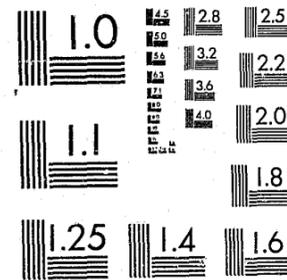


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NEW YORK STATE DIVISION OF  
CRIMINAL JUSTICE SERVICES

CAREER  
CRIMINAL  
PROSECUTION  
PROGRAM REPORT.

HUGH L. CAREY, GOVERNOR  
FRANK J. ROGERS, COMMISSIONER

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Finally, we are indebted to the district attorneys of the participating counties and their staffs who worked unsparingly with us to carry out this innovative state-federal partnership effort.

June 1, 1980

Karen Schoenberg, Director  
New York State Career Criminal  
Prosecution Program

**NCJRS**

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**A** DISPOSITIONS

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FOREWORD

In recent years it has been statistically demonstrated that a small percentage of individuals are responsible for a disproportionately large percentage of serious criminal acts. Growing public awareness and concern led to the creation by LEAA of a national program designed to intensively prosecute and incarcerate such "career criminals" and thereby to reduce their opportunities to commit subsequent criminal offenses.

In the spring of 1978, LEAA requested the Bureau of Prosecution and Defense Services (BPDS) of the State Division of Criminal Justice Services (DCJS) to conduct research on the career criminal problem in New York State. This research conclusively determined that the major problem confronting New York district attorneys regarding the increasing rate of serious crime in their counties was the lack of adequate resources to investigate and prosecute career criminals either expeditiously or effectively. In many instances, this had resulted in inappropriate misdemeanor pleas and/or case dismissals.

This problem clearly transcended the jurisdictional, geographical and demographical characteristics of all counties and therefore had to be addressed on a statewide basis. As a result, the New York State Career Criminal Prosecution Program was established on October 1, 1978 with a \$2,000,000 grant from LEAA. It was the first effort by LEAA to coordinate and maximize the swift and intensive prosecution of career criminals on a statewide basis mustering statewide resources. Twelve district attorneys' offices, together with New York County which already

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had an operational program, were included in the statewide program. The twelve counties are Albany, Broome, Chemung, Erie, Nassau, Onondaga, Orange, Rockland, Steuben, Suffolk, Ulster and Westchester. On June 1, 1979, a second year discretionary grant award was made to Monroe County for continuation of their career criminal project. Although fiscally a separate grant, Monroe County became programmatically part of the statewide program on that date.

At the same time, the Governor and the New York State Legislature explicitly recognized the problem as statewide in nature and, consequently, conceived and enacted the Major Violent Offense Trial Program legislation. This legislation created a new classification of crime, the violent felony offense, including specific grades of homicide, robbery, forcible sex offenses, kidnapping, arson, assault and burglary. It created two new classifications of repeat offenders, the second violent felony offender and the persistent violent felony offender. It restricts plea bargaining in violent felony cases and substantially increases the mandatory minimum and maximum terms of imprisonment for repeat violent felony offenders.

The New York State Career Criminal Prosecution Program directly addresses the same problem for which the Major Violent Offense legislation was enacted. The crimes targeted by LEAA are virtually identical to those targeted by the State Legislature for more vigorous prosecution and punishment. Restriction of plea bargaining and priority prosecution of repeat felony offenders are elements which correspond to the intent, design and effect of the Major Violent Offense legislation.

Special court parts were established under the Major Violent Offense legislation in six of the fourteen counties with career criminal projects. Career criminal cases were subsequently designated as the number one priority in these court parts. In the eight remaining counties with career criminal units, the district attorneys generally set the court calendars and they joined with the Legislature in designating career criminal cases to receive the first priority in their regular felony trial parts.

From the inception of both programs, New York has consistently taken the view that they represent a joint state and federal effort to provide a statewide solution to a statewide problem. That LEAA shares this view was confirmed by its decision to recognize the State funds appropriated for the Major Violent Offense Trial Program as the fifty percent State share for the federal career criminal funds provided for continuation of the statewide program.

Responsibility for establishment, monitoring and evaluation of the program was given to BPDS. This report details the formulation of the program and its operation during the seventeen months of the initial grant period from October 1, 1978 through February 29, 1980.

SUMMARY OF IMPACT\*

A. Case Load

The New York State Career Criminal Prosecution Program accepted 1,292 defendants for prosecution since inception, 1,016 of whom were criteria defendants. The program disposed of 698 defendants, 568 of whom were criteria cases.

During program start-up, 29 prosecutors were actively engaged in the project; by July, 1979, the full staff of 39 prosecutors was in place and accepting cases into the program. The average case load for the program was about 33 accepted cases and 18 dispositions per attorney.

B. Defendant Profile

1. Mobility

Since inception, 43 percent of the career criminal defendants accepted into the program had prior criminal records reflecting offenses outside the county of the instant offenses and 22.8 percent had out of state priors. Two out of three career criminal defendants accepted by the program had been committing crimes beyond the boundaries of one jurisdiction, representing a more than local menace.

2. Age

Fifty-seven percent of the career criminals accepted by the program were in their twenties as opposed to 35 percent statewide, yet

\* All New York statewide statistics are derived from the 1978 Report -- Crime and Justice, and 1978 Quarterly Report Indictment Through Disposition.

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half as many career criminals as statewide felony defendants (17 percent versus 30 percent) were twenty years old or less. The program accepts only defendants with proven criminal histories and still in their high crime years.

3. Criminal History

Seventy percent of the career criminals prosecuted by the program had at least two prior felony arrests and one felony conviction as against 21 percent statewide. The average program defendant had 14 prior arrests, four of which for target crimes, and five prior convictions, one of which for a felony. Nine out of ten career criminal defendants had been previously convicted of a target crime (burglary, assault, homicide, rape, robbery, arson, or kidnapping). The 1,016 criteria defendants accepted for program prosecution had a collective total of 13,962 prior arrests and 4,867 prior convictions.

4. Prior Legal Restraint and Jail Status

Fifty-one percent of the career criminals accepted for prosecution by the program were on bail, probation, parole or other legal restraint at the time of their arrests for the instant crime. Eighty-four percent of accepted defendants were incarcerated awaiting trial on the instant case with 13 percent out on bail and 3 percent free on their own recognizance. The amount of crimes prevented by this high pretrial incarceration rate is suggested in the high rate of pre-arrest legal restraint evinced by these defendants.

C. Dispositions

Ninety-seven percent of the 568 criteria dispositions realized by

the program were convictions, 1.8 percent were acquittals and 1.4 percent dismissals after superior court filing. Of the convicted defendants, 77 percent were convicted of the top charge in the superior court filing and 23 percent of a lesser charge.

The trial rate at 20.2 percent of convictions is some two and one-half times the statewide trial rate of 8.7 percent. Correspondingly fewer pleas were realized by the program at 79.8 percent compared to 91.4 percent statewide. Nearly one quarter of the project cases went before a jury (22.2 percent) compared to less than 10 percent statewide.

It required an average of 129 days for career criminal cases to reach disposition after arrest compared to 199 days statewide. Although the much higher trial rate naturally inflated disposition time in program cases, the project still reduced the statewide time lapse by some 35 percent.

D. Sentences

Since project inception, 97.7 percent of all sentenced career criminal defendants have received some incarceration compared to 59.7 percent statewide. Two and one-half times more project sentences were to state prison (89.7 percent) than statewide (36.8 percent). Conversely, some three times more statewide sentences were to local jail (22.8 percent) than career criminal (8.0 percent) and thirteen times more statewide sentences were to probation (32.4 percent) than program sentences (2.3 percent).

The average mean prison sentence length for career criminal defendants was 6.6 years. In addition, 50.9 percent of all program sentences were enhanced as second felony offenders with mandatory prison sentences while only 6.5 percent were so enhanced statewide.

I. PROGRAM OBJECTIVES

The New York State Career Criminal Prosecution Program establishes priority prosecution units in selected district attorneys' offices across the State. Its primary goal is to strengthen and coordinate prosecutorial capability to give priority emphasis to the identification, prosecution, conviction and incarceration of career criminals and to thereby reduce their opportunities to commit subsequent criminal offenses.

There are six program objectives:

FIRST: Increased apprehension and expeditious prosecution of individuals whose criminal history indicates repeated commission of targeted serious and violent criminal acts;

SECOND: Reduction in the number of pretrial release or bail decisions made without knowledge of the career criminal defendant's criminal history;

THIRD: Reduction in the incidence and duration of pretrial, trial and sentencing delays;

FOURTH: Elimination of plea or sentence bargaining in career criminal defendant cases except in extraordinary circumstances;

FIFTH: Increased police/prosecutor cooperation and mutual coordination in case preparation and presentment at each stage of the adjudicatory process; and,

SIXTH: Reduction in the number of dismissals for reasons other than the merits of the case by insuring that all necessary evidence is collected and obtained by police in an admissible manner and enhancing

and imposing methods for obtaining the cooperation of key witnesses and complainants.

Specific results of the New York State Career Criminal Prosecution Program are detailed in Section VII of this report and in Appendices A and B.

## II. PROGRAM GUIDELINES

### A. Target Crimes

LEAA's target crimes for career criminal prosecution are homicide, robbery, rape and other forcible sex offenses, assault and burglary. The New York State program added the target crimes of arson and kidnapping. An attempt to commit any of the foregoing also constitutes a target crime.

Even at the very earliest stage it was recognized that each jurisdiction had its own criminal justice needs and priorities. It was determined therefore that considerable flexibility should be encouraged in prioritizing these target crimes. Some counties had proven to be plagued by serious residential burglaries, others by street robberies. The emphasis to be placed on which crimes to target for career criminal treatment had to be left to those most responsive to the community.

### B. Selection Criteria

Selection criteria also permissibly varied between jurisdictions subject to the requirement that they be predetermined and even-handedly applied. Some counties chose to require a minimum of one prior felony

conviction, others a minimum of one prior felony conviction or two/three prior misdemeanor convictions.

At least one prior felony conviction will be necessary for acceptance under the LEAA-imposed term of the continuation grant. This requirement was universally opposed by program prosecutors. The experience of those counties which had initially selected this requirement disclosed that they were missing a large portion of the criminal population who were "hardcore" career criminals but who had managed to manipulate the system and remain free of any felony convictions because of the plea bargaining practices of the past. Others who failed the prior felony test but who were considered career criminals by program prosecutors were those who had several juvenile dispositions or youthful offender adjudications for crimes that normally would have been felonies.

Non-career criminal co-defendants charged along with career criminal defendants in the same case may also be prosecuted by the program (as permitted by LEAA guidelines). However, such defendants are not held to the rigid plea or sentence bargaining limitations of the program.

One policy of the statewide program has always been absolute. Since the goal of the program is conviction and incarceration of the most heinous career criminals and not the creation of artificial statistics, career criminal cases may only be selected according to the seriousness of the crime charged and the extent of the defendant's criminal record. Ease of proof is an impermissible standard for selection.

### C. Other Program Elements

In addition to the foregoing, each jurisdiction is required to include in their projects the elements of:

1. Screening and evaluation of all felony cases to identify career criminal cases according to predetermined and even-handedly applied selection criteria.

As noted heretofore, each jurisdiction established and maintains selection criteria in conformance with LEAA guidelines. All felony cases are screened either by a screening bureau, which refers possible criteria cases to the career criminal project for further screening, or, in the smaller jurisdictions, the project screens all felony cases initially.

2. Assignment of senior prosecutors to career criminal cases.

All prosecutors assigned to the statewide program are senior trial attorneys well established in their respective offices.

3. Individualized and thorough case preparation and vertical prosecution.

Experienced trial attorneys handle each career criminal case from acceptance in the program, guiding investigation and case preparation always with an eye toward eventual trial. More than twice the statewide trial rate has obtained in career criminal cases. Better than 95 percent of all career criminal cases have resulted in convictions, a fact generally attributable to thorough case preparation.

4. Witness coordination.

Methods and procedures were developed and implemented to insure witness coordination and cooperation.

5. Case data collection and analysis to assess project effectiveness.

As will be discussed in greater detail in Section III of this report, the administrative unit developed a data collection instrument (case report) which must be completed for every case accepted into the statewide program, whether for criteria or non-criteria prosecution. A case report is also completed for rejected criteria cases. The case progress from arrest to sentence is included on the report. Monthly, after acceptance of a case and again after disposition and sentence, these reports are forwarded to the administrative unit for data collection and analysis. Criminal histories are attached to all case reports submitted upon case acceptance or rejection of a criteria case.

6. Making of recommendations on behalf of the State with respect to parole or early release of persons convicted as career criminals.

Using the New York County career criminal project as a model, the administrative unit encouraged each jurisdiction to devise a parole recommendation letter to be completed at sentence and inserted in the case file. State parole boards are sent recommendations only when the defendant becomes eligible for parole, after serving his minimum term, which may be years after sentence is imposed. By this time, the case has grown stale, the assigned prosecutor may have left the office or forgotten important details, and the result is a recommendation for or

against parole that is based entirely on an old case file. Parole letters drafted at sentence by the assigned prosecutor and identifying the defendant as a career criminal best represent the interest of the People at early release hearings.

The statewide program has not been operational long enough to determine the need for in-person representation of the People at parole hearings. However, being designated a career criminal significantly reduces the likelihood of early parole at the conclusion of minimum sentence and, at least at this stage, it appears that in-person representation generally is not required.

D. Integration with PROMIS

Seven of the eight counties awarded funds for PROMIS on October 1, 1978 also participate in the Career Criminal Prosecution Program, namely, Albany, Broome, Erie, Onondaga, Rockland, Steuben and Westchester. Each is required by virtue of its Career Criminal Prosecution Program agreement to utilize PROMIS, when operational, to conduct such research about the career criminal project as the administrative unit shall require.

The benefits of the integration of these two programs have been well documented in the District of Columbia where it was reported that PROMIS helps manage the prosecution of career criminals as:

1. Identification of defendants who have more than one case pending in the same court system provides for more efficient management through -

- a. special assignment to career criminal prosecution project;

- b. influencing bail decisions;
- c. consolidation of cases before the same judge;
- d. use of one case as leverage in settling another case;
- e. coordination among assistant district attorneys; and,
- f. alerting prosecutors about other cases prior to their negotiations with defense counsel.

2. Identification of defendants on probation or parole permits special case handling through -

- a. special assignment to career criminal prosecution project;
- b. argument for revocation of probation or parole status;
- c. influencing the bail decision in the new case;
- d. filing of repeat offender charges; and,
- e. alerting prosecutors about other cases prior to their negotiations with defense counsel.

3. Comparative evaluation of career criminal and other cases by -

- a. disposition;
- b. post filing nolle and dismissals - rate and reasons;
- c. trial dispositions;
- d. time to disposition; and,
- e. sentencing - incarceration and length of incarceration.

4. PROMIS helps with the research about the career criminal problem through -

- a. refinement of criteria for a jurisdiction's career criminal prosecution project;
- b. assessment of how much weight career criminal cases are actually receiving from the prosecutor;
- c. identification of factors which are clues to crime on bail;
- d. review of disposition patterns by seriousness of the defendant's record;
- e. assessment of the relationship between the defendant's criminal record and the sentencing decision;
- f. assessment of the relationship between case outcome and recidivism; and,
- g. comparison of recidivism of defendants handled by career criminal prosecution projects versus similarly situated defendants processed in the normal way.

PROMIS implementation has begun but the system is not yet operational. The objective of integrating PROMIS and the Career Criminal Prosecution Program remains the expectation for the continuation grant.

### III. PROGRAM MANAGEMENT

The Bureau of Prosecution and Defense Services was assigned responsibility for selection of participating counties and program management. A special unit was created within BPDS for statewide administration,

coordination and assessment of the program. Staff members included a director, assistant director, fiscal administrator and senior stenographer. The position of fiscal administrator was eventually eliminated because of the substantial cutback in funds available for the continuation grant. These duties were assumed by the director and assistant director.

#### A. Needs Analysis and Selection of Counties

Since this is a statewide program involving numerous local jurisdictions, the first step was to undertake an extensive evaluation of the need for career criminal prosecution projects in the State. The expertise of BPDS, which for the past several years has served as the sole prosecutor coordinator for the State, was called upon for this purpose.

After an analysis by BPDS of the crime patterns, rate of recidivism and local available resources, thirteen representative district attorneys' offices of varying sizes and geographical locations were selected as potential projects. Most of these offices were also selected by BPDS as possible projects for the Statewide Prosecutors Management Information System (PROMIS) Program so that both projects could be integrated and their impact assessed on an individual and coordinated basis.

#### B. Negotiating Process

In July 1978 a joint meeting of all potential projects for the New York State Career Criminal Prosecution Program was held in Albany. At that time, the goals, objectives, operation and administration of the program were explained. The district attorney of each jurisdiction, with the exception of New York County, was requested to submit a concept

paper to BPDS providing a percentage of career criminal defendants or repeat offenders, where known, a description of each component of the criminal justice system, a description of the present case processes from arrest to trial, and a description of the proposed approach showing how career criminals would be processed and how this procedure varied from current practice.

