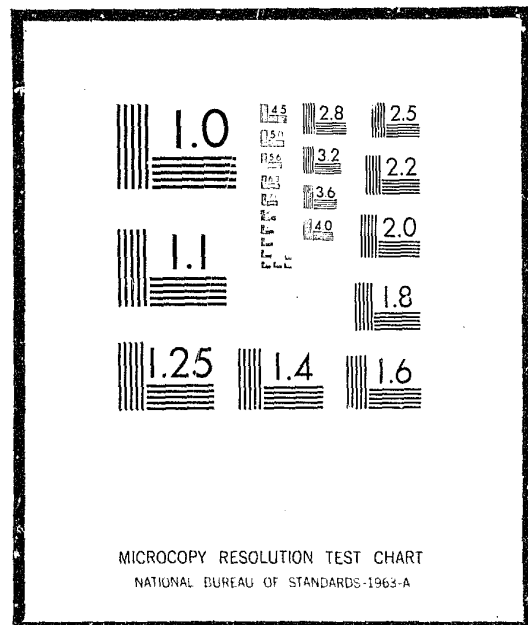


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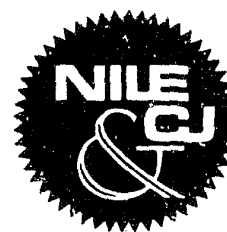
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CASE SCREENING AND SELECTED CASE PROCESSING IN PROSECUTORS' OFFICES

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This paper does not present an official position of the Department of Justice nor represent the opinion of any of its officials. Publication reflects that the research product is regarded as valuable and responsible, and deemed an important addition to the literature in the law enforcement and criminal justice field.

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FOREWORD

This handbook is one of a series of "prescriptive packages" being prepared by the National Institute of Law Enforcement and Criminal Justice. The aim is to provide criminal justice administrators and practitioners with both background information and operational guidelines in selected program areas. The guides are based on available research and recent program experiences in various parts of the country. They have been specifically designed for practical application and represent one significant means of effecting technology transfer.

The work reported herein is potentially significant in the effort to improve the quality of prosecution in the United States. This project shows how screening and special units can be used to achieve the object of efficiently utilizing prosecution resources. This report contains material which is included to help prosecutors decide whether to implement one or both of these procedures.

The report is printed with the hope that those concerned will profit from a study of these procedures. While the application of screening and special case processing will not be the answer to all the problems of prosecution, they do appear to offer assistance in expediting and strengthening the prosecution process and the quality of justice.

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INTRODUCTION

Court delay is one of the most serious impediments to effective prosecution. In recent years, an unprecedented increase in the volume of criminal cases has imposed additional stress on already overburdened prosecutors' offices which serve metropolitan jurisdictions. This increase in caseload has resulted in inordinate trial delays, assembly-line case processing and mounting inconvenience and disillusionment to counsel, witnesses, jurors and others involved in the court system. In this situation the judicial system can be exploited by repeat offenders, who, undetected in the anonymity of assembly-line case processing, can obtain delay after delay until the prosecution's witnesses are so frustrated with the courts, or their recollection of the crime so impaired, that the charges against them are dismissed.

The prosecutor can play a central role in ensuring that criminal courts function effectively. He has the discretionary power in most jurisdictions to screen charges and decide which criminal cases will enter the criminal courts, thereby preventing the courts from becoming clogged with cases that do not merit prosecution. The prosecutor also has the responsibility to initiate and modify charges when appropriate, to evaluate the problems in cases he rejects and to inform the police of these problems so that they can be more realistic in bringing future cases to the district attorney. He can also exercise his discretionary power to divert from the courts cases involving selected offenders who could be enrolled in treatment or job training programs. When criminal

prosecution is warranted, he can limit the effects of overcrowded court calendars by allocating more resources to priority cases which involve repeat offenders, crimes of violence and burglaries.

It should be noted that a case screening program can be implemented and operated independently of a priority case program. However, the effectiveness of the latter program depends to a great extent on early screening designed to identify and select cases requiring special treatment.

