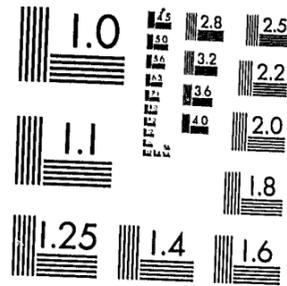


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United States Department of Justice  
Washington, D. C. 20531

DATE FILMED

9/30/81

77700



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February 13, 1981

DIVISIONS

MAJOR FRAUDS UNIT 279-8206  
CHILD SUPPORT SERVICES 279-8220  
MAIN OFFICE 279-8211

Mr. Karl Stehmer  
U.S. Department of Justice  
Law Enforcement Assistance Administration  
Washington, D.C.

Dear Karl:

Enclosed is your advance copy of the Final Report for the Career Criminal Prosecution Unit for grant numbers 78-DF-AX-0163 and 79-DF-AX-0174.

I apologize for the delay in sending this report on to you. If you have any questions regarding this report, please contact me at (301) 279-8211.

Sincerely,

*Robert M. Coyne*

Robert M. Coyne  
Administrative Assistant  
State's Attorney's Office for  
Montgomery County, Maryland

RMC:kss

Enclosure

MF 1

GMA APPROVAL NO. 41-00523  
EXPIRATION DATE 4-30-74

<p>U. S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION</p>		<p>DISCRETIONARY GRANT PROGRESS REPORT</p>	
<p>GRANTEE Maryland Governor's Commission on Crime and Law Enforcement.</p>	<p>LEAA GRANT NO. <del>78-DF-AX-0163</del> 79-DF-AX-0174</p>	<p>DATE OF REPORT 2-11-81</p>	<p>REPORT NO. final</p>
<p>IMPLEMENTING SUBGRANTEE Office of the State's Attorney for Montgomery County</p>	<p>TYPE OF REPORT <input type="checkbox"/> REGULAR QUARTERLY <input type="checkbox"/> SPECIAL REQUEST <input checked="" type="checkbox"/> FINAL REPORT</p>		
<p>SHORT TITLE OF PROJECT Career Criminal Prosecution Unit</p>	<p>GRANT AMOUNT \$246,445</p>		
<p>REPORT IS SUBMITTED FOR THE PERIOD October 1, 1978 THROUGH September 30, 1980</p>			
<p>SIGNATURE OF PROJECT DIRECTOR <i>Andrew L. Sonner</i></p>	<p>TYPED NAME &amp; TITLE OF PROJECT DIRECTOR Andrew L. Sonner State's Attorney</p>		
<p>COMMENCE REPORT HERE (Add continuation pages as required.)</p>			
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TWO YEAR SUMMARY OF THE  
CAREER CRIMINAL UNIT  
MONTGOMERY COUNTY, MARYLAND

The State's Attorney's Office in Montgomery County, Maryland, with the aid of a two-year grant from the Law Enforcement Assistance Administration (LEAA), opened a Career Criminal Prosecution Unit (CCPU) in October of 1978. The major purpose of the CCPU was to target and prosecute serious repeat offenders in Montgomery County. The methodology involved combining the best prosecutorial techniques with adequate manpower resources and determining what impact a specialized unit of operation would have on the serious offender population. The LEAA grant terminated in October of 1980. Reflecting the effectiveness and successes of the Career Criminal Unit, Montgomery County recognized its importance and assumed funding for the program after LEAA monies ended. The purpose of this report is to summarize the achievements and shortcomings of the two year grant.

The State Attorney's Office established ten major goals for the CCPU. These goals were arrived by visiting other successful career criminal operations elsewhere in the country, receiving technical assistance from LEAA and examining what were the serious offenders in Montgomery County. These goals are summarized as follows:

- I. To respond to 100 percent of the major crime scenes involving career criminals and then provide the police with legal assistance at the earliest opportunity.

ANALYSIS

Prior to commencement of the CCPU operation, identification of the serious offender population as a targeted group was non-existent.