The following represents a summary of LEAA requested statistical data by jurisdiction as of July 1978.

#### Albany

Albany County (county seat-Albany) has 14 full-time and three part-time members on their legal staff. In 1977, there were approximately 1,400 felony arrests, 426 indictments and 72 felony trials to verdict. The district attorney disposed of 35 convicted predicate felony offenders during this period. The average time between arrest and indictment is 35 days.

#### Broome

Broome County (county seat-Binghamton) has six full-time members on their legal staff. In 1977, there were 457 indictments and 452 felony convictions. Approximately 75 percent of the convictions for violent crimes involved repeat or habitual offenders.

#### Chemung

Chemung County (county seat-Elmira) has two full-time and four part-time members on their legal staff. In 1977, there were 311 indictments, of which about 75 were predicate felons. The average time between arrest and indictment and between indictment and disposition is 14 days and 150 days respectively.

#### Erie

Erie County (county seat-Buffalo) has 67 full-time members on their legal staff. There are approximately 5,000 to 6,000 felony arrests, 1,200 to 1,500 indictments and 190 to 300 felony trials each year. It is estimated that 180 to 300 of the felony arrests involve predicate felony offenders. The average time between indictment and trial is 335 days.

#### Nassau

Nassau County (county seat-Mineola) has 92 full-time members on their legal staff. In 1977, prosecutions were initiated against approximately 4,000 defendants arrested for felony crimes. An estimated 230 were convicted and sentenced as prior felony offenders. An even greater number of defendants, while not convicted felons, had an extensive history of criminal activity. The average processing time from arrest to indictment is 60 days (including pre-indictment investigation and conferencing) and from indictment to disposition, 80 days.

#### Onondaga

Onondaga County (county seat-Syracuse) has 25 full-time members on their legal staff. In 1977, there were 2,000 felony arrests and 431 indictments, 53 superior court informations involving 628 defendants, 30 of whom had predicate felony convictions. It is estimated that 40 percent of all criminal defendants have a multiple prior record. The average time between arrest and indictment is 42 days and between indictment and disposition, 116 days.

Orange

Orange County (county seat-Goshen) has 11 full-time members on their legal staff. In 1977, there were 376 indictments, 332 felony dispositions and 28 second felony offender convictions. In Newburgh City alone, 118 prior felons were arrested during this same period. The median time between arrest and indictment and between indictment and disposition is 42 days and 66 days respectively.

Rockland

Rockland County (county seat-New City) has 15 full-time members on their legal staff. In 1977, there were 251 indictments and 253 felony dispositions. There are approximately 7,000 arrests per year of which 750 are for felonies. It is estimated that 20 percent of the defendants indicted are repeat criminal offenders. The average time between arrest and indictment is 14 days on felony jail cases and 28 days on non-jail cases. The average time between arrest and disposition in all cases is 90 to 115 days.

Steuben

Steuben County (county seat-Bath) has one full-time and three part-time members on their legal staff. In 1977, there were 192 indictments. However, an additional 250 defendants arrested for felonies were not indicted and were disposed of in the local criminal courts due to inadequate prosecutorial resources. It is estimated that 20 percent of the felonies are committed by career criminals. The average time between arrest and indictment generally exceeds 60 days.

Suffolk

Suffolk County (county seat-Riverhead) has 80 full-time members on their legal staff. From January 1, 1977 through June 30, 1978, there were 3,650 indictments. Of the 487 defendants indicted for the target crime of robbery, 69 percent had prior arrests, 54 percent had prior felony arrests, 16 percent had a prior conviction and 11 percent had a prior felony conviction. Of the 821 defendants indicted for the target crime of burglary, 62 percent had prior arrests, 40 percent had prior felony arrests, 24 percent had prior convictions, and nine percent had prior felony convictions. Of the 133 defendants indicted for rape, 109 had criminal records showing 48 percent had prior arrests, 12 percent had prior felony arrests, 17 percent had a prior conviction and three percent had a prior felony conviction. Of the 223 defendants indicted for assault, 188 had criminal records showing 45 percent had a prior arrest, 25 percent had a prior felony arrest, 22 percent had a prior conviction and nine percent had a prior felony conviction.

Ulster

Ulster County (county seat-Kingston) has three full-time and five part-time members on their legal staff. In 1977, there were 162 indictments and 114 felony convictions. It is estimated that 25 percent of the defendants indicted are repeat criminal offenders. The average time between arrest and indictment is 90 days and between indictment and disposition is 270 days.

### Westchester

Westchester County (county seat-White Plains) has 84 full-time members on their legal staff. In 1977, approximately 350 defendants having a prior felony conviction were arraigned on all types of crimes and approximately 200 of those defendants were indicted. In addition, there were approximately 200 defendants who had three misdemeanor convictions, 25 defendants with three prior felony arrests and approximately 25 defendants with five misdemeanor arrests and one conviction or six misdemeanor arrests, for a total of 450 indictments of the 974 indictments filed. The average period to process a defendant from arrest to indictment is 30 days, from indictment to trial is 125 days and from conviction to sentence is 35 days.

During August 1978, BPDS analyzed the concept papers submitted. Although the approach necessarily varied according to the individual problems and characteristics of a particular county, each jurisdiction demonstrated a higher than average rate of serious crime and recidivism and a clear lack of resources to adequately deal with this problem.

Where appropriate, minor programmatic adjustments were made. A meeting was held with each district attorney to review the administration and operation of the program and to explain federal and statewide requirements. After these matters had been settled, budget requests were reviewed, modified and approved. A second meeting was

held with each district attorney at which time notification of acceptance into the statewide program was given and administrative and fiscal requirements were detailed. Appendix C indicates the breakdown of grant funds. Appendix D indicates the breakdown by county of project personnel.

In early September 1978, the grant application was prepared and submitted to LEAA together with an implementation and operations plan. Upon formal approval of the application a joint press conference was held in New York City by DCJS and LEAA and announcement of the \$2,000,000 grant award was made.

### C. Preparatory Program Steps

Funding of a statewide career criminal prosecution program was a new concept to LEAA when the New York grant was awarded. As a result, while participating jurisdictions could draw upon the experiences of previously funded local projects, the administrative unit had no model upon which to pattern administrative methods and controls.

As a first step, a meeting was held with the LEAA program manager to discuss development of the data collection instrument, design and implementation of an information and statistical system, and reporting procedures and requirements. It was learned at that time that LEAA had a specific reporting form, the Quarterly Statistical Summary Report (QSSR), required of all funded projects. While for LEAA's purposes only one QSSR was desired for the entire statewide program, the administrative director concluded that unless a QSSR was prepared and made available on an individual project basis, ongoing self-assessment by the

participating jurisdictions could not be realized. The QSSR was replaced by the Quarterly Defendant Processing Summary (QDPS) in July 1979.

The administrative director then met with the assistant district attorney in charge of the New York County project with a view toward technological transfer of operational procedures to other participating counties. Preliminary review, however, disclosed that such transfer to other New York jurisdictions was questionable at best due to the large variance in size.

A data collection instrument (case report) was developed and distributed in November 1978 (copies of the original and revised versions are included as Appendix E). All jurisdictions were instructed to submit a case report for (1) each case meeting the selection criteria of the project based upon the charges alleged by the police or a citizen complainant at time of arrest, whether accepted or rejected by the project, and (2) each case accepted by the project which did not qualify under the formal selection criteria.

The case report is submitted at two stages of the criminal process. The original copy is submitted after superior court filing (unless this will not occur until a substantial time after arrest in which event it is submitted after arrest and again after superior court filing). The final copy is submitted after sentencing (or after disposition if by dismissal or acquittal). For administrative purposes, each case report is assigned a number by the particular project. A project is free to utilize any numbering system it desires.

The purpose of this requirement is twofold:

1. It enables the administrative unit to analyze the crimes and criminal histories of the defendants selected to determine whether program objectives and guidelines are being followed and particularly to insure that less serious but easily provable cases are not being selected to secure an unusually high conviction rate; and,

2. Given the already cumbersome reporting requirements placed upon the district attorneys and the lack of grant funded data analyst positions in the vast majority of jurisdictions, it was recognized that the necessary statistical information could only be developed if the raw data alone was requested and the administrative staff performed the actual data analysis. As will be evident later in this report, the necessity of this procedure was most apparent in the area of accurate documentation of career criminal defendants' prior arrests and prior known convictions.

A meeting was also held with the DCJS administrative unit responsible for the monitoring of the Major Violent Offense Trial Program to coordinate evaluative and comparative efforts and to determine whether a joint reporting form could be devised. Regarding the latter, efforts at such development proved unsuccessful because of the diverse information required by both programs.

Agreements were prepared and forwarded to the appropriate jurisdictions in November 1978. Although the agreements contained detailed reporting requirements, considerable confusion was expressed by various project directors as to exactly what was required -- especially in the narrative progress reports. As a result,

more comprehensive descriptions of programmatic and fiscal reporting requirements were prepared and distributed. Copies are appended hereto as Appendix F.

#### IV. PROGRAM IMPLEMENTATION

As the following procedural outline will demonstrate, the formal implementation of the New York State Career Criminal Prosecution Program was significantly more complex than that of a direct grant award to a single jurisdiction. Implementation required:

1. Grant award from LEAA to DCJS;
2. Preparation and execution of the subcontract between DCJS and BPDS;
3. Preparation and distribution of the agreement between BPDS and the 13 counties;
4. Approval of the agreement by the appropriate county legislatures;
5. Review and execution of the agreement by the appropriate county officials;
6. Approval and classification of project staff positions by the appropriate county Department of Civil Service, where required;
7. Approval and classification of BPDS administrative staff positions by the New York State Department of Civil Service;
8. Approval and certification of the subcontract and each agreement by the New York State Division of the Budget; and,
9. Approval and certification of the subcontract and each agreement by the Office of the New York State Comptroller.

All jurisdictions were advised that (1) it would take several months for the cumbersome procedures outlined above to be accomplished, and (2) until final State approval and certification had been obtained, neither the state nor federal government was liable for local expenditure of any funds for the program. Therefore, if they elected to start operation once local legislative approval had been obtained, they ran the risk of county liability for funds expended should the requisite approval and certification be denied.

Despite such potential liability, once local approval had been received each district attorney, in turn, was authorized by his county to commence operation in anticipation of reimbursement under the grant. Some jurisdictions started operation by January 1, 1979; however, inherent processing delays in other counties made start-up impossible until February, April and even July 1979.

#### V. PROGRAM OPERATION

##### A. Administration

##### 1. Introduction

Before discussing the particulars of administering the New York State Career Criminal Prosecution Program, two critical points must be made.

First, it was absolutely essential at the outset of the program to establish the proper relationship between the administrative unit and the participating projects. This relationship is essentially the same as exists between LEAA and direct grantees; that is, BPDS plays an

administrative and evaluative role but does not, and should not, get involved in project decision making or everyday operations. Since this was the first statewide program in New York, a great deal of confusion about the nature of this association became evident early in the program when project personnel began to telephone the administrative unit as to whether particular cases should be accepted. Such telephone inquiries were met with a uniform response -- the administrative unit would provide any clarification needed on target crimes, selection criteria, program objectives and the like, but would neither discuss the facts of individual cases nor offer any opinion as to whether or not they should be accepted.

Second, strong personal working relationships must be quickly established between administrative staff and project personnel. Mutual trust must be created where open and candid discussion can be maintained about all problems, whether minor or serious. Administrative staff must evidence an attitude of flexibility in permitting jurisdictions to try different approaches to particular problems so long as they are within programmatic guidelines. Unless such attitudes are engendered, project personnel will feel constrained to discuss problems with which they are faced and meaningful self-assessment and evaluation will be impossible.

## 2. Approach

### a. Administrative Controls

Each project is required to submit monthly fiscal cost reports and quarterly performance reports to the administrative unit. The unit analyzes each report and includes all relevant information in the state-

wide financial and program performance reports submitted to LEAA. Each project also forwards on a monthly basis the individual case reports required by the administrative unit.

As project directors were assigned, personal contact was initiated by the administrative director wherein the operation and administration of the program were discussed in detail. It was apparent from these discussions that project directors were not always adequately informed of the requirements and objectives of the program and that prompt telephone contact prevented the occurrence of serious problems. Regular telephone contact was then maintained with each district attorney and project director throughout the grant.

### b. Technical Assistance

The administrative director and assistant director made on-site visits to all projects early in the grant to provide technical assistance, assure program coordination, diagnose problems and recommend corrective measures.

A detailed plan of approach was developed for the on-site visits. Initially, project staffs were asked to discuss any problems which had not already been noted in performance reports. Problems encountered by other participants in the statewide program and out-of-state jurisdictions were then explored. As each problem was presented, alternative solutions were recommended. The particular solution to be adopted was left to the discretion of the project director, the only requirement being that experiences and insights gained from the method chosen be documented in subsequent performance reports. Various administrative

and operational procedures were then suggested in the areas of relationships with victims, witnesses and other criminal justice agencies, office morale, self-assessment and office management information systems, which should be considered as a potential means of increasing project effectiveness.

Periodic on-site visits should always be conducted in any statewide program. From the viewpoint of the projects, they provide reassurance that the problems encountered have been experienced in other jurisdictions and that satisfactory solutions have been found. From an administrative standpoint, they provide an opportunity to review the operation of each project and to reiterate the policies, goals, objectives and procedures of the statewide program. Most importantly, they serve to reinforce the personal working relationships so critical to successful operation and evaluation of the program.

#### c. Statewide Conferences

Statewide conferences enable the participating jurisdictions to discuss programmatic concepts; techniques and experiences and to explore solutions to common problems.

The first conference was held in Syracuse on August 23-24, 1979. The administrative unit prepared and distributed a conference handbook containing forms and materials developed by career criminal units both within and outside New York. Included were sample case evaluation forms and letters to victims, witnesses, police departments and other criminal justice agencies, defendants, and defense counsel on such subjects as case screening and acceptance, bail, notice of court appearances, and

post disposition letters of appreciation and opposition to early parole. The handbook also provided an information sheet listing the name, address, telephone number and name of project director for each of the jurisdictions in the statewide program. This is especially important because it enables units to maintain direct contact with each other and thereby facilitate prompt resolution of particular problems as they arise.

Although a formal evaluation was not required, project directors were telephoned to obtain their assessment and suggestions for future conferences. The item most frequently mentioned was the need to instruct individual counties on how they might best utilize the statistics generated for their own projects and for the state as a whole. This suggestion was utilized in preparing for the second statewide conference.

It is noted that considerable difficulty was experienced in collecting the forms and materials for the conference handbook. This problem is discussed in Section VI of this report.

The second statewide conference was held on February 1, 1980 at the office of the Westchester County district attorney. Deputy Commissioner Adam D'Alessandro, in charge of DCJS Identification and Data Systems, travelled from Albany to attend the meeting and discuss the recurring difficulties regarding criminal histories and lack of facsimile transmission equipment in certain counties and one jurisdiction's proposal for development of a computer program to expedite the earliest possible identification of career criminals (EPICC). As envisioned by this project, EPICC would use the DCJS computer facilities to provide a daily printout of all arrests for target crimes and then cross-index this

information with the defendants' criminal histories. Arrestees falling within program criteria would thereby be identified at the earliest possible time.

As a first step in developing a computer program for early identification, it was agreed that any criminal history showing at least one prior felony conviction (reflecting the new LEAA guideline) and a current arrest for a target crime would be designated "Career Criminal Candidate" thereon. Pursuant thereto, the administrative director sent Mr. D'Alessandro a list of the Penal Law sections corresponding to the target crimes for the statewide program.

Regarding facsimile equipment, Mr. D'Alessandro advised that the State is attempting to secure such equipment for placement in all career criminal jurisdictions. He noted, however, that delay in receipt of criminal histories is more often than not the result of late submissions by police agencies. This will be discussed in greater detail in Section VI of this report.

A number of jurisdictions expressed interest in purchasing or renting facsimile equipment for the district attorney's office and requested more detailed information as to the type of equipment necessary, its purchase or rental cost, and the personnel required for its operation. This information is presently being compiled by members of Mr. D'Alessandro's staff and will be provided to all counties by the administrative director when received.

d. Monitoring

On-site monitoring visits were conducted to analyze programmatic and fiscal procedures, operations and overall project effectiveness.

All jurisdictions were found in full compliance with programmatic, operational and fiscal guidelines and procedures. In-depth discussions were held regarding individual project effectiveness as compared to statewide results thus far obtained.

e. Program Assessment

Specific indications and measures developed by LEAA to assess program results include:

1. Number of crimes committed by career criminals and general rate of crime;
2. Number of cases selected for career criminal treatment and the selection criteria used;
3. Case load per career criminal assistant district attorney;
4. Number of pretrial release or bail decisions made without knowledge of the career criminal defendant's criminal history;
5. Average time between arrest and indictment, indictment and disposition, and disposition and sentencing for career criminal prosecutions;
6. Number of incidents and duration of pretrial, trial and sentencing delays in career criminal cases;
7. Number of career criminal cases where plea or sentence bargaining has occurred;
8. Rate of conviction for career criminal prosecutions and whether by trial or by plea;
9. Number of dismissals of career criminal prosecutions for reasons other than the merits of the case; and,

10. Number of career criminal cases where the State was represented at parole or early release hearings.

Most of this information is captured by the QSSR and QDPS. However, neither reflects critical qualitative or quantitative comparison between program results and the processing of felonies throughout any particular jurisdiction.