The purpose of this report is to describe case screening and selected case processing programs designed for use in larger prosecutors' offices which, because of heavy caseloads and limited staffs, are forced to rely on assembly-line case processing. However, this is not to say that the screening function is limited to large prosecutors' offices, for it is the opinion of the authors that screening should be performed by all prosecutors. The chapter on case screening emphasizes the steps involved in implementation rather than daily operating procedures because the National Center for Prosecution Management will soon publish a manual prescribing forms and operating procedures for a screening program. The chapter on selected case processing will discuss both implementation and daily operating procedures.

The following report is based in large part on personal observations of the operations of several prosecutors' offices which have representative screening and special case processing programs. The offices visited were: the United States Attorney's Office for the District

of Columbia; the District Attorney's Office of Philadelphia, Pennsylvania; the Office of the Prosecuting Attorney of Wayne County (Detroit), Michigan; the District Attorney's Office of Milwaukee County, Wisconsin; and the District Attorney's Office, Kings County (Brooklyn), New York.

We take this opportunity to acknowledge the invaluable assistance and information provided by United States Attorney Harold H. Titus, Jr., Assistant United States Attorneys Charles R. Work and Richard Beizer, and William A. Hamilton, a systems analyst, of Washington, D.C.; District Attorney Arlen Specter, Deputy District Attorney James D. Crawford and Assistant District Attorney Victor J. DiNubile of Philadelphia; Prosecuting Attorney William Cahalan, Assistant Prosecuting Attorney James N. Garber of Detroit; District Attorney Michael McCann and Deputy District Attorney Theodore Hodan of Milwaukee; District Attorney Eugene Gold and Assistant District Attorney Philip E. Lagana of Brooklyn; and by other members of the offices we visited. The conclusions reached, of course, are the responsibility of the authors.

CHAPTER I: CASE SCREENING

The institution of formal charges against all offenders arrested by the police is not a realistic or desirable criminal justice goal; accepting all police-initiated cases into the judicial system will not contribute to effective law enforcement. A substantial percentage of those cases will not result in a conviction because the evidence is insufficient to prove guilt, the victim is unwilling to testify; or evidence necessary to prove guilt is obtained illegally. Although in general it is undesirable to prosecute cases which will not result in convictions, it is recognized "that there are cases where even in the face of probability or even certainty of acquittal, perhaps because of hostile community attitudes toward minority groups, a prosecutor should proceed if he is satisfied a serious crime has been committed, can identify the offender, and has the necessary evidence." 1/

In other cases which are likely to result in convictions, the interests of society may not be served by invoking the full criminal process.

Among the types of cases in which thoughtful prosecutors commonly appear disinclined to seek criminal penalties are domestic disturbances; assaults and petty thefts in which victim and offender are in a family or social relationship; statutory rape when both boy and girl are young; first offense car thefts that involve teenagers taking a car for a short joyride; checks that are drawn upon insufficient funds; shoplifting by first offenders, particularly when restitution is made; and

1/ Commentary, ABA Standards Relating to the Prosecution Function, Standard 3.9(d).

criminal acts that involve offenders suffering from emotional disorders short of legal insanity. 2/

The rationale for not subjecting all offenders to the full criminal process is that

the substantive criminal law is in many respects inappropriate. In defining crimes, there is no way to avoid including some acts that fall near the line between legal and illegal conduct, thus under circumstances that do not seem to call for the invocation of criminal sanctions. It is inappropriate because placing a criminal stigma on an offender may in many instances make him more, rather than less likely to commit future crimes. It is inappropriate because effective correctional methods for integrating certain types of offenders are either not available or are unknown. 3/

The inappropriateness of subjecting all offenders arrested by the police to full criminal proceedings presupposes that discretion to institute formal criminal charges should reside in an agency independent of the police. Indeed, the primary responsibility to institute criminal proceedings has been entrusted to the prosecutor. 4/ Prosecutorial discretion to invoke the criminal process is broad and subject to few external constraints.

