describes actual program operations during the one year study period. This descriptive approach also indicates the levels of activities and workload statistics as compared to the Career Criminal Bureau. Averages computed for this section are based on eleven months of program operations (November, 1976 through September, 1977) since the first month of operations were basically those of implementing the grant.

Cases Received

During the evaluation period, the STB received 305 cases involving 253 individuals. During the same period, the CCB accepted 573 cases for prosecution which indicates that the STB was initially responsible for 53% of all cases accepted for prosecution under the Career Criminal concept. Eighty-seven percent of the cases received by the STB were for felonies, and 13% for misdemeanors. Twenty-nine cases resulted in a withdrawal after receipt, which netted 224 cases requiring active defense processing after initial acceptance.

Dispositions

The STB disposed of 203 cases during the period involving 182 individuals. Of the 182 individuals disposed, 85% were non-white, and 58% were under the age of 31 years (Table 1).

The processing of those individuals required 96 interviews and the filing of 193 motions.

TABLE 1

RACE AND AGE
(STB disposed individuals)

<u>RACE</u>	<u>f</u>	<u>% of total</u>
White	28	15%
Non-white	<u>154</u>	<u>85%</u>
Total	<u>182</u>	<u>100%</u>

<u>AGE</u>	<u>f</u>	<u>% of total</u>
17-20 years	31	17%
21-25 years	37	20%
26-30 years	39	21%
31-35 years	32	18%
36-40 years	12	7%
40+ years	<u>31</u>	<u>17%</u>
Total	<u>182</u>	<u>100%</u>

The STB disposed of 67% of the cases it received during the period and had a balance of 102 cases awaiting disposition at the end of the study period. During the same period the CCB disposed of 90% of the cases it received and had an active caseload of approximately 110 cases at the end of the period.

Table 2 shows case dispositions for the study period. When considering total dispositions, 55% of the cases were disposed of by pleas, either guilty as charged, or to a lesser offense (7% to a lesser). Twenty-eight percent were disposed of by methods other than trial, i.e., nolle pros, while 17% or 34 cases were disposed of either by judge or jury trial. After

excluding those cases either rejected or withdrawn, 64% were disposed by pleas, 20% by trial and 16% by other means.

Of those cases requiring trial disposition, 82% were found guilty as charged, or guilty to a lesser offense (86% of judge trials ended in guilty verdict and 75% of jury trials). Overall, through either pleas or trials, 69% of all cases disposed resulted in guilty findings (80% when withdrawals and rejections are deducted).

TABLE 2

DISPOSITIONS
(STB cases)

		<u>f</u>	<u>%</u>
Pleas		112	55%
Guilty as Charged	104		
Guilty to Lesser Charge	8		
Judge Trials		22	11%
Guilty as Charged	14		
Guilty to Lesser Charge	5		
Not Guilty	3		
Jury Trials		12	6%
Guilty as Charged	8		
Guilty to Lesser Charge	1		
Not Guilty	3		
Nolle Prosequed		19	9%
Insane		3	2%
Withdrawals/Rejects		29	14%
Dismissed		2	1%
Probation Revocation		4	2%
Total Dispositions		203	

Findings of guilt resulted in 167 sentences (duplicated count) as can be seen in Table 3. Seventy-five percent of the dispositions resulted in confinement either in the state penitentiary or the parish prison.

TABLE 3
SENTENCES
(STB duplicated count)

<u>Sentence</u>	<u>f</u>	<u>% of total</u>
Angola	78	47%
Orleans Parish Prison	47	28%
Suspended Sentences	23	14%
Probation	15	9%
Fine	4	2%
Total Sentences	167	100%

Caseloads

A baseline for caseloads was determined during the first six months of grant operations. There were an average of 24 cases received per month, resulting in an average caseload of five cases per attorney per month. The average trial caseload was three per attorney for the baseline period. When the overall caseload was adjusted to account for withdrawals it was determined that attorneys in the STB were responsible for about four active cases per month. ADAs in the CCB averaged 6.5 cases per month and each ADA was responsible for two trial prosecutions for the six month period. In addition, it was determined that the OIDP averaged 17 cases per month excluding those cases prosecuted under the CCB. Since the caseload of the OIDP had not increased during the six month baseline period, the preliminary evaluation concluded that the STB had an influence on not increasing the caseload of regular OIDP attorneys.

In computing the caseload for the STB for the entire study period, it was determined that each attorney was responsible, on the average, for four cases per month. When considering

only those cases requiring a trial disposition and preparation, the caseload was approximately seven per attorney for the entire period or less than one per month. Attorneys in the CCB had an average overall caseload of 6.5 cases per month and a trial caseload of about 19 per attorney for the entire period. Caseloads for OI DP attorneys remained constant at about 17 per month.

Notifications and Time Lapse

No formal process has been established between the CCB and the STB for notifications of upcoming CCB cases although informal notifications have occurred on an ad hoc basis. For the most part, STB attorneys are present at the time of arraignment to legally represent indigent persons and in the case of CCB prosecuted individuals the responsibility for the case is transferred from the OI DP attorney to the STB attorney. A review of the notification procedure indicated that notification, per se, does not appear to influence the amount of preparation time for the defense as much as does docket setting and the speed to which the DA brings the case to trial. This combined with the low caseload of the attorneys assists in insuring a quality defense.