On the other hand, because the New York State Career Criminal Prosecution Program is coordinated and evaluated by the State, the administrative unit is able not only to require individual career criminal case reporting but, in addition, has access to statewide non-career criminal felony case data. Therefore, comparative statistical data on non-career criminal case processing and disposition, unavailable to the federal government, has been used to measure the true impact of the program. Since the same statutes, principles and parameters govern both career criminal and non-career criminal cases statewide, discernible patterns that have emerged could be correlated to the elements and operation of the program.

Comparison of results between programs in different states cannot be effectively performed without disparities in statutes and practices being considered. For example, the statutory period for pretrial defense motions may vary significantly between states. Since delay is beneficial to the defense, defense attorneys often utilize the entire statutory period to which they are entitled with the result that those states with a longer pretrial motion period will have a correspondingly inflated time lapse to disposition.

Furthermore, the administrative unit recognized that it had to accurately reflect the statutes and practices in New York State when submitting statewide data to LEAA. For example, in New York consecutive sentences cannot be imposed for conviction of multiple charges arising out of the same transaction. A defendant may only be sentenced on the highest count of which he is convicted because the sentences on the remaining charges merge. If the court erroneously imposes concurrent sentences in this circumstance, the lesser sentence(s) must be vacated. This is separate and distinct from the question of lesser included offenses which in New York are not charged on an indictment. The result, however, is the same. A defendant cannot be sentenced on a lesser included offense if convicted of the greater.

LEAA instructions for the QSSR and QDPS provide that if a lesser included offense has the same maximum prison sentence as the highest charge, a defendant may be considered to have been found guilty as originally charged even though actually convicted of the lesser included offense. The length of sentence which may be imposed is determinative, for statistical purposes, of how the disposition is recorded. In light of this policy, it was recognized that even though charges that are merged in New York State are technically "dismissed," it would be misleading to reflect them statistically as dismissals since the dismissal does not reduce the defendant's sentence exposure.

Statistics for the entire grant period are contained herein as Appendices A and B (LEAA Statistical Summary Report and Comparison of Program Results with New York Statewide Statistics). A cumulative QDPS

could not be prepared because utilization of this form did not commence until July 1979.

Statistics in and of themselves cannot reflect all the variables inherent in the operation and progress of the program. Nevertheless, if they are to be used as a measure of the program's success, the comparison statistics are decisively more meaningful because it is only by comparing career criminal cases with cases of similar crimes in a jurisdiction (state) with the same laws and criminal procedure that realistic evaluation can be accomplished. Eventual institutionalization is the aim of the statewide program. The statistical studies have been designed toward this end by demonstrating career criminal effectiveness versus the effectiveness of non-career criminal prosecutions in New York State.

f. Assessment of Program Impact on Indigent Defense Services

Since the time of initial application for funds for the New York State Career Criminal Program, DCJS recognized its obligation to conduct an assessment of program impact on indigent defense services in the participating counties and, if adverse impact be shown, to make every effort to obtain appropriate support for such defense services.

Assessment was contemplated in the initial grant period but due to significant start-up delays in various counties, including the major counties of Albany and Erie, the program was not fully operational until July 1979. Furthermore, for the first six months of operation program prosecutors spent most of their time disposing of non-career criminal cases in which they had been involved prior to start-up. Under these circumstances, evaluation during the initial grant period would have

been premature at best and at worst would not have identified any negative impact that did exist. However, analysis of the cases accepted by the program from October 1978 through December 1979 determined the breakdown of career criminal defense representation to be as follows: (1) 33.9 percent were represented by Legal Aid/public defender agencies; (2) 36.4 percent were represented by assigned counsel; and, (3) 29.7 percent were represented by retained counsel.

Even though the assessment was not completed during this grant period, several preparatory steps were taken. Agreement was reached between the administrative unit and the staff of the block grant funded Defense Services Assessment Project of the New York State Bar Association to jointly develop suitable questionnaires. The staff of this project are particularly knowledgeable in all aspects of indigent defense services and are quantitatively and qualitatively trained in research methodology and analysis.

Three separate questionnaires will be developed. Depending upon the type of indigent defense services in a particular county, a questionnaire will be sent to the public defender or chief attorney of the Legal Aid Society and/or the administrator of the Assigned Counsel Defender Plan and to appropriate superior court judges in all counties.

Initial drafts of the questionnaires were completed in December 1979. Final versions will be distributed during the first week of April 1980 and evaluation will be completed by July 1, 1980.

B. Field Operations

Each participating jurisdiction provided a detailed description of

project operating procedures in the first quarterly report following start-up. These procedures were reviewed by the administrative director to assure that they conformed to program guidelines.

The diverse nature of the thirteen participating counties makes it impractical to detail the precise operating procedures in effect in each and every county. Nevertheless, the following represents a cross-section of procedures implemented in various participating jurisdictions.

Procedures were established to screen felony arrests and process career criminal cases. In the largest jurisdictions, screening initially may be performed by screening bureaus that refer potential career criminal cases directly to the project. Adequate controls were established to insure that all appropriate cases were in fact referred although some difficulty was experienced. In medium-sized jurisdictions, project attorneys generally perform daily pre-arraignment screening of all felony cases in the city courts. Designated investigators of major police departments deliver to the project their respective agencies' arrest reports and accompanying papers on all felony arrests made the preceding day. In smaller jurisdictions without facsimile transmission equipment, daily telephone contact is initiated by project staff with each police agency in the county.

Personal contact was initiated with each of the numerous police agencies in the counties to educate them about the program, obtain their cooperation and establish the appropriate method for review of felony arrests. Letters were sent to all police chiefs along with criteria and methodology of contacting the attorney on 24-hour call. When it deve-

loped that the local "street cop" was not being fully informed about the program by the commanding officers, information posters outlining the program were printed and distributed to the police agencies for display. This increased the "rank and file" awareness of the program and the procedures to be used when an applicable arrest was made. A sample poster is included in Appendix G.

In one jurisdiction which has an integrated criminal apprehension program grant in a city police department, a screening mechanism was devised whereby the police department records staff "pull" jackets on all previously arrested subjects, check their criminal histories in respective jackets, and "red flag" those possibly fitting the career criminal criteria. Together with the facsimile transmission equipment provided at no cost by DCJS, this facilitates immediate identification of potential career criminal cases upon arrest. Joint meetings are held on a monthly basis.

Procedures were developed to have small police agencies expeditiously transmit fingerprint cards to DCJS and thereby reduce delay in receipts of criminal histories. This will be discussed in greater detail in Section VI of this report.

"Ready files" were assembled containing many of the forms designed by a project director and distributed in sufficient quantity to each project attorney to keep several at home and in his car so as to be available whenever a call came through.

A procedure manual was developed detailing how best to proceed in identifying and preparing career criminal cases. This manual will be

used to perpetuate a system which can be followed as personnel changes occur over the next few years.

Some jurisdictions were also successful in transferring career criminal cases to a single judge to reduce court calendar congestion.

Cumulative results of the procedures described above were evident in the response to the program by law enforcement personnel, defense counsel and defendants as described in Section VII of this report.

## VI. PROBLEMS AND SOLUTIONS

### A. Administration

#### 1. Processing

The inherent processing delays involved in a statewide grant of this magnitude, as described in Section IV of this report, were not realistically appreciated by all concerned. Sufficient recognition was not given to the extended period of time required to conclude a grant award involving one sub-grant and 13 separate agreements that had to be drafted, reviewed, approved and executed by numerous legislative and executive officials on the State and local level.

Simply put, without the willingness of the local governments involved to commit their resources prior to any legal obligation of repayment, the statewide program could not have become operational for a minimum of six months.

#### 2. Program Elements

Conversations with newly appointed project directors disclosed that the policies and procedures of the statewide program were

sometimes unsatisfactorily explained to them by their office personnel involved in the negotiation process. This disclosure underscored the need for prompt and personal discussions between the administrative director and those selected to run the projects on a day-to-day basis in the individual offices.

For example, in November 1978 it was determined that one project director was planning to continue the standard office conferencing procedure for career criminal cases. Under this procedure, a conference is held after preliminary hearing but prior to indictment at which time a plea to a lesser charge may be accepted. Furthermore, it was learned that under the present screening mechanism, initial determination of career criminal case acceptance or rejection often would not be made until time of conferencing.

As this represented a potentially serious problem, it was decided that informal resolution was inadequate and that a meeting with the local project director and those involved in the original negotiations was required. In early December 1978 this meeting was held at the administrative office and the screening and plea bargaining requirements of the statewide program were thoroughly reviewed. It was thereupon agreed that:

a. Cases must be screened for project prosecution at the earliest possible time and in any event prior to the conferencing stage; and,

b. Once a case has been accepted by the project, no plea can be taken except to the highest crime charged unless exceptional circumstances so require and are documented.

Also, more than one project director was under the impression that project attorneys could carry a regular office case load in addition to career criminal cases. As this was clearly contrary to program policy, the practice was immediately discontinued.

### 3. Local Reporting

#### a. Case Reports

Because the statistics that result from the case reports ultimately profile the type of defendant selected for prosecution as a career criminal, it was recognized that if the profile were to have any cohesive meaning the data obtained from each jurisdiction had to be predicated on a uniform statewide reporting standard. Institutionalization of the program would ultimately depend to a large extent on a statistically proven impact on the problem of the repeat criminal offender.

The following observations were made with respect to many of the participating jurisdictions.

#### 1) Screening Data

Cases are often preliminarily screened by the various projects in the small- and medium-sized jurisdictions shortly after commission of the crime but before criminal histories are received. Secondary screening for acceptance or rejection by the project occurs after the defendant's prior criminal record has been conclusively determined. For example, one jurisdiction reported that while the project screened 229 cases in the first quarter, only 17 defendants had the requisite criminal background.

It was unrealistic to require that a case report be submitted for all cases evaluated prior to the time the criminal histories were received. Even though the full screening activity would not be reflected on the QSSR and QDPS, any other procedure would result in needless time and effort being expended on the preparation of non-essential reports.

#### 2) Prior Arrest and Conviction Data

When the case report was developed, it was anticipated that the defendant's criminal history would be documented on the report. A criminal history would only be attached where there was insufficient space on the report to indicate the defendant's entire arrest and conviction record.

When the first QSSR was prepared, it was apparent that accurate criminal histories in fact were not being reported. This presented a two-fold problem. First, under-reporting of the prior criminal record distorted the true profile of the type of defendant selected for prosecution by the program and the rate of recidivism in general. Second, it inhibited the ability of the administrative unit to verify that only those defendants with the mandatory conviction record were being selected for the program.

As a result of this observation, all jurisdictions were instructed to attach the criminal history to each case report upon submission. The administrative unit then manually records the prior arrest and conviction data directly from the criminal histories.

### 3) Sentence Data

Statistics resulting from the case reports are cumulative and must be studiously followed up. In a limited number of instances, case reports received during the first quarter reflected dispositions with sentence pending but went unreported during the second quarter.

Since very few cases were involved, this represented only a potential problem. Nevertheless, as it was likely that sentence was pronounced in at least some of these cases, a directive was issued to all jurisdictions reminding them of their obligation to promptly report sentencing data and the problem was then satisfactorily resolved.

### 4) Sentence Enhancement Data

A sentence enhancement in New York is a status which, upon being established at sentencing, mandates that an increased term of imprisonment be imposed on the defendant. Although an enhancement is technically not a "charge," under the statistical system adopted by LEAA for the QSSR and BPDS enhancements are included as charges at intake, disposition and sentencing. Accurate reporting of enhancements therefore takes on increased importance.

In six of the reporting jurisdictions, enhancement data was not consistently reported. This was evidenced by the fact that enhancements either were not reported or they were reported at intake but not at disposition and/or sentencing.

In the majority of instances, the administrative unit was able to determine whether a particular defendant was a second or persistent felony offender from his criminal history. However, whether he was a

second or persistent violent felony offender was impossible to determine where the disposition was reported solely by letter grade, e.g., D felony, or the sentence imposed reflected a felony conviction without indicating the nature thereof. In those instances the administrative unit had to telephone the appropriate jurisdiction to determine this information.

All jurisdictions were asked to pay particular attention to the accurate reporting of sentence enhancement data. This alleviated the administrative burden in following up on individual cases. More importantly, it directed the prosecutor's attention to early designation of prior violent felony offenders and thereby insured that the substantially greater mandatory terms of imprisonment were imposed.

### 5) Disparities with Project Summaries

The majority of projects include summary statistical data on all cases screened, accepted or rejected, and/or disposed with their quarterly project performance reports. In some jurisdictions, summaries varied from tabulations based on individual case reports in terms of project activity, thus indicating that case reports were not being promptly forwarded to the administrative unit. The discrepancies were resolved without difficulty by the submission of the missing case reports. Nevertheless, as case reports are the only documents used in preparation of the QSSR and QDPS, this problem was carefully monitored.

#### b. Performance Reports

During the second grant period a number of project directors requested more definitive guidelines for the preparation of narrative performance

reports. At first glance this appeared to be simply a minor problem in required reporting. More detailed examination, however, disclosed that where project directors were unclear as to the elements which must be addressed, they were not adequately evaluating the progress of their projects. As a result, supplementary guidelines were issued and distributed to all project directors. The guidelines are included in Appendix F.

Review of subsequent reports disclosed that project goals, objectives, and tasks were being properly monitored and evaluated by all jurisdictions in the statewide program.

c. Timely Submission of Reports

1) Performance and Case Reports

The number of positions funded in the field units of the statewide program is considerably less than in other programs nationwide. In particular, few jurisdictions were provided with funds for a data analyst position with the result that case reports and narrative project performance reports have to be prepared by project attorneys. Given screening, trial and other scheduling limitations, timely submission of such reports was often impossible for legitimate reasons. However, late submission of field reports significantly reduced the time available to the administrative unit to prepare statewide program reports within LEAA reporting deadlines.

This problem was discussed at length with the district attorneys and project directors and every attempt was made at resolution. Although some improvement was noted, it soon became apparent that no permanent solution to this problem could be found.

Given the number of case reports submitted each grant period by the field units, it became impossible for the administrative assistant director to perform the statistical documentation and analyses within the 30-day period allowed by LEAA. Project staff could not be required to prepare the QSSR and QDPS. Furthermore, when the fiscal administrator position was deleted, these duties had to be shared by the director and assistant director further aggravating the situation.

Accurate statistical documentation and analysis is so essential to program efforts that the reporting deadline of 30 days simply cannot be met. At least for statewide programs with procedures similar to New York, the reporting deadline should be extended to a minimum of 45 days. Furthermore, adequate provision should be made in future statewide grants for administrative and field research staff to reduce this problem to a minimum.

2) Fiscal Cost Reports

Where fiscal cost reports are prepared by non-project personnel, as in most jurisdictions, the situation was equally discouraging. Such reports were often submitted after the reporting deadline due to the unavailability of regular office fiscal personnel. Again, no solution to this problem could be found.

d. Collection of Materials for First Statewide Conference

Preliminarily, it is noted that information sharing and cooperation between projects is essential to the local and national success of the career criminal program. In recognition thereof, the administrative unit promptly responds to all requests for information regarding the

operation and administration of the statewide program. Such assistance has already been provided to the States of Connecticut, Florida, Georgia, Illinois and Texas.

Unhappily, serious problems were experienced in collecting materials for inclusion in the conference handbook. First, the lack of any current address list of career criminal projects made nationwide coordination impossible. The only available information was obtained from the Louisville project director and even that was admittedly out of date. Second, and more importantly, of the 34 projects contacted, less than half responded to the request.

It is difficult to understand why inter-project cooperation must be made the subject of federal mandate. Nevertheless, some method should be devised to insure that grantees promptly and courteously respond to requests for assistance from other projects. Since such cooperation is already required by the guidelines applicable to all discretionary grants, it appears that this alone cannot achieve the necessary result.

## B. Field Operations

### 1. Screening

The most consistently reported problem in field operations was in the area of screening.

In New York, arraignments on felony complaints are conducted in the city, town and village courts. In the larger counties, often 65 to 70 percent of the felonies are arraigned in city court and daily pre-arraignment screening procedures have been successfully implemented.

However, these procedures cannot be used in the approximately 40 to 50 town and village courts where defendants are arraigned at differing times. These jurisdictions developed improved reporting systems to keep track of the possible career criminal cases in the town and village courts.