(T)he prosecutor . . . is expected to make the thousands of decisions, often difficult ones, in this area, and so long as his decisions fall within a normal expected pattern, they will not be overturned. Power to overturn his decision exists, but in current administration and in law,

2/ President's Commission on Law Enforcement and Administration of Justice Task Force Report: The Courts, 5

3/ President's Commission on Law Enforcement and Administration of Justice: The Challenge of Crime in a Free Society, 130 (1967)

4/ Task Force Report: The Courts, 5 (1967)

the power to intervene and override the honest judgment of the prosecutor is conceived by "the law" and its "administrators" as a residual power, to be used sparingly.^{5/}

The courts ordinarily defer to the judgment of prosecutors in the selection of offenders and offenses that will be subjected to prosecution. Courts recognize that the prosecutor's problems in determining what cases should be prosecuted "are not solved by the strict application of an inflexible formula. Rather their solution calls for the exercise of judgment".^{6/}

Since the responsibility to initiate criminal proceedings is vested with the prosecutor, it has been recommended that the prosecutor "establish standards and procedures for evaluating complaints to determine whether criminal proceedings should be instituted."^{7/} An early case screening program is the best method to ensure that prosecutorial discretion to press charges is exercised on a systematic basis. Screening, as used in this paper, is the decision by the prosecutor (1) to remove police-initiated cases from the criminal justice process and to end all formal proceedings; (2) to modify criminal charges formulated by the police department; and (3) to suspend formal proceedings against a person on the condition that he participate in a rehabilitation or treatment program, or make restitution to his victim.

^{5/} F. Miller, Prosecution: The Decision to Charge a Suspect with a Crime, 158 American Bar Foundation, Chicago, 1969.

^{6/} Pugach v. Klein, 193 F. Supp. 630, 634 (S.D.N.Y. 1961).

^{7/} ABA, Standards Relating to the Prosecution Function, Standard 3.4(b)

The prosecutor's failure to screen cases prior to invoking the criminal process can have an adverse impact on the judicial system.

The prosecutor who institutes charges against all defendants arrested by the police fails to make the necessary choices at this stage of the proceeding (A) prosecutor's failure to screen at this level introduces some cases which are not important enough to merit full prosecution. By clogging the courts with marginal cases, he is unfortunately ensuring that the more serious crimes, which merit the full attention of the criminal system will not get the scrutiny they deserve.^{8/}

The failure to screen cases inhibits the ability of the prosecutor to realize the full benefits of innovative programs, such as special processing of selected criminal cases, and diversion programs.

Effective screening can eliminate from the judicial process cases that cannot reasonably be expected to result in convictions; or are too minor to merit the cost of prosecution. ^{9/} The obvious benefit of such screening is that a large proportion of the resources of the court and prosecutor can be concentrated on the trial of priority crimes, such as homicide, stranger-to-stranger offenses, burglary and organized crime. The decrease in the volume of cases can also result in saving wasted police manhours in court and avoiding disillusionment and inconvenience to citizen witnesses

^{8/} Katz, Litwin, Bamberger, Justice Is the Crime: Pretrial Delay in Felony Cases, 105. (Footnote Omitted) Case Western University Press, Cleveland, 1972.

^{9/} For examples of cases that can be considered too minor to merit prosecution see supra p. 4.

who are required to appear in court repeatedly because of the backlog of cases and disorganized scheduling practices.

In addition to enabling the district attorney to eliminate cases from the system, screening provides an opportunity to select alternatives which accurately reflect the seriousness of the offense and the background of the offender. For many offenses the prosecutor has the option of bringing misdemeanor rather than felony charges; screening enables him to evaluate cases in order to determine whether a misdemeanor charge would be more appropriate according to the circumstances of each case. Compared to a felony prosecution, a misdemeanor generally requires much less time to prepare and try, thus permitting the district attorney to concentrate his efforts on the most serious cases. Diversion programs offer another alternative to the prosecutor which can be chosen at the screening stage. Diversion programs often provide for informal probation and treatment without first requiring that an offender be tried and convicted. If an offender is selected by the prosecutor and agrees to waive his right to a speedy trial, formal charges are deferred and he is referred to an appropriate diversion program. ^{10/} If the offender successfully

^{10/} Diversion programs are commonly concerned with drug dependency, alcoholism, mental health disorders, mental retardation, job training, family counselling, and providing restitution to victims.

completes the prescribed program, the case can be dismissed. Diversion programs benefit defendants, courts and prosecutors; defendants come out of the programs without conviction or arrest records and courts and prosecutors are relieved of trying cases which would result in at most probationary sentences. In order for diversion to function properly, the prosecutor's staff must be aware of the treatment programs available in the community.