The speed with which cases are disposed is reflected in Table 4, which shows the Time Lapse for all STB cases disposed during the one year study period. Of the 203 cases terminated during the period, 74% were disposed of within two months of receipt. This finding is consistent with the CCBs overall disposition time for the same period of 59.63 days.

TABLE 4

TIME LAPSE
(STB case dispositions)

<u>Time</u>	<u>f</u>	<u>% of total</u>
Less than one month	102	50%
One to two months	49	24%
Two to three months	32	16%
Three to six months	13	6%
Six to nine months	4	2%
Nine months to one year	3	2%
Over one year	<u>0</u>	<u>-</u>
Total cases	203	100%

Administration

The program experienced no difficulties in becoming operational and the administration of the grant was conducted efficiently. All narrative progress reports and fiscal reports were completed and submitted in a timely manner. One problem initially experienced during the early stages of the grant regarding salary discontinuities was quickly resolved. Table 5 shows a fiscal summary for the one year period of the grant. The balance on the summary sheet refers to a residual amount resulting from the initial salary discrepancies. The grant period was intended as a result of this balance. Since the project was not intended to result in a cost savings to the system and because of the non-quantifiable nature of program goals, no cost/benefit analysis is performed. Rather, it is suggested that a cost outcome or cost per service be computed for use as a gross measure for future planning and management purposes. These figures are suggestive of resource allocation by service category and are not intended to present "real" costs. It should be kept in mind that STB attorneys not only functioned

to defend cases prosecuted under CCB but also had responsibility for supervising and training duties. Because of the variance in the amount of time spent on each case the following should be viewed as a range.

The cost per case received is the grossest form of cost analysis and in terms of the STB that cost is estimated to be \$336.00 per case. The cost per case terminated is estimated to be \$505.00 per case; however, this increases slightly to \$589.00 after deducting those cases terminated as a result of rejection or withdrawal. Notwithstanding, the variance in preparation time, a cost per category of preparation is estimated to be \$503.00 for pleas, \$512.00 for trials and \$1024.00 for Nolle Prosequied, dismissals, etc. (based only on preparation and time). Thus, an average cost to terminate a case in the STB at the present rate of referrals is estimated to be \$657.00.

TABLE 5

SPECIALIZED TRIAL BUREAU FISCAL SUMMARY
 Period: 10/1/76 - 9/30/77

ITEM	Amount Budgeted	Total Grant Funds (includes Cash Match)	
		Total Expenditures	Balance
Personnel	\$91,008	\$86,377	\$ 4,631
Fringe	16,995	6,018	10,977
Other direct	5,050	5,050	-
Indirect	5,050	5,050	-
Total	\$118,103	\$102,495	\$15,608

SUMMARY

The Specialized Trial Bureau operated in compliance with the procedures explicated in its approved grant application. No grant adjustments relative to programmatic operations were necessary. The grant was implemented without delay and was efficiently administered. The program has functioned in its intended purpose of supporting the concept of the Career Criminal Bureau by providing legal representation indigent defenders.

Goal number one for the program relates to the quality and amount of preparation time available to attorneys handling CCB cases. Measuring the quality of defense preparation is basically a subjective assessment in the short run and as such is not addressed in this report. If further research is forthcoming for long range effects, it is suggested that such methods as reviewing any appeals which are upheld based inadequacy of defense be employed. Because of the nature of the appellate process, this must be a long range project. With reference to increasing the amount of preparation time for cases prosecuted under CCB, attempts were made by project personnel to formalize the notification process between the STB and the CCB. It should be remembered that the decision to prosecute under CCB rests with the District Attorney's Office. While no formal process has been established, informal relationships between the CCB and STB have resulted in an increase in early notification. In addition to further increase preparation time, OIDP attorneys are present during the arraignment

hearing.

Goal number two refers to providing defense counsel for all qualified individuals prosecuted under CCB. The STB initially received 53% of all cases prosecuted under CCB which included all those eligible. Twenty-nine cases prior to disposition were either found to be ineligible after investigation or the defendant withdrew in favor of private attorneys.

Goal number three refers to the prevention of increasing caseloads for IODP attorneys. Prior to the establishment of the STB, the average caseload was about 22 cases per month. After implementation of the grant, OIDP caseloads have averaged 17 per month, which clearly reflects the removal of CCB cases.

In addition to the above goal accomplishments, the STB attorneys offered training to OIDP personnel and acted as section supervisors.

The STB has complied with the conditions of the approved grant application and have made substantial progress toward the attainment of its goals. While the lack of formal notification procedures between the CCB and the STB does not appear to detract from the program's ability to provide defense function, the implementation of a formalized process could work to enhance operations. The problem anticipated as a result of no formal process (motions to continue) did not occur. Caseloads for both OIDP and STB attorneys have remained comparatively low, which should result in more time to prepare quality defenses.

It is recommended that the STB continue in its supporting function of the CCB, even if funding will allow operations only

at a lower staff level than is presently enjoyed. Since the workload projections for the STB were largely over-estimated, it is suggested that continued funding of this project be commensurate with the actual caseloads as reflected in this report. The OIDP has made arrangements through legislation to assume the cost of the STB at the end of federal funding.