Another problem occurred in a geographically large jurisdiction where initial screening is performed in an office located a considerable distance from the main office where the project is located thereby reducing the amount of control by the project director. Furthermore, the cases were being screened without benefit of the DCJS criminal history. Identification was based solely on the local police department criminal history which lists arrests and convictions only within the county. The initial problem remained unresolved because it was impossible to physically locate a project attorney in that office due to the heavy superior court trial rate of the project. However, administrative action was taken to require that DCJS criminal histories be obtained on the day of arrest or, if the arrest occurs after 5:00 p.m., on the following morning. In this way, cases that meet the criteria of the program are promptly identified and forwarded to the project director for evaluation and assignment.

Jurisdictions without facsimile transmission equipment experienced difficulty in early identification with a resulting delay in assignment and preparation of cases. Various methods were adopted to compensate for the lack of this equipment in some of the participating jurisdictions as, for example, having the project investigator or a project

attorney maintain contact with the various police agencies in the county to determine if there was any likelihood that a particular incident would be treated as a potential career criminal case. Under this procedure, a member of the project staff telephones the major police agencies of the county every Monday, Wednesday and Friday morning (or on a daily basis). When these calls are made, detectives or investigators in each agency are waiting to turn over information on arrests which have taken place the evening or day before. Besides keeping the project apprised of arrests in the county, the telephone calls have alerted the agencies to the program and have also made it clear that the district attorneys intend to make the program productive. Furthermore, a record is kept of every telephone call to the various police agencies so a project can determine those police agencies that are bringing in cases and those that are negligent in this respect.

But, even where such equipment is located, it was learned at the second statewide conference that a significant part of the problem of delayed receipt of criminal histories is attributable to the procedures utilized by small town police agencies. Although these agencies fingerprint a defendant at the time of arrest, they often do not promptly forward the fingerprint card to DCJS in Albany. Instead, they batch the cards and transmit them at one time. This process has sometimes entailed a period of weeks and bail has consequently had to be determined on the basis of county rather than DCJS criminal histories.

To remedy this problem, one jurisdiction set up a mandatory system of reporting all arrests to the county sheriff's department. All small

police agencies without facsimile equipment must now bring the fingerprint card to the sheriff's department within three hours of the arrest of a defendant. The sheriff's department promptly transmits the card via the facsimile system to DCJS in Albany and the criminal history is received within 24 hours.

A related problem in this same jurisdiction involved their inability to identify career criminal cases until after the defendant's initial arraignment in the local criminal court and after his bail had been set. By conducting a preliminary hearing within 72 hours in the local criminal court, the project is now able to undertake a review of the bail once the preliminary hearing testimony is completed and the court sees the seriousness of the charges and the full extent of the defendant's criminal record.

Another problem involved unacceptable prints being received by DCJS from a specific police department in one of the participating jurisdictions. This problem was resolved in a collective meeting between representatives of DCJS, members of the project staff and officers from the police department involved. A plan was formulated whereby DCJS would supply fingerprint experts to conduct special training sessions in fingerprinting for area police departments.

Lack of complete disposition information on criminal histories also resulted in delay for time spent obtaining dispositions to quickly identify potential career criminal defendants for acceptance by the projects. Incomplete criminal histories have been a nationwide problem. However,

in response, DCJS has undertaken a statewide effort to obtain and computerize all outstanding disposition data. As this effort has progressed, early identification of career criminals has been significantly enhanced.

As noted in Section V of this report, one jurisdiction proposed development of a computer program to provide the earliest possible identification of career criminals (EPICC). Until EPICC is in place, the project is utilizing the Central Police Services of the county to provide a stop-gap computer identification of potential career criminal defendants. Because of the computer's limited capabilities, however, the printout is only capable of identifying persons arrested for a target crime; this information cannot be cross-indexed to the criminal histories of the defendants. Nevertheless, this printout of potential defendants somewhat lightened the workload of the screening attorney as well as facilitated the gathering of statistics. The project also explored the possibility of utilizing additional manpower for the screening process. However, the prospect for this was low in that the regular office staff was already considerably burdened with the volume of crime in the county.

Finally, one jurisdiction experienced an unusual problem. The police were so enthusiastic about the program that the project initially received calls on virtually all felony arrests. Care had to be taken not to dampen this cooperative spirit while at the same time educating the police as to the guidelines of the program. Subsequent meetings with the police agencies successfully resolved this problem.

## 2. Intake

Several project directors expressed skepticism concerning the projected low volume of cases to be handled and, as a result, accepted too high a volume of cases in the initial stages of the program. This resulted in scheduling difficulties as described below. The significant increase in cases docketed for trial because of the program's strict plea and sentence policy produced a more realistic assessment of each project's actual workload. Although intake was discussed with each project director prior to start-up, it appears that prosecutorial conditioning is such that any attitudinal change can only be achieved by experience.

## 3. Scheduling

Where a large number of cases had been accepted in the initial stages of the program, project attorneys found themselves simultaneously engaged in trial or grand jury proceedings. This impaired their ability to screen and review possible career criminal cases. Most projects were successful in obtaining judicial cooperation in scheduling trials that did not overlap so that screening and grand jury activities could be continued. Without such cooperation, they would have had to reduce intake during the high crime summer months or sacrifice total vertical prosecution by each project attorney. Furthermore, where project attorneys were engaged in simultaneous trial proceedings, the project investigator found his services were in demand by more than one attorney at any given moment. This problem was resolved in one county by assignment of a regular office staff investigator to the project at county expense.

A related problem in one of the larger jurisdictions concerned the ability of the two project attorneys to cover four court parts, including morning arraignments, screenings and grand jury presentments. In order not to sacrifice early screening of potential career criminal cases, it became necessary for other prosecutors to occasionally "represent" the project at court calendar calls. To insure that these prosecutors were acquainted with the career criminal cases, a notebook was compiled containing an outline of each case. A photocopy of the appropriate outline was placed in the front cover of each career criminal case file. In this way, when other prosecutors had to substitute for a project attorney on calendar days, they were fully familiar with the facts of the case. In order to minimize the necessity of other prosecutors covering for project attorneys, a large chart was set up in the office detailing the present status of each case and its next scheduled court appearance. This chart is examined by the project attorneys each morning before they go to court to make sure that career criminal cases are not scheduled at the same time before differing court parts.

On several occasions, project attorneys in another jurisdiction were ready for trial but found that no trial parts were available. Priority scheduling for career criminal cases was requested from the administrative judge. It should be noted that a Major Violent Offense Trial Program court part, where career criminal cases have the number one priority, is not located within this particular county.

#### 4. Delay

Several jurisdictions experienced difficulty in obtaining defen-

dants jailed in other jurisdictions with a resulting delay in disposition of project cases. Criteria defendants were being held in custody by both federal and other state authorities and would not be returned before disposition of these out-of-state cases.

One project found that although the courts were generally cooperative they did not actively push career criminal cases. Rather, they left it to the district attorney's office to do so. Project attorneys initially took this burden but felt it was a judicial responsibility to pursue career criminal cases especially since they tended to be jail cases pending and ready for trial. Furthermore, the project was working under a general calendar whereby a career criminal case could be shifted to any court part that was available. This meant that a defendant who made a number of pretrial motions might have each motion decided by a different judge. And, his actual trial might be heard by a judge who had not been involved in any of the pretrial motions. This often caused for dispiritedness and disjuncted hearings resulting in unnecessary delay in prosecution of the matter. Although workable in theory, the procedure did not really move the calendar because the court did not take an active part in "hounding" both the prosecutor and defense counsel. This became a matter of concern lest the career criminal calendar become as backlogged as the regular criminal calendars. With the cooperation of the administrative judges for this particular district, a single judge was assigned to hear career criminal pretrial motions and trials. Moreover, when another court part becomes available, a ready career criminal case is assigned to that part and hence is given first priority.

## VII. PROGRAM RESULTS

This section of the report presents and discusses the results of the program during its first seventeen months of operation. The results are discussed with reference to the six program objectives. More detailed statistical data are contained in Appendices A and B.

FIRST: Increased apprehension and expeditious prosecution of individuals whose criminal history indicates repeated commission of targeted serious and violent criminal acts.

Screening is performed in every career criminal jurisdictions by project prosecutors. In the larger offices initial screening may be performed by a screening bureau with the career criminal project screening those cases referred to it, but in all jurisdictions thorough screening is accomplished with a view toward the nature of the instant crime and the seriousness of the defendant's prior criminal record.

Every jurisdiction has access to the criminal history of each defendant accepted for prosecution by the program and that history accompanies the data collection instrument (case report) that is sent monthly to the administrative unit. During the early months of the program, some jurisdictions expressed difficulty in expeditiously obtaining criminal histories of defendants referred to them for possible prosecution as career criminals. When informed that a defendant could not be accepted into the program until the project was assured that his criminal history warranted such treatment, successful efforts were made to insure that the necessary records were promptly obtained. A criminal history is now available for each defendant before he is accepted into the program.

Those counties without facsimile transmission equipment maintain regular contact with all police agencies, often on a daily basis. Daily pre-arraignment screening is performed in the city courts of many of the larger jurisdictions. Coordinated screening procedures are in place for the career criminal and integrated criminal apprehension projects.

A new procedure was implemented in one of the larger projects. Small police agencies without facsimile transmission equipment are now required to bring a fingerprint card to the county sheriff's department within three hours of arrest so that it can be promptly transmitted to DCJS.

With the cooperation of DCJS, criminal histories showing at least one prior felony conviction (reflecting the new LEAA guideline for the continuation grant) and a current arrest for a target crime will shortly be designated "Career Criminal Candidate" thereon. This is the first step in developing a computer program to expedite the earliest possible identification of career criminals.

Scheduling remains a problem where project attorneys are engaged simultaneously in trial and grand jury proceedings, and it continues to have an impact on the ability of such projects to continually screen potential career criminal cases or to maintain total vertical prosecution. However, in one jurisdiction all career criminal cases have been transferred to a single judge in order to expedite prosecution and reduce court calendar congestion.

The 1,016 criteria defendants accepted into the statewide program have a total of 13,962 prior arrests and 4,867 prior known convictions.

This means that the average criteria defendant has had 13.7 prior arrests including 7 for felonies, and 4.8 prior known convictions including 1.3 for felonies. This same average defendant has had 3.4 prior arrests and .9 prior convictions for a target crime. It is noted that a minimum of one prior felony conviction will be required to qualify for career criminal prosecution under the continuation grant.

DCJS is presently updating disposition data on its criminal histories so that even more complete prior conviction records will be available to individual career criminal projects. This will result in even higher prior conviction rates being reflected.

PROMIS is in place or is being installed in many of the counties with career criminal projects. It is anticipated that once PROMIS is operational the selection process will be further refined.

The statewide program has thus assured that defendants selected for prosecution as career criminals truly reflect the kind of serious recidivist criminal conduct that the program is designed to curtail. With the installation and operation of PROMIS and updating of criminal histories, it is expected that increased apprehension and expeditious prosecution will be even further enhanced.

SECOND: Reduction in the number of pretrial release or bail decisions made without knowledge of the career criminal defendant's criminal history.

As stated above, criminal histories of defendants prosecuted by the program are now expeditiously obtained by all project prosecutors. There were no pretrial release or bail decisions made without knowledge of the defendant's criminal history.

During the 17 months of operation, approximately 84 percent of the criteria defendants prosecuted by the statewide program were in jail at the time of superior court filing, 13 percent were on bail and three percent were on personal recognizance. With the improvement in obtaining criminal histories, bail decisions are made with the full knowledge of the defendant's status as a serious recidivist, as evidenced by the fact that 84 percent were not released from jail pending trial.

THIRD: Reduction in the incidence and duration of pretrial, trial and sentencing delays.

Prompt presentation of cases to the grand jury and speedy waivers of indictment are the rule in all jurisdictions.

The time lapse from arrest to disposition among career criminal defendants is 35 percent shorter than for 1978 statewide superior court defendants. This reduction was obtained even though (1) some career criminal cases were carried over from before the program start-up date thereby inflating the actual time lapse data, (2) the trial rate among career criminal cases (with its concomitant delay) is two and one-half times the statewide rate, and (3) many court delays for motions, etc. are the statutory prerogative of defense attorneys who maximize delay as a tactic on behalf of their clients.

With respect to the trial rate, holding defendants to "as charged" pleas has the effect of increasing delays between arrest and sentence. Since a plea to the top count exposes the defendant to a greater sentence, career criminal defendants have less to lose by going to trial and often choose to do so. Therefore, the objective of reducing the

time between arrest and disposition must be considered in conjunction with the number of career criminal cases going to trial in any particular jurisdiction. Furthermore, the increase in psychiatric defenses being filed in many jurisdictions also results in delays of weeks or months in the trial of these cases.

As to statutory motion periods, numerous jurisdictions found that defense counsel prefer to facilitate delay by going through the procedure of submitting an omnibus discovery motion even though the projects indulge in voluntary disclosure of such items as copies of confessions, the substance of any oral statements made by defendants, scientific reports, viewing of physical evidence, and any other reasonable request made by defense counsel. Therefore, in determining the 129 day period from arrest to disposition, which is the median delay, it must be considered that by virtue of New York State law the defendant has 45 days from arraignment on the indictment in which to make pretrial motions, the prosecutor has 15 days in which to respond, and the court has 60 days in which to decide the motion. Some judges also extend this 60-day limit.

Furthermore, long delays in disposition often result from refusal of other state, local or federal authorities to release defendants jailed in their jurisdictions, especially those awaiting trial therein.

Finally, a defendant cannot be sentenced without a presentence report prepared by the probation department and the report is frequently delayed for a month or more.

Every effort is being made by program prosecutors to move cases swiftly to disposition and sentencing but, as the foregoing demonstrates, there are some conditions over which the prosecutor has no control. However, while such delays will doubtless always remain to inflate time lapse statistics, the statewide program has reduced any prosecution-caused delays. As carryover cases are disposed of, further reductions in processing times will be reflected.

FOURTH: Elimination of plea or sentence bargaining in career criminal defendant cases except in extraordinary circumstances.

The statewide program maintains a strict plea and sentence policy consistent with State and national objectives of career criminal prosecution.

Three out of four disposed guilty career criminal defendants were found guilty of the top charge in the indictment or superior court information. Of the one in four convictions to a lesser charge, many were at judge or jury trials, had proof difficulties, or would have received no increase in sentence for a top charge conviction while requiring the expense of a trial.

The fact that 89.7 percent of convicted career criminals in New York State were sentenced to state prison indicates that cases against such defendants were not plea or sentence bargained. This compares to the 1978 statewide average for all convicted felony defendants of 36.8 percent. The prison sentences imposed were substantially greater than the statewide average in virtually every category of target crimes.

Of the 279 adjudicated criteria defendants charged as second felony offenders, 278, or 99.6 percent, were convicted as such. All 14 adjudicated criteria defendants charged as second violent felony offenders and one adjudicated criteria defendant charged as a persistent violent felony offender were likewise convicted as such. Each of these career criminal defendants has been or will be sentenced to state prison with an enhanced mandatory minimum term of imprisonment.

Moreover, even though a minimum of one prior felony conviction will not be required for acceptance into the program until the continuation grant, 50.9 percent of criteria sentences were for second felony offenders and 2.9 percent were for second violent felony offenders during the initial grant period.

Second felony offender sentences statewide in 1978 were 6.5 percent. Statistics from the DCJS Violent Felony Juvenile Offenses Processing and Disposition Report for the six-month period September 1, 1979 through February 29, 1980 show that of the 3,542 defendants indicted as violent felony offenders statewide, 18.6 percent (659) were adjudicated predicate felons and .3 percent (12) were adjudicated persistent felons.

Furthermore, the strict plea and sentence policy of the program resulted in a deluge of telephone calls and visits from defense attorneys in repeated efforts to have their clients transferred from the program. These efforts were unsuccessful.

The growth of the program's reputation also had a direct effect on career criminal defendants. In one county, the project director had a discussion with a former informant then incarcerated in the holding

center (where defendants remain awaiting trial). This past informant stated that the holding center was "a-buzz" with talk about the career criminal project and, specifically, that if a defendant was being prosecuted by the project he was in a "lot of trouble." Career criminal defendants in jail awaiting trial increased their correspondence directly with the projects in attempts to "trade information" for possible reduced pleas. Such agreements were uniformly rejected given the strict plea bargaining policy of the program. Nevertheless, this development highlights the impact of the program and its ability to communicate to defendants the seriousness of the program's intent.

FIFTH: Increased police/prosecutor cooperation and mutual coordination in case preparation and presentment at each stage of the adjudicatory process.

From the inception of the statewide program, each jurisdiction has been keenly aware that its success would depend to a great extent on how widely its existence and purpose were known among police agencies. Several counties reported that before the program began local police expressed great cynicism at efforts district attorneys had made to intensify the prosecution of various priority defendants. This cynicism has generally been eliminated as the statewide program has proven to be more than just another program with indifferent results. Career criminals have been carefully selected and cases have been handled from inception by experienced prosecutors who have made themselves available and showed their personal commitment at every juncture of case progress.