Early screening can also aid the district attorney in performing his other functions more effectively. Careful screening can aid in case preparation, for at early stages of the proceedings problems can be identified and remedied well in advance of the trial date. For example, the prosecutor can request the police to do a supplemental investigation to locate a missing witness. Also, the assistant prosecutor can record on the case folder his evaluation of the strengths and weaknesses of the case to aid the attorneys who will handle it in later proceedings.

It can be demonstrated that screening improves the performance of a prosecutor's office as measured by the conviction rate and the percentage of cases held for the grand jury. The Philadelphia District Attorney's Office has implemented a screening program which screens one-third of the police arrests. Of the cases screened between August, 1971 to May 1, 1972, 67% of the cases which require preliminary hearings were held for the grand jury.

The percentages were 53% and 43% respectively for the unscreened cases. 11/

Intake Screening In the Prosecutor's Office

Intake screening is the review of police-initiated cases at the prosecutor's office prior to the offender's initial court appearance. At this stage, the assistant prosecutor assigned to screening evaluates the elements of the offense, the background of the offender, the substance and accuracy of the charge(s) if drafted by the police, and files the formal charge(s) if necessary. The intake screening procedure can operate on several levels of complexity, depending upon the policies, resources, and manpower of the individual office.

The simplest screening procedure consists of a review of the crime report and evaluation of the charges prepared by the police, without the requirement for any follow-up interview. Where the police prepare complete reports, the prosecutor will be able to identify the issues that may arise at trial, such as search and seizure, confession, identification, hearsay, or entrapment. If the prosecutor can identify the legal issues, he can be prepared if they are raised by defense counsel. However, this method of screening does not provide the prosecutor with an opportunity

11/ Philadelphia Regional Planning Council, An Evaluation Unit Report on Search Warrant and Arrest Review Project, 5, (June, 1972).

to evaluate witness demeanor his ability to remember or to speak clearly, or his commitment to proceed with the case. These factors which can affect the outcome of a case, may not become obvious to the prosecutor until he is preparing for trial, at which point the case has already contributed to the court backlog.

A conference between the arresting officer or detective and an assistant prosecutor is another type of intake screening procedure. The decision to prosecute is then based on the facts presented by the police. Direct contact with the police allows the assistant to develop a more complete understanding of the case than he could obtain from reading police reports which may not reflect all pertinent information. The assistant can also ascertain the police officer's impressions of the victim and other witnesses which are often not included in the written police report. For example, by closely questioning the police, the prosecutor may learn that the victim of an assault and the accused have had a long-standing dispute, and that the victim had instigated the incident. Under these circumstances, the assistant could refuse to prosecute.

A third type of intake screening procedure entails the most thorough and independent evaluation of police-initiated cases. The assistant prosecutor personally interviews the victim, witnesses, the arresting officer, as well as the defendant before his decision to recommend prosecution. If the defendant requests the presence of his counsel he is encouraged to participate in the screening procedure

also. Of the three types of intake screening, this procedure provides the reviewing assistant with the most information to make a reasoned decision.

Implementation of Intake Screening

Many of the operating procedures of an intake screening program are known to and utilized by prosecutors and their assistants in the performance of other prosecution functions. For example, in preparing any case for trial an assistant utilizes all of the techniques that are necessary for him to screen cases. The prosecutor evaluates police and scientific reports, interviews witnesses, attempts to anticipate the defense strategy, and determines the probability of securing convictions. Intake screening involves the same process, but at an earlier than usual stage in the proceedings. Since the basic procedures necessary for screening are known to the prosecutors ^{12/}, this discussion will be directed to the issues and problems involved in implementing an early screening program where none exists.

^{12/} For further information, see the National Center for Prosecution Management's forthcoming screening manual detailing screening procedures and forms. Also see "Papering Procedures Manual" of the United States Attorney's Office for the District of Columbia. For information about this manual contact Charles R. Work, Chief, Superior Court Division, United States Attorney's Office, Washington, D.C. 20001.