This is due to the fact that prosecutors historically suffer from high case loads and have limited resources. Further, restricted police roles have affected communication with the prosecutor.

CCPU established a priority goal to improve communication with the police and build better cases by involving the attorneys from the earliest stage of a police case - sometimes at the scene of the crime itself.

The CCPU utilizes a seven-days-a-week, twenty-four-hours-a-day paging system. The attorneys rotate on-call and are assigned beepers on that basis. They are then able to respond to police inquiries about possible career criminals. Once notified, the CCPU attorneys have the opportunity to assess the merit of the case and to determine if career criminal prosecution is warranted. Feedback from CCPU attorneys indicate that the paging system has assisted in improving cooperation and communication with the police. CCPU attorneys, through early and direct intervention and access to the criminal process has been able to build stronger cases. Police have also benefited since they have received suggestions involving technical questions of law which assist their case preparation.

The on-call assistance offered by each CCPU attorney was tracked by use of an on-call summary sheet and measurable statistics were analyzed. A break-down of the on-call summary sheet provides the following information:

(See chart on following page - page 3)

TYPES OF ASSISTANCE

<u>(On-Call Summary)</u>	<u>(Real Numbers)</u>	<u>(Percentages)</u>
Pre-Arrest	66	36%
Interviews	11	9%
Prepare Search Warrants	15	6%
Line-ups	15	6%
Other	77	42%
	185	100%

This table categorizes, by types of assistance offered, the number of calls recorded through the paging system. Pre-arrest accounted for 36%, interviews at 9%, preparation of search warrants at 6%, and line-ups followed with 8%. The "other" category indicates 44% of calls requested general assistance. The total number of calls received over the course of the grant (185) would seem to indicate limited usage until other factors are considered. In the early months of the grant, the failure of the company contracted to refer calls from police to CCPU attorneys resulted in many lost calls and, of course, inadequate statistics. The unit corrected the problem by selecting another system which has proven to be reliable. An unexpected, but welcome facet of the new communication arrangement, was that as communication increased between CCPU and the Montgomery County Police, officers would often call attorneys directly and thus bypass the paging system.

The important but immeasurable benefits resulting from the on-call system include the establishment of a close relationship with the police, the ability to anticipate and prevent defects in prosecution, and the development of a better understanding of police

problems at the time of arrest which enhance prosecutors understanding of the case.

- II. To utilize and apply all standard criteria to career criminal cases; to select out for prosecution only those cases most deserving of an intensive effort.

ANALYSIS

The major objectives of the grant included determining the extent of the habitual offender population, analyzing their interaction with the Montgomery County Criminal Justice System, and striking back with concentrated prosecutorial techniques. These goals were designed to detect any weak links in the criminal justice network.

The CCPU selected five criminal offenses for which prosecution was targeted (murder, rape, armed robbery, assault with intent to murder, burglary of a dwelling). These offenses were considered the most serious criminal threat to Montgomery County.

Originally, there were three bases by which a defendant was targeted under CCPU procedures: (1) by being charged under one of the five offenses in addition to having two prior felony convictions, (2) by having one conviction in the five categories listed, (3) by having five or more separate offenses of the above enumerated types.

In June, 1979, a modification of the selection criteria was requested by LEAA and was granted. The criteria eligible defendants now simply must have a previous felony conviction and to have been arrested in one of the five criminal offenses.

This change has assisted police who often had difficulty in the field determining the appropriateness and eligibility of criteria cases for CCPU prosecution. Subsequently, a profile was established in which a criteria eligible defendant must have been arrested and

charged with one of the five targeted crimes and have as stated, a prior felony conviction. This simplified the selection process and has enabled the police to identify career criminals more easily. The process of establishing internal objectives and developing a referral system and effective screening procedure has tremendously helped the unit target and effectively prosecute career criminals. Only 4% of career criminals were originally referred to other trial divisions within the State's Attorney's Office, instead of going directly to the CCPU.