Many of the jurisdictions in the statewide program have reached out into the local police departments and the State Police with seminars and training programs designed to inform them of the latest developments in criminal law and procedure. During the course of these seminars, particular mention has been made of the statewide program, its purpose, criteria for acceptance, and the target crimes it seeks to pursue. As only experienced prosecutors are assigned to the various career criminal projects, they are invariably involved in such training programs. And, being experienced trial counsel, they are usually known and respected in their own right among police detectives and specialty units. Thus, the credence their participation lends to the statewide program further enhances its reputation and encourages police to bring cases to the unit on a hot line basis.

As indicated heretofore, some of the projects have designed and distributed information posters for the career criminal program, itemizing the program criteria and including a 24-hour telephone number where a project prosecutor can be reached to help prepare a case from the moment of arrest. These posters have been distributed among all police agencies for the widest possible dissemination (a sample poster is included in Appendix G).

Project investigators work intimately with local police on selected cases so that the cases are carefully guided from criminal occurrence. These investigators maintain close contact throughout the progress of the case, keeping the project prosecutors abreast of developments. The high visibility of project investigators, together with the professional

respect they have earned as experienced detectives, have engendered tremendous prestige for the statewide program as a conscientious effort against recidivism in New York State.

In several jurisdictions, police have worked on cases without pay on their days off. As word is spread among police agencies about the program, cooperation has been received not only from local police and the State Police, but from police in other states as well. Designation as a career criminal has accelerated usually lethargic extradition procedures in several instances.

Vertical prosecution and the no plea or sentence bargaining policy of the program have inspired special respect among police agencies, particularly as these policies have been strictly maintained. Vertical prosecution prevents a case from being entangled in various parts of a district attorney's office requiring the arresting police officer to retell the facts of the case to each newly assigned prosecutor, to bring in witnesses the additional times necessary to acquaint them with each new prosecutor, to repeat investigative work that gets lost in the shuffle, and to follow the often varied instructions of myriad prosecutors, each of whom has an individual style of case preparation. The no plea or sentence bargaining policy assures the police that case preparation is not a futile exercise that almost always ends in a plea offer to charges reduced as low as the defendant will accept. The impact of these policies on the police did not become apparent until their cases actually went to trial and they saw that the assigned prosecutors remained on the case through disposition.

One of the most important reasons why police/prosecutor cooperation has been enhanced is the statewide policy of selecting career criminal cases on the basis of the defendant's prior criminal record rather than ease of proof. It bears repeating that the goal of the statewide program is the conviction and incarceration of the most heinous career criminals not the creation of artificial statistics. As cynical police officers have come to this realization, they have responded not only positively but enthusiastically.

SIXTH: Reduction in the number of dismissals for reasons other than the merits of the case by insuring that all necessary evidence is collected and obtained by police in an admissible manner and enhancing and improving methods for obtaining the cooperation of key witnesses and complainants.

Out of the 568 career criminal cases that have proceeded to disposition since inception of the statewide program, only 8 cases were dismissed on the merits. There were no dismissals for other reasons. All crucial evidence was available at trial and all key witnesses testified.

The statewide program policy of verticalization insures that direct contact exists from arrest to disposition between the project prosecutor and police officer assigned to the case. All evidence obtained by the officer is done under the legal guidance of the prosecutor to insure that the evidence is gathered according to statute and correct criminal procedure. The prosecutor is available to the officer for advice at all times.

Moreover, courses and seminars in the legal aspects of investigative procedure have become a regular part of the business for the prosecutors in many career criminal projects. These seminars anticipate procedural problems that can jeopardize the admissibility of evidence. In this way, project prosecutors enhance the effectiveness not only of their particular prosecution effort but of the entire police department as well.

Vertical prosecution insures that key civilian witnesses, like police witnesses, need contact only one project prosecutor, tell their story once, and avoid unnecessary confusion.

Witness telephone notification systems are in effect in all jurisdictions to reduce to the minimum the amount of time witnesses must spend in court. Likewise, letters have been developed in all counties to inform such witnesses of the present status or disposition of the case and the ultimate sentence imposed. Witness cooperation is derived from witness interest; every effort is made to maintain that interest.

In the statewide program witnesses do not get lost in the course of shuffling a case from one prosecutor to another. Witnesses to criminal acts are not always especially respectable members of the community. Nevertheless, project investigators obtain correct addresses and telephone numbers and maintain contact with such witnesses to be sure they are available for eventual testimony.

The numerous press articles that have been written about the program have engendered wide community support. This enthusiasm has been maintained by the participation of the district attorney and project

staff in community events where such opportunities are used to explain and reinforce the program's goals and objectives.

#### VIII. CONCLUSION

From an administrative standpoint, the New York State Career Criminal Prosecution Program possesses unique advantages over direct funding to single jurisdictions. The statewide effort provides:

- .... Centralized administration and coordination
- .... Consistency in approach and operation
- .... Interdependency and resultant increased cooperation among and between local units of government
- .... More efficient and effective technical assistance and monitoring through administrative expertise in local prosecution procedure and problems
- .... More comprehensive research and evaluation through individual career criminal case reporting requirements and access to statewide non-career criminal case data

Admittedly, the grant processing procedure is considerably more cumbersome and time-consuming. Nevertheless, the delays experienced were more than offset by the benefits realized and New York should serve as a model for statewide efforts by other jurisdictions.

From an operational standpoint, the best measure of the program's success is its demonstrated effectiveness in removing career criminals from society. Examination of the results thus far obtained discloses that:

- .... 84 percent of career criminal criteria defendants were incarcerated before trial
- .... 97 percent of career criminal criteria defendants were convicted, 76.9 percent to the top charge
- .... 89.7 percent of adjudicated career criminal criteria defendants were sentenced to state prison with an average mean sentence of 6.6 years

Finally, even though a minimum of one prior felony conviction will not be required for acceptance into the program until the continuation grant, 50.9 percent of criteria sentences were for second felony offenders and 2.9 percent were for second violent felony offenders. Each of the defendants sentenced under these enhancements statutes will serve substantially increased minimum terms of imprisonment in state prison as required by New York State law.

APPENDIX A

STATISTICAL SUMMARY REPORT  
October 1, 1978--February 29, 1980

FOOTNOTES

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CAREER CRIMINAL PROGRAM  
STATISTICAL SUMMARY REPORT

for New York State Career Criminal Prosecution Program  
from 10/1/78 to 2/29/80

I. CAREER CRIMINAL PROJECT ACTIVITY

A. Project Prosecutions

1. Pending at end of prior period and not disposed-of .....
2. New acceptances .....
3. Total career criminal activities (sum 1 & 2 above) .....
4. Disposed-of .....
5. Pending at end of period and not disposed-of .....
6. Sentenced .....
7. Guilty, but not sentenced .....

Career Criminal Criteria Prosecutions		Criteria Exempted Prosecutions*	
# Charges	# Defendants	# Charges	# Defendants
3361	1016	696	276
3361	1016	696	276
1782	568	320	130
1579	448	376	146
	513		116
	42		8

\*Supply a footnote explanation for each defendant not qualifying under career criminal project selection criteria who was prosecuted during period by the unit. Indicate number of charges, and special reason for processing.

B. Total Activities (project burden) .....

# Charges	# Defendants
4057	1292

C. Project Attorney Case Ratios

1. Total project attorney work days available  
(20 work days per month x # of months x # project attorneys hired) ..... 10,430
2. Ratio of charges to project attorney work days  
(total project charges activity ÷ project attorney work days) ..... 4057/10,430
3. Total trial attorney work days available  
(20 work days per month x # of months x # trial attorneys hired) ..... 10,430
4. Ratio of defendants to trial attorney work days  
(total defendants ÷ trial attorney work days) ..... 1292/10,430
5. Trial attorney average charge load  
(total pending charges ÷ # trial attorneys) ..... 4057/39
6. Trial attorney disposed-of defendant ratio  
(total defendants disposed-of during period ÷ # trial attorneys) ..... 698/39

II. INTAKE SUMMARY

REPORTING ITEMS		CRIMES							ENHANCEMENTS				TOTAL **	
		Career Criminal Target						Other		2d Other	3rd Other	4th Other		5th Other
		Burg.	Aslt.	Homi.	Rape	Robb.	Target Total	Fel.	Misd.					
SCREENING	# Charges	1247	423	148	182	814	2814	1143	589	707	91	6	2	5352
	# Defendants	1118	403	127	143	691	2348	928	467	707	91	6	2	2856
ACCEPTANCES OR ASSIGNMENTS	# Charges					N/A								
	# Defendants													
FILINGS	# Charges	694	194	136	117	836	1977	918	409	651	89	10	3	4057
	# Defendants	523	109	109	72	475	1177	546	275	651	89	10	3	1292
PRIORS (CRITERIA DEFENDANTS)	# Arrests	2083	553	59	127	995	3817	3320	6825					13962
	# Convictions	424	88	30	31	295	868	440	3559					4867

\*\*Total is the number of charges and defendants handled by the program, not necessarily the sum of the values on the line to the left of a particular total (except for charges), since a defendant may occur more than once in several categories.

III. INTAKE STATISTICS

A. Newly Accepted-Assigned Defendant Measures:

1. Ratio of total target defendants screened to total target defendants accepted ..... 2348/1177  
(# defendants screened ÷ # defendants accepted-assigned)
2. Ratio of total target charges screened to total target charges accepted ..... 2814/1977  
(# charges screened ÷ # charges accepted-assigned)
3. Mean number of total target charges for accepted total target defendants ..... 1977/1177  
(# charges accepted ÷ # defendants accepted-assigned)
4. Mean number of total charges for total screened defendants ..... 5352/2856  
(# charges screened ÷ # defendants screened)

- B. New Defendant Charges Filed - Accepted Ratio ..... 1977/1977  
(for new defendants, # charges filed ÷ # total target charges accepted-assigned)

CAREER CRIMINAL PROGRAM QUARTERLY REPORT SUPPLEMENT

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**CAREER CRIMINAL PROGRAM  
STATISTICAL SUMMARY REPORT**

for New York State Career Criminal Prosecution Program  
from 10/1/78 to 2/29/80

**IV. DISPOSITION SUMMARIES**

**A. Disposition of charges against criteria defendants disposed-of during period**

REPORTING ITEMS		CRIMES								ENHANCEMENTS				TOTAL
		Career Criminal Target						Other		2d Other	3d/4 Other	Pens Other	Pens V Other	
		Burg.	Aslt.	Homi.	Rape	Robb	Target Total	Fel.	Misd.					
DISMISSED BY PROSECUTOR AFTER FILING	# Charges	2	3			4	9	1	1					12
	# Defendants	2	3			2	4	1	1	1				5
PLED GUILTY BEFORE TRIAL AS ORIGINALLY CHARGED	# Charges	202	51	3	15	180	451	262	157	136	8		1	1015
	# Defendants	154	31	3	14	86	264	130	72	136	8		1	305
PLED GUILTY BEFORE TRIAL TO REDUCED CHARGE	# Charges	56	19	6	1	62	144	64	27	64	1			300
	# Defendants	48	12	6	1	44	97	35	15	64	1			110
PLED GUILTY DURING TRIAL AS ORIGINALLY CHARGED	# Charges	8	1		3	8	20	9	14	7				50
	# Defendants	7	1		2	6	13	6	6	7				16
PLED GUILTY DURING TRIAL TO REDUCED CHARGE	# Charges	2		4	3	1	10			2	1			13
	# Defendants	2		4	2	1	8			2	1			8
TRIAL CONVICTION BY JUDGE AS ORIGINALLY CHARGED	# Charges	3	1	1		4	9	6	6	6				27
	# Defendants	3	1	1		3	7	4	3	6				8
TRIAL CONVICTION BY JUDGE TO REDUCED CHARGE	# Charges	2					2	4	4	3				13
	# Defendants	2					2	2	4	3				5
TRIAL CONVICTION BY JURY AS ORIGINALLY CHARGED	# Charges	42	20	15	15	56	148	42	48	57	3			298
	# Defendants	32	19	9	14	38	79	26	18	57	3			90
TRIAL CONVICTION BY JURY TO REDUCED CHARGE	# Charges		2	1		3	6	2	6	3	1			18
	# Defendants		2	1		2	5	2	4	3	1			8
ACQUITTED AT TRIAL BY JUDGE	# Charges					2	2							2
	# Defendants					1	1							1
ACQUITTED AT TRIAL BY JURY	# Charges	4				12	16							16
	# Defendants	4				8	9							9
DISMISSED BY COURT	# Charges	1				2	3	1	1					5
	# Defendants	1				1	2	1	1					3
TOTALS	# Charges	322	97	30	37	334	820	391	264	279	14		1	1769
	# Defendants	255	69	24	33	192	491	207	124	279	14		1	568

**B. Disposition of criteria defendants disposed-of during reporting period**

REPORTING ITEMS		CRIMES								ENHANCEMENTS				TOTAL
		Career Criminal Target						Other		2d Other	3d/4 Other	Pens Other	Pens V Other	
		Burg.	Aslt.	Homi.	Rape	Robb	Target Total	Fel.	Misd.					
TOP CHARGE CONVICTIONS	# Defendants	170	32	11	26	119	358	61						419
LESSER CHARGE CONVICTIONS	# Defendants	45	11	10	2	40	108	17	6					131
TOTAL CONVICTIONS	# Defendants	215	43	21	28	159	466	78	6					550
TOTAL ACQUITTALS	# Defendants	3				7	10							10
TOTAL DISMISSALS	# Defendants	2	2			2	6	2						8
GRAND TOTAL DISPOSITIONS	# Defendants	220	45	21	28	168	482	80	6					568

**C. Disposition of criteria exempted defendants disposed-of during period**

REPORTING ITEMS		CRIMES								ENHANCEMENTS				TOTAL
		Career Criminal Target						Other		2d Other	3d/4 Other	Pens Other	Pens V Other	
		Burg.	Aslt.	Homi.	Rape	Robb	Target Total	Fel.	Misd.					
CRITERIA EXEMPTED DISPOSITIONS	# Charges	78	11	15	9	65	178	97	45					320
	# Defendants	47	10	15	6	38	106	51	27					130

**CAREER CRIMINAL PROGRAM  
STATISTICAL SUMMARY REPORT**

for New York State Career Criminal Prosecution Program  
from 10/1/78 to 2/29/80

**V. DISPOSITION STATISTICS**

**A. Disposition Results Information**

**1. Percent of total criteria defendants disposed-of by type of disposition.**

(Number of defendants (total target from IV B) in each category ÷ total number of defendants disposed-of (target total from IV B).)

% Guilty Top Charge	% Guilty Lesser Charge	% Dismissed (nolled)	% Acquitted
74.3	22.4	1.2	2.1

**2. Percent of total criteria defendants convicted on top charge by method of conviction.**

(Number of total criteria defendants convicted on top charge by each method of conviction ÷ total number of defendants convicted on top-charge)

% Pled Guilty Before Trial	% Pled Guilty During Trial	% Trial Convictions By Judge	% Trial Convictions By Jury	% Total Convictions
72.8	3.8	1.9	21.5	76.2

**3. Percent of dispositions by category for all target charges against criteria defendants disposed-of during reporting period.**

(Number of charges in each category ÷ total number of target charges disposed-of during period.)

% Dismissed By Pros. After Filing	% Pled Guilty To Original Charge	% Convicted Of Original Charge	% Pled Guilty To Reduced Charge	% Convicted Of Reduced Charge	% Acquitted By Judge Or Jury	% Dismissed By Court
1.1	57.4	19.1	18.8	1.0	2.2	.4

**B. Disposition Process Information**

**1. Arrest to Disposition Time Statistics**

# Defendants	Mean	Median	Min.	Max.
698	129.9	119	0	736

**2. Disposition Ratios:**

a. Defendants disposed-of accepted ratio	698/1292
(Number (Grand Total) defendants disposed-of ÷ # defendants accepted (I A 2).)	698/1292
b. Disposed-of defendant ratio	
(Sum of defendants disposed-of ÷ total defendants from (I B).)	