The chief prosecutor must be committed to the concept of early case screening. This commitment can be measured by the number of able assistant prosecutors he is willing to devote to a screening program. For example, the District Attorney of Wayne County (Detroit), Michigan, is of the opinion that screening is one of the most important prosecutorial functions, and thus he assigns his most experienced assistants to the screening unit. The District Attorney of Milwaukee, Wisconsin, attributes such importance to early screening that over 20% of his staff of 28 assistants may be assigned to case screening on a given day.

An understaffed screening unit will be unable to give more than a perfunctory review of police-initiated cases. Although the District Attorney's Office of one large city has a complaint unit,

"there is virtually no prosecutorial screening prior to the introduction of formal proceedings. Observation of the complaint room . . . of the . . . Court indicated that detectives from all over the county were filing formal charges, and the single prosecutor present was incapable of reviewing the cases. In the event that the police officer or detective had technical difficulties with the charging papers, the prosecutor assisted. One . . . assistant prosecutor stated that he cannot screen cases but can only dismiss a charge in open court. Under these conditions, the screening is consigned to the judges and prosecutors, once the case is formally in court. Because of the extensive burden on prosecutors and judges in that court, the effectiveness of their screening is suspect. If screening is to be effective, it must be done early and in an atmosphere where the prosecutor can review the case and talk to the participants informally. Only in that manner can the merits of not prosecuting a particular case become clear, and a well-reasoned decision be made." ^{13/}

^{13/} Justice is the Crime, pp. 110-111 (Footnote omitted).

While it is difficult to prescribe the optimum number of assistants necessary for a screening unit, it is obvious from the preceding example that more than one assistant prosecutor is necessary to adequately review cases in a metropolitan jurisdiction.

It is desirable to establish a separate unit within the prosecutor's office which would be responsible for screening. This unit can be made a part of an already established grand jury unit. The members of the unit are thus able to develop "experience and judgement in the exercise of their screening function."^{14/} In establishing a screening unit, the prosecutor is faced with the question of whether to assign the daily screening duties to experienced or new assistant prosecutors. In some prosecutors' offices, such as in Detroit, experienced assistants are assigned to the screening unit. In other offices, such as in Philadelphia and in Milwaukee, a mixture of experienced and new assistants perform the daily screening functions. However, the Complaint Bureau in the Brooklyn District Attorney's Office is manned largely by recently appointed assistant prosecutors.

Given the importance of screening, the most desirable policy would be the assignment of experienced assistants to the screening unit. These units are "particularly effective where the prosecution office places (the) screening functions in the hands of staff lawyers whose familiarity with trial and appellate problems gives them a

^{14/} Commentary, ABA Standards Relating to the Prosecution Function, Standard 3.4(b).

broad base for evaluating cases."^{15/} Although it is desirable to assign the most experienced assistant prosecutors to the screening unit, it may not be feasible to fill all positions with experienced assistants. Many offices do not have a sufficient number of experienced attorneys in their trial divisions, and cannot afford to reassign these assistants to screening; and most lawyers choose prosecutorial work primarily to learn the art of trial advocacy and therefore are reluctant to spend their time screening. These facts must be recognized in selecting a staff for the screening unit. One suggestion is to make the screening duty a part of a training process that assistants undergo upon entering most prosecutor's offices. All assistants would be required to serve in the screening unit for a specified period of time after they have gained appellate and/or trial experience. In this way the important but burdensome task of screening will be distributed equally among all members of the prosecutor's staff.

The implementation of an intake screening program will change the normal charging process because an additional step will be required.^{16/} In jurisdictions without intake screening, the police transport offenders directly to the courtroom for the initial appearance, at which the arresting officers and witnesses may not

^{15/} Ibid.

^{16/} For an example of changes in office procedures that may be necessary in implementing an intake screening procedure see Section II, Management Improvement Study for United States Attorney's Office, Washington, D.C. (Peat, Marwick, Mitchell and Co.). For information contact Charles R. Work, Chief, Superior Court Division, United States Attorney's Office, Washington, D. C. 20001.

be present. Also, the police reports are generally not made available to the prosecutor until some later proceeding such as the preliminary hearing.