Finally, an examination of the defendant's prior criminal history in the case was that the CCPU is indeed directing its attention to the most serious offenders. On the average, the eligible defendants have had 3.0 prior arrests, 2.3 prior felony convictions and 3.8 misdemeanor convictions. 47.1% were either on probation or parole at the time of their referral to the career criminal unit.

III. To represent the people's interests at all bail bond hearings involving career criminals.

ANALYSIS

Bond Commissioners set bond for all arrested defendants. Persons arrested are granted the right to a bond hearing within twenty-four hours as a result of Rule 27, Maryland Code of Procedure. The Commissioners often do not have a complete set of facts of a particular case or the defendant's entire criminal history before then.

Bond hearing attendance was determined to be of strategic importance for career criminal operations. This goal is to insure that bond is set high enough to guarantee the defendant's subsequent appearance in court. Since CCPU attorneys are on-call twenty-four-hours-a-day, through a paging system, prosecutors are able to follow

the career criminal from the time of arrest to the time of his bond hearing a few hours later. The attorneys are prepared to take the position on bond and present the Commissioner with pertinent information and legal facts.

BOND HEARINGS

(Level)	(Real Numbers)	(Percentages)
Commissioner	38	29%
District Court	55	42%
Circuit Court	38	29%
	131	100%

This table indicates the number of bond hearings CCPU attorneys attended during the course of the LEAA grant. During the two years attorneys attended over 130 hearings at the different adjudicatory levels of bond hearings and reviews. 29% were at the Commissioner level, 42% at the District Court level, and 29% were held for review at the Circuit Court level.

IV. To apply vertical prosecution methods to 100% of the identified career criminal cases.

ANALYSIS

High caseloads and staff limitations have traditionally affected prosecution. This historical problem often results in the Assistants being unable to maintain vertical prosecution of serious offenders.

Thus, to insure vertical prosecution of career criminals, objectives were established to insure continuity and more indepth participation in CCPU cases. Once identification of a career criminal has been made, a CCPU attorney is assigned to handle the case and follow it from the beginning to its conclusion (vertical prosecution).

This is quite a departure from felony prosecution in Montgomery County where under traditional prosecutorial restraints as many as four different attorneys may be involved in a case at any given point. To take the greatest advantage of vertical prosecutorial techniques, CCPU attorneys were to carry a much smaller caseload than other prosecutors in the Circuit Court Division. The average caseload for CCPU Assistants during the first months of the grant was approximately eight cases per attorney as compared with 18.3 cases per attorney in the Circuit Court trial division.

To reinforce the CCPU commitment to each career criminal the Assistants personally oversee many procedures that, in routine felony processing, may not always be possible due to heavy caseloads:

- a. attend bail and preliminary hearings;
- b. maintain close personal contact with victims, witnesses and police;
- c. handle their own pre-trial motions (a practice which allows them to argue personally against unwarranted delays and continuances);
- d. assist defense attorneys in obtaining their information to prepare their cases, as well as probation officers in preparing the pre-sentence investigation report.

- V. To reduce within one year from the time lapse between arrest to indictment of thirty days to seven days.

#### ANALYSIS

Traditional methods of prosecution require several steps of screening and clerical preparation prior to Grand Jury presentation. These and other factors often create delays in presenting cases for indictment and prosecution.

In Montgomery County, the Grand Jury meets one day a week to select appropriate cases for indictment. The CCPU attorneys

established a priority goal of bringing cases for indictment within seven days of arrest. This goal over the span of the grant has had to be redefined and a reorientation of policy objectives established.

This reorientation was undertaken for two specific reasons.

- (1) It was a tactical decision to often take a case to preliminary hearing before presentation to the Grand Jury for indictment, and
- (2) To do an indepth case analysis before pre-charging as opposed to a post-analysis after sentencing as in Circuit Court. Both of these reasons often resulted in foregoing the seven day goal. The average number of days from arrest to indictment over this two year grant was 32.2 days. The unit attorneys felt presenting the very best possible case to the Grand Jury for indictment and use of the preliminary hearing, overrode the original goal of seven days from arrest to indictment. When examining the low percentages of cases which were lost because of "lack of prosecutorial merit", the change in policy was fully justified.