**3. Criteria Defendants Under Legal Restraint**

a. Number of criteria defendants	290
(# defendants disposed-of who were under legal restraint)	
b. Percent of criteria defendants under legal restraint	290/568
(# defendants disposed-of who were under legal restraint ÷ total defendants disposed-of)	

**VI. PROCESSING SUMMARY**

**A. Time Lapse Analysis of Defendants in Process (based on date of arrest)**

Gross Time Period	Number of defendants
0 - 20 days	42
21 - 40 days	71
41 - 80 days	84
81 - 130 days	133
131 - 200 days	96
201 - 300 days	94
over 300 days	74

**CAREER CRIMINAL PROGRAM  
STATISTICAL SUMMARY REPORT**

for New York State Career Criminal Prosecution Program  
from 10/1/78 to 2/29/80

**VII. SENTENCES SUMMARY  
(For Criteria Defendants Only)**

REPORTING ITEMS		CRIMES								ENHANCEMENTS				TOTAL
		Career Criminal Target						Other		2d <sup>nd</sup> Off <sup>ense</sup>	2d <sup>nd</sup> V <sup>iolent</sup> Off <sup>ense</sup>	Per <sup>sistent</sup> Off <sup>ense</sup>	Per <sup>sistent</sup> V <sup>iolent</sup> Off <sup>ense</sup>	
		Burg.	Aslt.	Homi.	Rape	Robb.	Target Total	Fel.	Misd.					
INCARCERATIONS	# Charges	271	85	27	36	283	702	349	243	260	15			1569
	# Defendants	217	62	23	29	168	428	164	101	260	15			493
SUSPENSIONS WITH INCARCERATION	# Charges													
	# Defendants													
SUSPENSIONS WITHOUT INCARCERATION	# Charges													
	# Defendants													
PROBATIONS WITH INCARCERATION	# Charges	4				1	5	7	1	1				14
	# Defendants	4				1	5	6	1	1				10
PROBATIONS WITHOUT INCARCERATION	# Charges	4	2				6	3	1					10
	# Defendants	4	2				6	3	1					10
TOTAL SENTENCES	# Charges	279	87	27	36	284	713	359	245	261	15			1593
	# Defendants	225	64	23	29	169	439	173	103	261	15			513

**VIII. SENTENCE STATISTICS  
(For Criteria Defendants Only)**

**A. Sentence Period Statistics**

1. Gross incarceration periods:
  - a. Jail (in months) .....
  - b. Prison Determinate (in years) .....
  - c. Prison Indeterminate Midpoint (in years) .....

	# Defendants	Mean	Median
a. Jail (in months)	49	9.0	10
b. Prison Determinate (in years)	34	1	1
c. Prison Indeterminate Midpoint (in years)	418	6.6	4.7
2. Incarceration periods suspended (in years)			
3. Probation periods (in years)	20	4.6	5

**B. Executed Prison Incarceration Ratios**

1. Defendant prison incarceration ratio ..... 452/513  
(# defendants sentenced to prison ÷ # defendants sentenced during quarter)
2. Consecutive prison incarceration ratio ..... 44/146  
(# defendants receiving consecutive sentence to prison ÷ # defendants sentenced during quarter who had more than one charge or case conviction)
3. Concurrent prison incarceration ratio ..... 102/146  
(# defendants receiving concurrent sentences to prison ÷ # defendants sentenced during quarter who had more than one charge or case conviction)

**C. Suspended Sentence Ratio** ..... 0/513  
(# defendants with total sentence suspensions ÷ # defendants sentenced during quarter)

**D. Enhancement Ratios**

1. ~~Second Offender~~ ratio ..... 261/263  
(# defendants sentenced as Habitual Criminal ÷ # defendants charged as Habitual Criminal who were sentenced during quarter)
2. ~~Second Violent Offender~~ ratio ..... 15/15  
(# defendants sentenced as Second Offender ÷ # defendants charged as Second Offender who were sentenced during quarter)
3. ~~Persistent and Persistent Violent Offender~~ ratios ..... 0/0  
(# defendants sentenced for Firearms Use ÷ # defendants charged with Firearms Use who were sentenced during quarter)

**E. Death Sentences**

1. Number of death sentences ..... N/A
2. Number of defendants receiving death sentences ..... N/A

**STATISTICAL SUMMARY REPORT FOOTNOTES:**

**1. Project Prosecutions**

- a. New acceptances reflect written accusations (filings) in court by way of indictment or superior court information (waiver of indictment) as indicated in the Intake Summary section.
- b. Cases handled by the program because of the involvement of an attorney prior to assignment to a project, but which also meet the program selection criteria, are included as criteria prosecutions.
- c. Criteria exempted prosecutions include those assigned to a project that:
  - 1) are particularly heinous or notorious crimes, or,
  - 2) require the special expertise of a project attorney, or,
  - 3) involve a co-defendant of a qualifying career criminal.

**2. Project Attorney Case Ratios**

Trial attorney and project attorney work days reflect the full number of attorneys assigned to the program.

**3. Intake Summary**

**a. Screening**

- 1) In the larger jurisdictions there is generally a two-stage screening process, first by an attorney in the screening bureau and second by a project attorney; in the smaller jurisdictions screening is generally performed by a project attorney.
- 2) Screening reflects criteria cases accepted and rejected, and criteria exempted cases accepted.

**b. Enhancements**

There are four enhancements in New York State:

- 1) second felony offender
- 2) second violent felony offender
- 3) persistent felony offender
- 4) persistent violent felony offender

There is no enhancement applicable for conviction of first or second degree murder, first degree arson, or any of the A-1 classification of drug felonies (possession/sale of large amounts of drugs). However, if a defendant is convicted of a lesser included offense of the foregoing, the enhancement would then be applicable.

c. Priors1) Arrests

- a) Prior arrests are determined from the defendant's criminal history.
- b) Lesser included offenses are not filed in New York State; therefore, each charge is included in the appropriate category as an arrest.

2) Convictions

- a) Prior convictions are determined from the defendant's criminal history.
- b) Dispositions are not all current.

4. Disposition Summaries and Statistics

- a. In various instances, pleas to reduced charges had already been offered in cases included as criteria or criteria exempted because of the involvement of an attorney prior to assignment to the program; therefore, until these cases are settled, the Statistical Summary Report will not accurately reflect the strict plea bargaining policy of the program.
- b. Charges dismissed by the prosecutor after filing as part of a conviction to the top charge are not counted as dismissed charges unless the dismissal actually reduces the defendant's sentence exposure. In New York State, conviction for more than one charge emanating from the same criminal transaction cannot expose a defendant to a greater sentence than he is exposed to from conviction of the top charge alone.

5. Processing Summary

Until the carryover cases are settled, the Statistical Summary Report will not reflect an accurate picture of the processing time of the program.

6. Special Note

The New York County and Monroe County projects existed before commencement of the statewide program. Only those cases accepted after the joinder of these projects to the statewide program are reflected in the current Statistical Summary Report.

APPENDIX BCOMPARISON OF RESULTS

NEW YORK STATE  
CAREER CRIMINAL PROSECUTION PROGRAM\*

with

1978 NEW YORK STATEWIDE STATISTICS

\* First quarter program data are not reflected in the statistics here since that quarter of the program only included five jurisdictions some of which were only partially operational

A CAREER CRIMINAL PROSECUTION PROGRAM DEFENDANT PROFILE

1. DEFENDANT MOBILITY

CAREER CRIMINAL CRITERIA DEFENDANTS (10/1/78 - 2/29/80): 1016

DEFENDANT BORN SAME COUNTY AS INSTANT ARREST	32.1%
DEFENDANT BORN OTHER NEW YORK STATE COUNTY	30.8%
DEFENDANT BORN OTHER STATE	26.9%
DEFENDANT BORN OTHER COUNTRY	10.2%
TOTAL DEFENDANTS BORN OUTSIDE NEW YORK STATE	37.1%
PRIOR ARRESTS ALL SAME COUNTY AS INSTANT ARREST	34.3%
PRIOR ARRESTS ALL NEW YORK STATE, MULTIPLE COUNTIES	43.0%
ONE PRIOR ARREST IN OTHER STATE	10.2%
TWO OR MORE PRIOR ARRESTS IN OTHER STATE	12.5%
TOTAL DEFENDANTS WITH OUT OF STATE PRIOR ARRESTS	22.8%
NON NEW YORK CITY DEFENDANTS WITH NYC PRIORS	29.1%
NON NEW YORK CITY DEFENDANTS BORN IN NEW YORK CITY	20.9%

NOTE:

While approximately 34% of the career criminal defendants accepted into the program had prior arrests localized to only one county, about 43% had prior arrests in multiple New York State counties and nearly 23% had been arrested in at least one other state. Thus approximately two-thirds of the defendants accepted into the program from inception had prior arrest records outside the county in which they committed the instant offense, demonstrating a problem with wider than local dimensions and requiring resources of wider than local means.

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2. DISTRIBUTION BY AGE

NEW YORK STATEWIDE, 1978  
(ALL FELONY ARRESTS)

CAREER CRIMINAL PROSECUTION PROGRAM  
(10/1/78 - 2/29/80)

TOTAL CRITERIA DEFENDANTS: 1016

TOTAL NON-CRITERIA DEFENDANTS: 256

AVERAGE AGE OF ADULT  
ARRESTEE: 25

AVERAGE AGE OF CRITERIA DEFENDANT: 27.1

AVERAGE AGE OF NON-CRITERIA DEFENDANT: 26.1

<u>AGE GROUP</u>	<u>STATEWIDE</u>	<u>CRITERIA DEFENDANT</u>	<u>NON-CRITERIA DEFENDANT</u>
20 and under	30.1%	17.0%	30.8%
21 - 24	19.9%	27.8%	22.8%
25 - 29	14.9%	29.0%	24.5%
30 - 39	18.1%	21.9%	15.2%
40 - 49	10.2%	5.6%	4.5%
50 and over	6.8%	1.3%	2.2%

NOTE:

As would be expected in a program which selects defendants for prosecution on the basis of a proven criminal history, the average career criminal defendant was about two years older than the average statewide defendant arrested for a felony. About half as many career criminal defendants were 20 or younger as statewide, presumably because of the criminal history requirement. Yet a far higher percentage of career criminal defendants than statewide were in their twenties (about 57% CCPP vs. 35% statewide). Thus the program has focused its efforts on defendants who are old enough to have accumulated significant criminal histories yet young enough to constitute an active criminal menace.

3. PRIOR ARREST/KNOWN CONVICTION RECORD -- PERCENTAGE OF DEFENDANTS

CAREER CRIMINAL CRITERIA DEFENDANTS (10/1/78 - 2/29/80): 1016

	<u>NEW YORK STATE</u> <u>SUPERIOR COURT DEFENDANTS</u> <u>(1977)*</u>	<u>CAREER CRIMINAL</u> <u>PROSECUTION PROGRAM</u>
AT LEAST 2 PRIOR FELONY ARRESTS AND ONE FELONY CONVICTION	20.8%	69.6%
AT LEAST 2 PRIOR FELONY ARRESTS	51.8%	98.4%
AT LEAST 1 PRIOR FELONY ARREST	72.0%	100.0%
AT LEAST 1 PRIOR FELONY CONVICTION	23.1%	71.4%
AVERAGE TOTAL PRIOR ARRESTS PER DEFENDANT	UNK	13.7
AVERAGE TOTAL PRIOR CONVICTIONS PER DEFENDANT	UNK	4.8
AVERAGE PRIOR FELONY ARRESTS PER DEFENDANT	UNK	7.0
AVERAGE PRIOR MISDEMEANOR ARRESTS PER DEFENDANT	UNK	6.7
AVERAGE PRIOR FELONY CONVICTIONS PER DEFENDANT	UNK	1.3
AVERAGE PRIOR MISDEMEANOR CONVICTIONS PER DEFENDANT	UNK	3.5
AVERAGE PRIOR TARGET ARRESTS PER DEFENDANT	UNK	3.8
AVERAGE PRIOR TARGET CONVICTIONS PER DEFENDANT	UNK	.9

\* DCJS Statistical Analysis Center Study of 60.6% of Universe, 1977

4. PRIOR ARREST/KNOWN CONVICTION RECORD

CAREER CRIMINAL CRITERIA DEFENDANTS(10/1/78 - 2/29/80): 1016

<u>CRIME</u>	<u>PRIOR ARRESTS</u>	<u>PRIOR KNOWN CONVICTIONS</u>
BURGLARY	2,083	424
ASSAULT	553	88
HOMICIDE	59	30
FORCIBLE SEX OFFENSES	127	31
ROBBERY	<u>995</u>	<u>295</u>
TARGET TOTAL	3,817	868
OTHER FELONY	3,320	440
MISDEMEANOR	<u>6,825</u>	<u>3,559</u>
TOTAL	13,962	4,867

NOTE:

The average career criminal defendant had been arrested more than 13 times when he was accepted for program prosecution. He had almost five total prior convictions. Career criminal defendants fell into the recidivist category of having had two prior felony arrests and one felony conviction three and one half times more often than statewide superior court defendants. The 1016 criteria defendants accepted into the program from its inception represent almost 14,000 prior arrests and almost 5,000 prior convictions. It is the future commission of these crimes the program seeks to prevent.

B. CASE PROCESSING1. CASE LOAD

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
TOTALS (10/1/78-2/29/80):		CRITERIA DEFENDANTS: 1016
		<u>ALL DEFENDANTS: 1292</u>
AVERAGE NUMBER OF DEFENDANTS PER TRIAL ATTORNEY	UNK	CRITERIA ONLY: 26.1 TOTAL DEFENDANTS: 33.1
AVERAGE NUMBER OF CHARGES PER PROSECUTOR	UNK	CRITERIA ONLY: 86.2 TOTAL CHARGES: 104.0

NOTE:

The case load increased dramatically over the first four quarters of the program (10/1/78-9/30/79) until an equilibrium was reached during the fifth quarter such that the number of disposed cases was essentially the same as the number of newly accepted cases. At the close of the grant period each prosecutor was handling an average active case load of about 16 criteria defendants and four criteria exempt defendants.

2. DEFENDANT LEGAL RESTRAINT AND INCARCERATION STATUS

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
PERCENT OF CRITERIA DEFENDANTS DISPOSED UNDER LEGAL RESTRAINT AT ARREST	UNK	DISPOSED CRITERIA DEFENDANTS: 568 51.1%
		TOTAL CRITERIA DEFENDANTS: 1016
STATUS OF CRITERIA DEFENDANTS AT SUPERIOR COURT FILING		
IN JAIL	UNK	84.0%
ON BAIL	UNK	13.0%
PERSONAL RECOGNIZANCE	UNK	3.0%

NOTE:

More than five-sixths of the criteria career criminal defendants accepted into the program were in jail at superior court filing. Statistics for this factor statewide are not available, but clearly a very high percentage of career criminal defendants were in jail and not committing further crimes in the community while awaiting trial. The crimes these defendants might have been committing pending trial are indicated in the "Under Legal Restraint" category which shows that 51% of the career criminal defendants disposed of were on parole, probation, out on bail awaiting trial, etc. when arrested for the instant offense.

3. DISTRIBUTION OF THE MOST SERIOUS CRIME CHARGED IN SUPERIOR COURT FILING

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
		CRITERIA DEFENDANTS: 1016
BURGLARY	23.5%	40.1%
ASSAULT	5.2%	9.2%
HOMICIDE	5.7%	7.7%
RAPE	3.8%	7.7%
ROBBERY	21.6%	34.8%
ARSON	1.6%	1.0%
OTHER FELONY	38.6%	1.7%

NOTE:

The data indicates that both in New York statewide statistics and in the New York State Career Criminal Prosecution Program, distribution of the most serious crime charged is heavily weighted in burglary and robbery. The most prolific crimes are those most intensely pursued by the program.

C. DISPOSITIONS1. PERCENT OF CASE LOAD DISPOSED

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
TOTAL DEFENDANTS DISPOSED	UNK	698
NUMBER OF CRITERIA DEFENDANTS DISPOSED	UNK	568
PERCENT OF ALL CRITERIA CHARGES DISPOSED	UNK	53.0%
PERCENT OF ALL CRITERIA DEFENDANTS DISPOSED	UNK	55.9%
PERCENT OF ALL DEFENDANTS DISPOSED	UNK	54.0%

NOTE:

As the number of dispositions has increased each quarter since the beginning of the grant period, the number of new criteria acceptances has decreased each quarter. This trend has reached an equilibrium during the last two quarters of the grant period at about 150 new acceptances each quarter matched by about 150 new dispositions, so that the case load should remain stable.

2. DISTRIBUTION OF GUILTY DEFENDANTS BY TOP/LESSER CHARGE

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
<u>TOTAL GUILTY SUPERIOR COURT DEFENDANTS</u>		<u>GUILTY CRITERIA DEFENDANTS: 550</u>
TOP CHARGE	39.1%	76.9%
LESSER CHARGE	60.9%	23.1%
<u>BY FELONY GRADE</u>		
	<u>TOP CHARGE</u> <u>LESSER CHARGE</u>	<u>TOP CHARGE</u> <u>LESSER CHARGE</u>
A	49.2% 50.8%	100.0% 0.0%
B	29.5% 70.5%	96.6% 3.4%
C	23.4% 76.6%	66.9% 33.1%
D	37.0% 63.0%	86.3% 13.7%
E	67.5% 32.3%	47.8% 52.2%

NOTE:

More than three out of four guilty criteria defendants in the program were convicted of the top charge compared to about one out of three statewide. This favorable ratio obtained particularly among the convictions for the higher felony grades which represent all "violent felony offenses."

3. ACQUITTALS AND DISMISSALS

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
		<u>DISPOSED CRITERIA DEFENDANTS: 568</u>
CONVICTION RATE (GUILTY OF SOME CHARGE)	81.6%	96.8%
PERCENT DISMISSED AFTER FILING	9.6%	1.4%
PERCENT ACQUITTED	2.9%	1.8%

4. DISTRIBUTION OF CONVICTIONS BY TYPE

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>	
		<u>CRITERIA CONVICTIONS: 550</u>	
PERCENT OF CONVICTIONS		<u>TOP CHARGE</u>	<u>ALL CRITERIA</u>
BY PLEA	91.4%	76.6%	79.8%
BY JURY TRIAL	7.4%	21.5%	17.8%
BY NON-JURY TRIAL	1.3%	1.9%	2.4%
DISPOSED WITH JURY INVOLVEMENT	9.8%		22.2%

NOTE:

Approximately 95% of career criminal defendants disposed since the program's inception were found guilty of some charge. This compares with an average of about 82% of superior court defendants statewide. The trial rate of the New York State Career Criminal Prosecution Program has stood at about two and one-half the statewide rate.