The implementation of intake screening will require changes in established procedures, such as the routing of the arresting officers, citizen witnesses and police reports through the prosecutor's office. This disruption of established procedures may be an added burden initially opposed by the police department. Since the cooperation of the police is important in implementing intake screening, it may be incumbent upon the prosecutor to convince police supervisors that early screening will be to their benefit. The prosecutor can show that the extra effort expended at the initiation of cases will pay off in an overall saving of police manhours later in the judicial process since the police will not be required to testify in those cases screened from the system. Also, since police officers sometimes complain that the prosecutor's office is not adequately prepared for trial, police support for early screening can be obtained because screening will aid in preparing cases for trial by identifying and resolving problems in advance of trial.

To ensure maximum uniformity of decision-making in the screening process, a common set of guidelines should be formulated by the prosecutor and communicated to each member of the screening unit. The guidelines could reflect the prosecution policies of an

office, such as not charging first-time shoplifters, or diverting minor offenders suffering mental disorder to treatment programs. It is recognized that the guidelines may not cover all possible circumstances, but can provide a framework for the exercise of prosecutorial discretion in screening. ^{17/} To ensure compliance with the guidelines, a second level of review can be established. Either the chief or a senior member of the screening unit can review the cases not only to ensure that office policy is being followed, but also to ensure that assistants are not committing easily corrected errors. In some offices such as the United States Attorney's Office for the District of Columbia this review occurs prior to the initial court appearance. However, other offices have found that it is not feasible to review the screening decisions prior to the initial court appearance. For example, in Detroit the chief of the screening unit reviews only those cases which were dismissed at the preliminary hearing or at trial. In Philadelphia, all cases are reviewed by the chief of the screening unit, but only after the initial court appearance. The screening units in Detroit and Philadelphia are staffed with more experienced attorneys, thus there is less need for close supervision.

^{17/} See "Papering Procedures Manual" *supra*, footnote 10.

Stationhouse Screening

Another approach is to implement a screening program in selected police stations. Assistant district attorneys are assigned to police stations to screen cases at the earliest feasible stage of the criminal process, and to provide the police with readily available legal advisors. Before an individual is charged with an offense by the police, the evidence is evaluated by an assistant prosecutor who can approve the issuance of a criminal complaint, refuse to prosecute, reduce the contemplated charge to a lesser offense, or recommend to his superiors that the offender be referred to a diversion program. The assistant can also recommend that the police conduct further investigation in order to gather more evidence, and assist, if necessary, in drafting search and arrest warrants. For example, the Philadelphia District Attorney's Office has had a successful stationhouse screening program in operation on a seven day a week, twenty-four hour basis since August, 1971.

Implementation

Most of the factors to be considered in implementing a stationhouse screening program are similar to those considered in the discussion of intake screening. Again, it is desirable to establish a screening unit staffed with relatively experienced assistant prosecutors.

The effectiveness of this filtering device is dependent in large part on the ability of the individual assistant (prosecutor) to establish both his competence in the eyes of the police and a rapport with them that will allow him to assist in the development of the evidentiary aspects of any particular proceeding. Because of the importance of the individual in this process, recruitment of the assistants becomes a critical part of the process. It would not be wise to assign newly-appointed prosecutors to this program. ^{18/}

However, the recruitment of experienced attorneys for a stationhouse screening program may be more difficult than for an intake screening program, because they are less willing to work in police stations isolated from their office and colleagues. The best solution to this problem is to inform newly appointed personnel that as a condition of their employment four to six months of their tour of duty will be spent in the screening program. A four to six month period is recommended because a substantial tour is necessary for an individual to develop rapport with the police in their environment. Limiting the assignment to six months avoids the possibility that an assistant will become an advocate for the police point of view rather than one who accepts only those cases likely to result in convictions.

Obviously, the cooperation of the police is a prerequisite to implementing stationhouse screening, since the assistant prosecutors will be the guests of the police. They will have to convince the police supervisors not only that screening is worthwhile but that the

^{18/} A Report of the Philadelphia Justice Consortium, Philadelphia's Criminal Justice System, 6, The Legal Intelligencer, Philadelphia, 1972.

screening program should operate in the police stations. However, since stationhouse screening may be more convenient for the police (they will not have to travel to prosecutor's office for the screening session), it may be easier to obtain their cooperation in implementing stationhouse screening than intake screening.