- VI. To reduce within one year the period of time between arraignment and trial from six months to sixty days.

#### ANALYSIS

The traditional methods of prosecution often meant dealing with continual procedural delays from the defense, lack of police coordination, reluctant witnesses and tardy parole and probation reports to the court. These delays are however, typical to any Criminal Justice Network.

Thus, another major goal of the CCPU was to process cases as quickly as possible to trial. To achieve this goal, special procedures were developed with the cooperation of the Assignment Office in the Circuit Court. The prosecutors request that a hearing date on all

pre-trial motions be set for forty-five days from the date of arraignment. However, that goal has often been in conflict with a more strategic need to build the very best case possible using all available resources (e.g., out of state witnesses, forensic and medical experts). The average time for bringing a case to trial over the span of this project averaged 112.5 days. Building strong cases often for CCPU to forfeit its original goal of bringing a case to trial within sixty days. Overall, the consistently strong conviction rate for more of the top charges (78%), reinforce this policy decision.

VII. To reduce the number of career criminal cases continued as a result of systemic problems within the court to no more than 10%.

ANALYSIS

Those factors that can cause delays, such as continuances, pre-trial motions, absent witnesses, tardy documents or reports to the court, were all targeted as problems for the CCPU to overcome.

Attorneys developed a team approach to anticipate these bottlenecks before they reach the court stage. For example, defense attorneys are provided with discovery information and other pertinent materials immediately so that the court delays are kept to a minimum. Systemic delays over the life of the grant have been minimal and it is estimated that less than 3% of the case delays were a direct result of the type problems mentioned.

VIII. To proceed to trial in 100% of career criminal cases.

ANALYSIS

The CCPU took a stance of no plea's concession on cases assigned

to this unit. Pleas will only be accepted to the charge contained in the indictment. This goal of refusing to accept anything less than the top charge listed in the indictment and refusal to recommend lenient sentences, has worked well. Only in the most restricted circumstances has this goal been overridden.

TABLE THREE

<u>Categories</u>	<u>Percentages</u>
Pled to the top charge	24%
Pled to a reduced charge	10%
Guilty by jury of top charge	54%
Guilty by jury of reduced charge	12%
	100%

Table three is divided into four categories. The first one, indicates those defendants who pled to the top charge in the indictment. Next those defendants who were allowed to plea to a reduced charge. The next category indicates that 54% of those defendants who elected to go to trial were found guilty of the top charge. Only 12% were found guilty to a reduced charge.

VIX. To reduce the number of career criminal cases prosecuted which resulted in lesser convictions due to witness related problems.

ANALYSIS

Victim/Witness management has historically suffered as a prosecutorial function and until a few years ago, was left entirely up to the individual prosecutor who was often ill-equipped to handle the task. Faulty communication, fear of reprisal, reluctant witnesses, and inaccurate court scheduling, were problems of the career criminal

unit clearly identified as concerns to overcome, if cases were to be successfully prosecuted.

Assigned to the CCPU was an experienced Victim/Witness Coordinator whose chief responsibility was to maintain a close relationship with the victim and witnesses. During the grant period, the Victim/Witness Coordinator attended different seminars such as rape crisis intervention to improve her skills. Problems due to the victim/witness non-cooperation issue over the two year grant averaged no more than 3% (these were usually witnesses who could not be located.) The CCPU innovations in victim/witness management have been adopted for full office procedure by the State's Attorney's Office; most notably the Victim/Witness Impact Statements which are presented at the time of sentencing. The statements prepared by the Victim/Witness Coordinator informed the court at the time of sentencing of the victim's attitudes toward the crime and the defendant, including personal problems he or she might have incurred resulting from the offense.

- X. To represent the State's interest at 100% of the parole hearings involving career criminals.

ANALYSIS

Presently, in the State of Maryland, no legal provisions exist permitting the State Attorney or his authorized representative to appear at parole hearings to represent the interest of the State. This lack of communication often results in consideration for parole being made with the Parole Commissioner being aware that the defendant was prosecuted as a serious repeat offender.