**CONTINUED**

**1 OF 2**

5. DISPOSITION TIME LAPSE (ARREST TO DISPOSITION)NEW YORK STATE  
1978

	<u>ALL DEFENDANTS</u>	<u>CONVICTED DEFENDANTS</u>	<u>TRIAL</u>	<u>PLED GUILTY</u>
MEAN	199	169	290	157
MEDIAN	118	100	246	89
MINIMUM	0	0	25	0
MAXIMUM	8,744	5,673	1,980	5,673

CAREER CRIMINAL PROSECUTION PROGRAM

ALL DISPOSED DEFENDANTS: 698

DISPOSED CRITERIA DEFENDANTS: 568

	<u>ALL DEFENDANTS</u>	<u>CRITERIA DEFENDANTS</u>	<u>TRIAL</u>	<u>PLED GUILTY</u>
MEAN	129.1	128.2	206.8	109.2
MEDIAN	111.0	118.0	184.0	96.0
MINIMUM	0.0	0.0	52.0	0.0
MAXIMUM	736.0	493.0	493.0	427.0

NOTE:

The program time lapse from arrest to disposition has increased some 53 days from the beginning of the grant period to the end. This marked increase can be directly traced to the similar increase in trial rate over the same period. It is apparent from statewide as well as career criminal data that trials produce longer time lapses to disposition; and since the project maintains a trial rate two and one-half the statewide rate the over-all lapse time must be inflated by this factor. However, even with this increased trial rate and the inclusion of carryover cases in the data, the average career criminal case reached disposition about 35% more quickly than the average statewide felony case.

D. SENTENCES1. SENTENCES BY TYPE

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
		CRITERIA DEFENDANT SENTENCES: 513
INCARCERATION (ANY TYPE)	59.7%	97.7%
STATE PRISON	36.8%	89.7%
LOCAL JAIL	22.8%	8.0%
PROBATION	32.4%	2.3%
DRUG PROGRAM	5.5%	0.0%
CONDITIONAL DISCHARGE	4.7%	0.0%
UNCONDITIONAL DISCHARGE	0.7%	0.0%

2. SENTENCES BY DISTRIBUTION AMONG TARGET CRIMES

	<u>NEW YORK STATE 1978</u>				
	<u>DISCHARGE</u>	<u>DRUG FACILITY</u>	<u>PROBATION</u>	<u>LOCAL JAIL</u>	<u>STATE PRISON</u>
BURGLARY	2.1%	0.9%	35.0%	27.7%	33.9%
ASSAULT	1.7%	0.1%	23.6%	29.8%	44.7%
HOMICIDE	0.0%	0.0%	0.4%	0.0%	99.6%
RAPE	0.3%	0.0%	8.4%	6.3%	84.7%
ROBBERY	0.5%	0.7%	20.0%	14.2%	64.8%
<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>					
CRITERIA DEFENDANT SENTENCES: 513					
	<u>DISCHARGE</u>	<u>DRUG FACILITY</u>	<u>PROBATION</u>	<u>LOCAL JAIL</u>	<u>STATE PRISON</u>
BURGLARY	0.0%	0.0%	3.0%	10.0%	87.0%
ASSAULT	0.0%	0.0%	5.7%	2.9%	91.4%
HOMICIDE	0.0%	0.0%	0.0%	0.0%	100.0%
RAPE	0.0%	0.0%	0.0%	0.0%	100.0%
ROBBERY	0.0%	0.0%	0.0%	1.1%	98.9%

NOTE:

90% of Career Criminal Prosecution Program sentences resulted in state prison terms compared to 37% of the statewide felony sentences. Broken down crime by crime the program maintains a much higher rate of significant incarceration than the statewide rates.

3. INDETERMINATE STATE PRISON SENTENCE LENGTHSTATE PRISON SENTENCES FOR FELONY CONVICTIONS

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>		
	<u>AVERAGE MAXIMUM</u>	<u>AVERAGE MINIMUM</u>	<u>AVERAGE MEAN</u>	<u>AVERAGE MAXIMUM</u>
BURGLARY	4.1	1.9	3.2	4.5
ASSAULT	4.8	3.8	6.1	8.3
HOMICIDE	68.0	12.5	32.3	66.6
RAPE	12.7	5.8	11.1	16.4
ROBBERY	6.6	4.8	8.2	11.6
ARSON	UNK	5.3	8.9	12.5

NOTE:

New York State sentence length data is available only for "maximum" sentences. In every crime category except homicide the program sentence length is longer than the equivalent statewide sentence length. The "homicide" category under the statewide data includes only the higher crimes of murder and its attempt while the program data under that heading includes all forms of homicide (manslaughter, criminally negligent homicide as well as murder). Under this circumstance the equivalence of the average sentence length for homicides is remarkable.

4. ENHANCEMENTS

	<u>NEW YORK STATE 1978</u>	<u>CAREER CRIMINAL PROSECUTION PROGRAM</u>
		CRITERIA DEFENDANT SENTENCES: 513
SECOND FELONY OFFENDER	6.5%	50.9%
SECOND VIOLENT FELONY OFFENDER	----	2.9%
PERSISTENT FELONY OFFENDER	0.7%	0.0%
PERSISTENT VIOLENT FELONY OFFENDER	----	0.0%

NOTE:

About 51% of the career criminal defendants were sentenced as second felony offenders and about 3% as second violent felony offenders, each enhancement exposing the defendants involved to mandatory minimum terms of imprisonment. The DCJS Violent Felony Juvenile Offenses Processing and Disposition Report for the six-month period September 1, 1979-February 29, 1980 indicates that statewide of the 3,542 defendants convicted 18.6% (659) were adjudicated predicate felons and .3% (12) were determined to be persistent felons. Hence, the sentenced career criminal defendant was about eight times more likely than the average statewide sentenced felon and about three times more likely than the statewide sentenced violent felon to receive an enhanced state prison sentence as a repeat felony offender.

APPENDIX C

BREAKDOWN OF GRANT FUNDS

BREAKDOWN OF GRANT FUNDS

	<u>Initial Award</u>	<u>Final Award</u>
Albany	117,665	81,051
Broome	112,335	99,531
Chemung	65,149	85,987
Erie	233,946	161,846
Nassau	203,699	215,609
New York	278,000	278,000
Onondaga	126,449	147,527
Orange	104,799	102,507
Rockland	106,711	130,973
Steuben	39,390	45,796
Suffolk	204,705	236,888
Ulster	67,058	78,027
Westchester	222,219	240,227
DCJS Administration	<u>107,875</u>	<u>96,031</u>
	2,000,000	2,000,000

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APPENDIX D

## PROJECT PERSONNEL BY COUNTY

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PROJECT PERSONNEL

	<u>ADA</u>	<u>Investigator</u>	<u>Paralegal</u>	<u>Stenographer</u>
Albany	2	1	1	1
Broome	2	1	-	1
Chemung	1	1	-	-
Erie	3	1	1	1
Nassau	3	1*	1	1
New York	10	3	8	1
Onondaga	2	1	-	1
Orange	2	1	-	1*
Rockland	2	1	-	1
Steuben	1	-	1	-
Suffolk	3	1	1	1
Ulster	2	-	-	1
Westchester	<u>3</u>	<u>1</u>	<u>-</u>	<u>1</u>
	36	13	13	11

\* These positions were not filled and were deleted from the continuation grant

NOTE: The Monroe County project was programmatically linked to the statewide program on June 1, 1979 when it received second year discretionary funding from LEAA. Project staff includes three assistant district attorneys, two investigators, two paralegals and one stenographer.

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APPENDIX E

CASE REPORT  
REVISED CASE REPORT

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CAREER CRIMINAL PROSECUTION PROGRAM  
CASE REPORT

(Attach Rating Sheet if Point System Used)

County		Defendant		Report No.
Prosecutor		NYSID No.	Armed Felony Offense <input type="checkbox"/> Yes <input type="checkbox"/> No	Criminal History - Date Rec.
Legal Restraint At Time of Arrest				
<input type="checkbox"/> Pretrial Release on Bail		<input type="checkbox"/> On Furlough		<input type="checkbox"/> On Parole
<input type="checkbox"/> Pretrial Release on Recognizance		<input type="checkbox"/> Absent Without Leave-Penal Facility		<input type="checkbox"/> Released-Cond. Suspended Sentence
<input type="checkbox"/> Jumped Bail		<input type="checkbox"/> Escaped		<input type="checkbox"/> Other (specify) _____
<input type="checkbox"/> On Work Release		<input type="checkbox"/> On Probation		
Status-Current Arrest <input type="checkbox"/> Jail <input type="checkbox"/> Bail <input type="checkbox"/> Release on Recognizance		Criteria Defendant <input type="checkbox"/> Yes <input type="checkbox"/> No		Criteria Exempted Defendant <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Accepted	Reasons			Major Felony Trial Part <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Rejected				

REPORTING ITEMS	Date	INTAKE					ENHANCEMENTS			
		CRIMES (Section Number)*					2d Off	3d Viol Off	Pers Off	Pers Viol Off
		PL	PL	PL	PL	PL				
Arrest										
Arraignment										
<input type="checkbox"/> Indictment <input type="checkbox"/> S C I	<input type="checkbox"/> Returned-L C <input type="checkbox"/> Dismissal	Date								
Priors	Arrests									
	Convictions									

\*Indicate all charges and priors whether or not for target crimes (attach criminal history if more space required).

REPORTING ITEMS	Date	DISPOSITION					ENHANCEMENTS			
		CRIMES (Section Number)*					2d Off	3d Viol Off	Pers Off	Pers Viol Off
		PL	PL	PL	PL	PL				
Dismissed By Prosecutor Before Filing										
Dismissed By Prosecutor After Filing										
Pled Guilty Before Trial As Originally Charged										
Pled Guilty Before Trial To Reduced Charge										
Pled Guilty During Trial As Originally Charged										
Pled Guilty During Trial To Reduced Charge										
Trial Conviction By Judge As Originally Charged										
Trial Conviction By Judge To Reduced Charge										
Trial Conviction By Jury As Originally Charged										
Trial Conviction By Jury To Reduced Charge										
Acquitted At Trial By Judge										
Acquitted At Trial By Jury										
Dismissed By Court										

\*Indicate all dispositions whether or not for target crimes

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REPORTING ITEMS	SENTENCE					ENHANCEMENTS			
	CRIMES (Section Number)*					2d Off	2d Viol Off	Pers Off	Pers Viol Off
	PL	PL	PL	PL	PL				
Incarceration <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison Det _____ Years <input type="checkbox"/> Prison Indet _____ Min _____ Max									
Intermittent Incarceration <input type="checkbox"/> Jail _____ Days <input type="checkbox"/> Prison _____ Days									
Probation With Incarceration <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison _____ Years <input type="checkbox"/> Probation _____ Months _____ Years									
Probation Without Incarceration <input type="checkbox"/> Supervised _____ Months _____ Years <input type="checkbox"/> Unsupervised _____ Months _____ Years									
Conditional Discharge With Incarceration <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison _____ Years <input type="checkbox"/> Cond Discharge _____ Months _____ Years									
Conditional Discharge Without Incarceration <input type="checkbox"/> Supervised _____ Months _____ Years <input type="checkbox"/> Unsupervised _____ Months _____ Years									
Unconditional Discharge									
Other (specify)									
Date of Sentencing	Sentence <input type="checkbox"/> Single <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive								

\*Include all sentences whether or not for target crimes.

TIME LAPSE ANALYSIS	
ARREST TO DISPOSITION (Excluding Sentencing)	
Delay Not Attributable to Prosecution	
<input type="checkbox"/> At Large _____ Days	<input type="checkbox"/> Adjourment By Defense _____ Days
<input type="checkbox"/> Commitment for Incompetence _____ Days	<input type="checkbox"/> Transfer to Another Jurisdiction At Their Request for Primary Prosecution _____ Days
<input type="checkbox"/> Escape from Custody _____ Days	<input type="checkbox"/> Other (specify) _____ Days
<input type="checkbox"/> Failure to Appear _____ Days	

### CAREER CRIMINAL PROSECUTION PROGRAM CASE REPORT

(Attach Criminal History)

County	Defendant	Report No.
Prosecutor	NYSID No.	Armed Felony Offense <input type="checkbox"/> Yes <input type="checkbox"/> No
Criminal History - Date Rec.		
Legal Restraint At Time of Arrest		
<input type="checkbox"/> Pretrial Release on Bail <input type="checkbox"/> On Furlough <input type="checkbox"/> On Parole <input type="checkbox"/> Pretrial Release on Recognizance <input type="checkbox"/> Absent Without Leave-Penal Facility <input type="checkbox"/> Released-Cond. Suspended Sentence <input type="checkbox"/> Jumped Bail <input type="checkbox"/> Escaped <input type="checkbox"/> Other (specify) _____ <input type="checkbox"/> On Work Release <input type="checkbox"/> On Probation <input type="checkbox"/> None		
Status-Current Arrest <input type="checkbox"/> Jail <input type="checkbox"/> Bail <input type="checkbox"/> Release on Recognizance	Amount of Bail At Arraignment Cash \$ _____ Bond \$ _____	Type of Defendant <input type="checkbox"/> Criteria <input type="checkbox"/> Criteria Exempted
Major Felony Trial Part <input type="checkbox"/> Yes <input type="checkbox"/> No		Legal Defense <input type="checkbox"/> Public Defender/Legal Aid <input type="checkbox"/> Court Appointed Attorney <input type="checkbox"/> Private Counsel
<input type="checkbox"/> Accepted <input type="checkbox"/> Rejected	Reasons	

REPORTING ITEMS	Date	INTAKE					ENHANCEMENTS			
		CRIMES (Section Number)*					2d Off	2d Viol Off	Pers Off	Pers Viol Off
		PL	PL	PL	PL	PL				
Arrest										
Arraignment										
<input type="checkbox"/> Indictment <input type="checkbox"/> Returned-L.C. <input type="checkbox"/> S.C.I. <input type="checkbox"/> Dismissed										

\*Indicate all charges whether or not for target crimes.

REPORTING ITEMS	Date	DISPOSITION					ENHANCEMENTS			
		CRIMES (Section Numbers)*					2d Off	2d Viol Off	Pers Off	Pers Viol Off
		PL	PL	PL	PL	PL				
Dismissed by Prosecutor Before Filing										
Dismissed by Prosecutor After Filing										
Pled Guilty Before Trial As Originally Charged										
Pled Guilty Before Trial To Reduced Charge										
Pled Guilty During Trial As Originally Charged										
Pled Guilty During Trial To Reduced Charge										
Trial Conviction By Judge As Originally Charged										
Trial Conviction By Judge To Reduced Charge										
Trial Conviction By Jury As Originally Charged										
Trial Conviction By Jury To Reduced Charge										
Acquitted At Trial By Judge										
Acquitted At Trial By Jury										
Dismissed By Court										
Status At Disposition <input type="checkbox"/> Jail <input type="checkbox"/> Bail <input type="checkbox"/> Release on Recognizance	Amount of Bail At Disposition Cash \$ _____ Bond \$ _____	Judge At Disposition								

\*Indicate all dispositions whether or not for target crimes.

REPORTING ITEMS	SENTENCE					ENHANCEMENTS			
	CRIMES (Section Number)*					2d Off	2d Viol Off	Pers Off	Pers Viol Off
	PL	PL	PL	PL	PL				
<b>Incarceration</b> <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison Det _____ Years <input type="checkbox"/> Prison Indet _____ Min _____ Max									
<b>Intermittent Incarceration</b> <input type="checkbox"/> Jail _____ Days <input type="checkbox"/> Prison _____ Days									
<b>Probation With Incarceration</b> <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison _____ Years <input type="checkbox"/> Probation _____ Months _____ Years									
<b>Probation-Without Incarceration</b> <input type="checkbox"/> Supervised _____ Months _____ Years <input type="checkbox"/> Unsupervised _____ Months _____ Years									
<b>Conditional Discharge With Incarceration</b> <input type="checkbox"/> Jail _____ Months <input type="checkbox"/> Prison _____ Years <input type="checkbox"/> Cond Discharge _____ Months _____ Years									
<b>Conditional Discharge Without Incarceration</b> <input type="checkbox"/> Supervised _____ Months _____ Years <input type="checkbox"/> Unsupervised _____ Months _____ Years									
<b>Unconditional Discharge</b>									
<b>Other (specify)</b>									
Date of Sentencing _____ Sentence <input type="checkbox"/> Single <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive									

\*Include all sentences whether or not for target crimes.

TIME LAPSE ANALYSIS	
ARREST TO DISPOSITION (Excluding Sentencing)	
Delay Not Attributable to Prosecution	
<input type="checkbox"/> At Large _____ Days	<input type="checkbox"/> Adournment By Defense _____ Days
<input type="checkbox"/> Commitment for Incompetence _____ Days	<input type="checkbox"/> Transfer to Another Jurisdiction At Their Request for Primary Prosecution _____ Days
<input type="checkbox"/> Escape from Custody _____ Days	<input type="checkbox"/> Other (specify) _____ Days
<input type="checkbox"/> Failure to Appear _____ Days	

APPENDIX F

FISCAL REPORTING REQUIREMENTS  
 PROGRAMMATIC REPORTING REQUIREMENTS  
 PROGRAMMATIC REPORTING GUIDELINES

I. Books and Records

The books must reflect all cash receipts and disbursements of the program.

There must be proper authorization and substantiation to support all expenditures.

The payroll journal must reflect all payroll charges applicable to the program and must include the information indicated in section 2D below.

II. Reporting Requirements

All fiscal cost reports, state aid vouchers, and correspondence should be directed to:

Ms. Karen Schoenberg, Director  
Career Criminal Prosecution Program  
Bureau of Prosecution and Defense Services  
NYS Division of Criminal Justice Services  
80 Centre Street, 4th Floor  
New York, NY 10013

A. Fiscal Cost Reports

Fiscal cost reports are due monthly, fifteen days after the close of the reporting month.

Three original copies on DCJS Form No. GA2 (8/74) must be submitted. Each fiscal cost report must be certified by the project director and fiscal officer. Signatures on all three copies must be original signatures.

A report must be submitted even though there are no expenditures for the month. Expenditures are to be analyzed by category.

Item 12b must include cash received as well as cash requested but not yet received.

Funds for anticipated expenditures in Item 13a can never be requested for more than a two-month period.

B. State Aid Vouchers

A state aid voucher must be submitted with each fiscal cost report where there are expenditures for the month.

Each state aid voucher must be certified by the chief fiscal officer, or duly authorized representative, of the County. Three signed copies must be submitted.

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D. Support Material

EACH MONTHLY FISCAL COST REPORT MUST BE ACCOMPANIED BY SUPPORT MATERIAL FOR ALL EXPENDITURES INCURRED OR PAID IN THAT MONTH.

1. Personnel

A copy of the County payroll print-out or other like report must be submitted reflecting the following information:

- a. Employee name
- b. Employee social security number
- c. Position title
- d. Annual salary
- e. Weekly, bi-weekly or monthly salary
- f. Period worked
- g. Cumulative salary
- h. Date hired and/or left
- i. Fringe benefits paid for period
- j. Cumulative fringe benefits paid

2. Other

For expenditures other than for personal services, the following must be submitted:

- a. Vendor's invoice
- b. Receiving document
- c. Authorization (where required and obtained)
- d. Expense voucher/employee travel voucher
- e. Any other backup material validating the expense

III. Field Audits

Periodic audits will be conducted at the grantee's office at which time the accounting operations, books, and records will be reviewed.

IV. Budget Modifications

All requests for budget modifications must be submitted in writing and must include a precise explanation and justification. Where necessary, a Budget Amendment/Grant Extension Request, DCJS Form No. GAL (8/74) must thereafter be submitted.

I. Reporting Requirements

Case reports are due monthly, fifteen days after the close of the reporting month.

Performance reports are due quarterly, fifteen days after the close of the calendar quarter.

All case reports, performance reports, and correspondence should be directed to:

Ms. Karen Schoenberg, Director  
Career Criminal Prosecution Program  
Bureau of Prosecution and Defense Services  
NYS Division of Criminal Justice Services  
80 Centre Street, 4th Floor  
New York, NY 10013

II. Program Performance ReportsA. Sub-grantees

The following information must be included in sub-grantee program performance reports:

1. Initial assignment and/or changes in personnel (resumes attached)
2. Start-up operations (space, major equipment, meetings with staff and/or law enforcement agencies, etc.)
3. Implementation and operation
  - a. Detailed description of how the program is designed to operate (identification and screening of cases, witness notification, etc.) (first report only)
  - b. Establishment of administrative controls
  - c. Specific description of how the program is operating (problem areas and critical observations must be mentioned and frankly discussed as well as program accomplishments)
  - d. Comparison of goals established for the reporting period to actual accomplishments (report must be concrete and specific regarding accomplishments and, if established goals were not met, reasons for slippage must be given)

- e. Number of career criminal prosecutions where recommendations on behalf of the state were/were not made regarding parole or early release of persons convicted as career criminals
  - f. General rate of crime and overall assessment of the impact of the program on the criminal justice system and the community
  - g. Voluntary contributions to the program, if any, by the County (personnel, equipment, etc.)
4. Where applicable, PROMIS research as required by DCJS (upon installation and operation of the system only)
  5. Any other information bearing on the operation, administration, objectives, goals, and accomplishments of the program

B. DCJS Administrative Unit

FOR YOUR INFORMATION ONLY, LEAA requires a statewide quarterly program performance report and quarterly statistical summary report. This information will be prepared on the basis of the performance and case reports submitted by each sub-grantee. These reports must include the following:

1. Number of crimes committed by career criminals
2. Number of cases selected/rejected for career criminal treatment and the selection criteria used
3. Caseload per career criminal assistant district attorney
4. Number of pretrial release or bail decisions made without knowledge of the career criminal defendant's criminal history and the reasons therefor
5. Average time between arrest and indictment and between indictment and disposition for career criminal prosecutions
6. Number of incidents and duration of pretrial, trial, and sentencing delays in career criminal prosecutions and the reasons therefor
7. Number of career criminal prosecutions where plea or sentence bargaining has occurred and the reasons therefor
8. Rate of conviction for career criminal prosecutions
9. Sentences imposed for career criminal prosecutions
10. Number of dismissals for career criminal prosecutions for reasons other than merits of the case and the reasons therefor

QUARTERLY PROGRESS REPORTS

A summary of grant progress and activities for the reporting period should include the following:

1. GOAL/OBJECTIVE STATUS

At the beginning of each report, the project's major goals and objectives, established in the grant application and/or modified by an approved grant adjustment, must be briefly re-stated.

The current status of each will be indicated by:

- a. The project director's self-assessment of the progress made during the reporting quarter discussed in a narrative fashion, i.e., an analysis and explanation of events or circumstances which enhanced the success (or caused the failure) in the accomplishment of a specific goal or objective.
- b. Completed data sheets which support this narrative progress report.

2. IMPLEMENTATION/OPERATION PLANS

- a. During the first reporting quarter of the grant period, the narrative description should trace the progress of the grant in relation to the project's Implementation Plan, as proposed in the grant application. Any deviation from that plan should be specifically explained. Corresponding adjustments in the plan for subsequent quarters should then be requested with justification.
- b. Each subsequent quarterly report should also discuss the project's activities for that quarter in relation to the Operation Plan as proposed in the application. This will provide means by which the project, for its own self-evaluation purposes, and LEAA, fulfilling its monitoring responsibility, will best be able to assess progress and identify major problem areas in order that either remedial action may be taken, or justifiable adjustments in the Operation Plan can be made.

3. PROBLEMS

- a. Identify, explain, and discuss proposed solutions for any problems which affect the project's ability to attain goals and objectives.

NOTE: LEAA anticipates that problems, unforeseen at the outset of the project, will continually arise requiring changes in techniques. Include in the quarterly report such innovative techniques devised to solve problems in order that these techniques may be shared with other projects which may be experiencing similar problems.

4. CHANGES

- a. Identify changes in personnel.
- b. Identify major accomplished/proposed modifications.
  - 1) The reasons and justification for which a Grant Adjustment request may be anticipated during the coming quarter.

NOTE: This request is a separate and specific written request; this provides the program desk with notice.

- 2) The manner in which a Grant Adjustment Notice (if any) issued during the past quarter has been implemented.

5. OUTSIDE DEVELOPMENT

- a. Local community reaction to project, e.g., press releases.
- b. Reception from and cooperation with interacting law enforcement agencies.
- c. Pertinent state or local developments, e.g., modifications in state criminal laws and procedures which directly affect the project.

6. FINAL NARRATIVE REPORT

- a. The Final Report, which covers the entire grant period, should thoroughly assess the cumulative project results (both successes and failures) in the four major categories mentioned above, and as such should be much more comprehensive than the reports for each individual quarter. This report should serve two major functions:
  - 1) Provide the project with a self-evaluative review of the problems and activities for the entire grant period which should aid in the future and continual improvement of the project, either with LEAA discretionary funds, or during and after the assumption of support by other financial resources.
  - 2) Provide LEAA with a summary of a project's entire grant period for both the government's permanent, official file and for its use in assessing the history and development of the Career Criminal Program, as well as determining its future course.

APPENDIX G

## SAMPLE PROJECT POSTER

# County of Erie

EDWARD C. COSGROVE  
DISTRICT ATTORNEY



DISTRICT ATTORNEYS OFFICE  
25 DELAWARE AVE.  
BUFFALO, N.Y. 14202  
PHONE (716) 855-2424

PLEASE POST

## CRITERIA FOR CAREER CRIMINAL PROSECUTION

(A) The CRIME being investigated must be for either:

- 1) ROBBERY: or
- 2) FELONIOUS ASSAULT: or
- 3) ARSON: or
- 4) FORCIBLE SEX OFFENSE: or
- 5) HOMICIDE: or
- 6) BURGLARY;

and

(B) The SUSPECT must have  
One (1) or more felony convictions;

—or—

NOTE WELL: If you do not know the suspect's criminal record and if there is a particularly notorious/ vicious crime, a case MAY BE ACCEPTED by the Bureau - at least initially. In any event, always err on the side of calling us if you feel the case fits the general goal of the program; i.e. to effectively and swiftly prosecute those criminals who have shown themselves to be repeat felons or at least have that clear potential.  
(Consequently, most domestic crimes would not generally fall into the goal of the Bureau.)

## HOW TO CONTACT AN ASSISTANT DISTRICT ATTORNEY:

- a) MONDAY through FRIDAY - 24 hours a day - the DISTRICT ATTORNEY'S OFFICE 855-2424
- b) From MIDNIGHT FRIDAY to 9:00 A.M. MONDAY  
Call Buffalo Police Department Switchboard 855-4444.\*\*

\*\*NOTE: When calling this number, advise the technician/officer that you wish to contact the Assistant District Attorney who is on call that weekend for the CAREER CRIMINAL PROGRAM. The Assistant District Attorney receiving his page, will then call that same number (855-4444) to find out which agency wishes to speak with him and then the Assistant District Attorney will call you.

"This is a LEAA funded program administered by Edward C. Cosgrove, District Attorney, Erie County."

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## APPENDIX H

### HIERARCHY OF FELONIES

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HIERARCHY OF FELONIES  
(All felonies are rated A, B, C, D, E)

<u>Rating</u>	<u>Title of Felony</u>	<u>Penal Law Section</u>
A	MURDER SECOND DEGREE	125.25
	KIDNAPPING FIRST DEGREE	135.25
	ARSON FIRST DEGREE	150.20
B	ATTEMPT AT ANY "A" FELONY*	
	MANSLAUGHTER FIRST DEGREE*	125.20
	RAPE FIRST DEGREE*	130.35
	SODOMY FIRST DEGREE*	130.50
	KIDNAPPING SECOND DEGREE*	135.20
	ROBBERY FIRST DEGREE*	160.15
	BURGLARY FIRST DEGREE*	140.30
	ARSON SECOND DEGREE*	150.15
	CRIMINAL POSSESSION OF A WEAPON FIRST DEGREE*	265.04
	AGGRAVATED SEXUAL ABUSE	130.70
C	ATTEMPT AT ANY "B" FELONY	
	MANSLAUGHTER SECOND DEGREE	125.15
	ASSAULT FIRST DEGREE*	120.10
	ROBBERY SECOND DEGREE*	160.10
	BURGLARY SECOND DEGREE*	140.25
	ARSON THIRD DEGREE	150.10
	CRIMINAL POSSESSION OF A WEAPON SECOND DEGREE*	265.03
	GRAND LARCENY FIRST DEGREE (EXTORTION)	155.40
	CRIMINAL POSSESSION OF A FORGED INSTRUMENT FIRST DEGREE	170.30
FORGERY FIRST DEGREE	170.15	
D	ATTEMPT AT ANY "C" FELONY	
	ASSAULT SECOND DEGREE*	120.05
	RECKLESS ENDANGERMENT FIRST DEGREE	120.25
	ROBBERY THIRD DEGREE	160.05
	BURGLARY THIRD DEGREE	140.20
	RAPE SECOND DEGREE	130.30
	SODOMY SECOND DEGREE	130.45
	SEXUAL ABUSE FIRST DEGREE*	130.65
	CRIMINAL POSSESSION OF A WEAPON THIRD DEGREE	265.02
	GRAND LARCENY SECOND DEGREE	155.35
	CRIMINAL POSSESSION OF STOLEN PROPERTY FIRST DEGREE	165.50
	ESCAPE FIRST DEGREE	205.15
	PERJURY FIRST DEGREE	210.15
	BRIBING A WITNESS	215.00
	BRIBE RECEIVING BY A WITNESS	215.05
	BRIBING A JUROR	215.15
	BRIBE RECEIVING BY A JUROR	215.20
	FORGERY SECOND DEGREE	170.10
CRIMINAL POSSESSION OF A FORGED INSTRUMENT SECOND DEGREE	170.25	
CRIMINAL POSSESSION OF FORGERY DEVICES	170.40	

\* VIOLENT FELONY OFFENSES: Attempt to commit any "B" or "C" VIOLENT FELONY constitutes a VIOLENT FELONY OFFENSE

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HIERARCHY OF FELONIES  
(All felonies are rated A, B, C, D, E)

<u>Rating</u>	<u>Title of Felony</u>	<u>Penal Law Section</u>
E	ATTEMPT AT ANY "D" FELONY	
	RAPE THIRD DEGREE	130.25
	SODOMY THIRD DEGREE	130.40
	ESCAPE SECOND DEGREE	205.10
	GRAND LARCENY THIRD DEGREE	155.30
	CRIMINAL POSSESSION OF STOLEN PROPERTY SECOND DEGREE	165.45
	PERJURY SECOND DEGREE	210.10
	TAMPERING WITH PHYSICAL EVIDENCE	215.40
	FORGERY OF A VEHICLE IDENTIFICATION NUMBER	170.65

APPENDIX I

FELONY SENTENCE DETERMINATION

FELONY  
SENTENCE DETERMINATION  
 (Rate of felony plus enhancement criterion)

<u>Rating</u>	<u>Enhancement Criterion</u>	<u>Minimum</u>	<u>Maximum</u>
A	NOT APPLICABLE	15-25	LIFE
B,C,D,E	PERSISTENT FELONY OFFENDER Two or more prior felony convictions each including a separate prison sentence (optional sentence by judicial discretion)	15-25	LIFE
B	PERSISTENT VIOLENT FELONY OFFENDER Two or more prior violent felony convictions each including a separate prison sentence (mandatory sentence)	10-25	LIFE
C	PERSISTENT VIOLENT FELONY OFFENDER Same as "B" above	8-25	LIFE
D	PERSISTENT VIOLENT FELONY OFFENDER	6-12	LIFE
B	SECOND VIOLENT FELONY OFFENDER One prior violent felony conviction within ten years of commission of instant crime (mandatory sentence)	6-12½	12-25
B	SECOND FELONY OFFENDER One prior felony conviction of any type within ten years of commission of instant crime (mandatory sentence)	4½-12½	9-25
B	VIOLENT FELONY OFFENDER First conviction for any type "B" Violent Felony (mandatory sentence)	2-8 1/3	6-25
B	FIRST FELONY CONVICTION	0-8 1/3	25
C	SECOND VIOLENT FELONY OFFENDER Same as "B" Violent Felony Offender above	4-7½	8-15
C	SECOND FELONY OFFENDER Same as "B" Second Felony Offender above	3-7½	6-15
C	VIOLENT FELONY OFFENDER Same as "B" Violent Felony Offender above	1½-5	4½-15
C	FIRST FELONY CONVICTION	0-5	15

FELONY  
SENTENCE DETERMINATION  
(Rate of felony plus enhancement criterion)

<u>Rating</u>	<u>Enhancement Criterion</u>	<u>Minimum</u>	<u>Maximum</u>
D	SECOND VIOLENT FELONY OFFENDER Same as "B" and "C" Second Violent Felony Offender above	2½-3½	5-7
D	SECOND FELONY OFFENDER Same as "B" and "C" Second Felony Offender above	2-3½	4-7
D	VIOLENT FELONY OFFENDER Same as "B" and "C" Violent Felony Offender above	1-3 1/3	7
D	FIRST FELONY CONVICTION	0-2 1/3	7
E	SECOND FELONY OFFENDER Same as "B," "C" and "D" Second Felony Offender above	1½-2	3-4
E	FIRST FELONY CONVICTION	0-1 1/3	4

**END**