To bridge this communication gap, the State's Attorney's Office has requested notification by the Parole Board prior to any

considerations for parole. This allows the State's Attorney's Office to take a position against parole release. Unfortunately, this communication gap is still wide and little has been done to work on its improvement.

SUMMARY

The Montgomery County Career Criminal Prosecution Unit in the course of the two year grant, has successfully prosecuted over 80% of its defendants. Defendants who reach the career criminal unit invariably receive swift and certain justice. The highlights of the successes of the career criminal unit achieve include the following:

a. Selection Criteria

Early in this grant, CCPU discovered the selection criteria was cumbersome and ineffective. To streamline the selection efforts, Montgomery County requested, and was granted, a simplified version: namely the defendant must have one prior felony conviction and to have been arrested in one of the five offenses to be considered a career criminal. In modifying the guidelines on selection criteria, they still reflect LEAA guidelines, the priorities of this unit, and the available resources. The streamlined criteria proved to be effective and has not prevented prosecution of the habitual defendant.

b. Early Identification of the Career Criminal Population in Montgomery County

The goal of Montgomery County career criminal operation has always been to determine at the earliest possible time, whether a defendant meets the selection criteria and therefore, should be prosecuted by this unit. To achieve this, the paging system was

employed to assist communication between police and prosecutors in identifying habitual offenders at early stages. Also, to assist prosecutors in completing prompt and thorough investigations, thus facilitating better case preparation.

C. Reducing the Time Span from Arrest to Sentencing

As noted earlier in the program report, every stage, arrest to indictment, indictment to trial, and trial to sentencing, has actually increased from their original goal. The philosophy of decreasing time spans proved to be unrealistic. The CCPU attorneys discovered that due to the complex nature of their cases, time delays were often strategically necessary. In considering the benefits, one should examine the conviction rate, which is ultimately a major test. As previously stated, 78% of all the cases either pled to the top charge of the indictment or were found guilty of the top charge by a jury trial.

D. Vertical Prosecution

Eleven critical points have been identified as necessary for the vertical prosecution. They are: arrest, bond hearings, bond reviews, Grand Jury indictments, arraignments, motions, pre-trial conferences, trial, sentencing and post-trial motions. At the end of the close of the second grant year, 45% of those cases maintained vertical prosecution.

Over the span of this grant, the unit recognized that this excellent goal was sometimes sacrificed in the interest of overall performance. In order to avoid delays, CCPU policy permits another CCPU attorney to handle various stages of prosecution so that the State is not in a position of frequently requesting unnecessary time-

consuming delays. This practice enables the CCPU in every stage of prosecution a maximum flexibility in which these are often difficult cases. The sudden apprehension of a suspect at large and a spontaneous affect upon the need of representation by the State was the most frequent cause for breaking vertical prosecution.

E. Plea Negotiations

The practice of plea negotiations, if any, is limited and carefully supervised. Frivolous plea negotiations is not permitted. Once a case is accepted for prosecution, it is expected that the case will go to trial as charged or a plea of guilty as charged will be entered. Statistics kept over the two year period indicate that less than 10% were pled to reduced charges. (This 10% reflects those extreme cases which the defendants provided substantial evidence for indicting other career criminals.)

F. Victim/Witness Management

A major goal of this unit was to reduce the number of problems directly related to career criminal cases as a result of victim/witness related issues. Less than 4% of CCPU cases over the two year grant experienced problems directly related to victim/witness function. Victim/witness problems that were encountered usually grew out of situations where the witness or victim simply refused to cooperate or could not be located for trial.

G. Public Safety

The CCPU philosophy has always been to target that small segment of the criminal population which was responsible for a large percentage of crimes committed in Montgomery County. The unit's goals clearly defined that need to remove the habitual criminal

from society as quickly as possible. By doing so, the unit felt that they were enhancing security and freedom of Montgomery County citizens from being confronted with crime.

**END**