The most important consideration in developing a stationhouse screening program is the type of procedures used by the police to process offenders. Because of manpower limitations it would not be feasible to use stationhouse screening where offenders are taken directly from the precinct level station to court for the initial appearance. In many jurisdictions there are too many precinct level stations for the prosecutor to staff. Thus the police charging process may have to be at least partially consolidated in order to implement stationhouse screening. If the defendant, arresting officer, victim, defense counsel (if available), and other citizen witnesses are transported to the central police headquarters to be processed and interviewed, the prosecutor can accomplish thorough screening of all police-initiated cases without disrupting police procedures and with a minimum allocation of manpower. However, whether or not the police follow the above described procedures stationhouse screening is feasible. For example, the Philadelphia Police Department is organized on the basis of eight detective divisions; seven divisions have the responsibility to process persons arrested within their geographical boundaries, and the eighth processes all persons arrested

in the city for drug offenses. When an arrest is made, the arresting officer(s), defendant, victim, and other witnesses are transported to the appropriate detective division where the defendant is processed and the others are interviewed by a detective. From the detective division, the defendant alone is transported to court for the initial appearance. With the detective division system as the basis, the District Attorney's Office has installed a screening program in three divisions as of August, 1972. The screening program has a staff of fifteen assistants, five assigned to each of the three detective divisions on a basis, twenty-four hours a day, seven days a week. Because of the success of the program, a recommendation has been made to extend it to the remaining detective divisions with the suggestion that total screening is feasible without expanding the staff of the screening unit:

(T)he screening study by the Philadelphia Regional Planning Staff reported that the average number of individuals screened for prosecution during an eight hour shift was 7.1 individuals for the Narcotics Division, 3.5 for West Division . . . , and 2.8 individuals for North Central Division The workload at the three locations is highly cyclical: some shifts have a heavy workload (4 P.M. to 12 P.M.) and others are very light (12 A.M. to 8 A.M.). Workload also varies according to the day of the week, with the weekends generally being heavier than weekdays. (Thus,) it does seem feasible to increase the screening to all cases with little or no expansion of staff.

. . . (Total screening may be accomplished either by having (assistant prosecutors) ride circuit to districts in different parts of the city, deploying (assistant prosecutors) to three more centralized locations and transporting arrestees to these locations, or a combination of both methods. 19/

Advantages of Stationhouse Screening

Assigning assistant prosecutors to police stations permits them to accomplish some tasks more expeditiously than if the screening unit is located in the prosecutor's office. Immediate investigations can be ordered if the assistant prosecutor determines that the police have not gathered sufficient evidence to obtain a conviction. Even though supplemental investigations can be requested by the prosecutor at intake screening, the greater delay between arrest and intake screening could seriously impair the chances for success. Also, with stationhouse screening the police have greater access to assistant prosecutors to assist them in the drafting of arrest and search warrants, and to provide them with other legal advice. For example, they can aid the police in setting up fair lineups. This assistance may be particularly valuable in the future since it is likely that the number of police lineups will increase, because the United States Supreme Court has ruled that an offender not formally charged does not have the right to counsel at stationhouse lineups. 20/

19/ An Evaluation Unit Report on Search and Arrest Review Projects, 6-7, See footnote 11.

20/ Kirby v. Illinois, 92 S. Ct. 1877 (1972). (In Kirby the defendant and his accomplice were identified by their victim at a police station. No lawyer was present at the identification proceeding, and neither man requested the assistance of counsel, or had been advised of the right to counsel). It should be noted that some jurisdictions may not follow the Kirby decision.

Another advantage of stationhouse screening is that assistant prosecutors can personally interview police officers, witnesses and defendants without the necessity of transporting them to the prosecutor's office. In large metropolitan jurisdictions it may be more convenient for the relatively small number of prosecutors to go to police stations than for the large numbers of police, witnesses and defendants to go to the prosecutor's office. Finally, screening at police stations ensures that cases rejected for prosecution are removed from the criminal justice system at the earliest feasible point in the process, and with the least expenditure of resources.

The Choice of Intake or Stationhouse Screening - Factors to Be Considered

Since both screening methods provide similar results, that which causes minimum disruption to pre-existing court and police procedures will be the most desirable program. Since it is recommended that prosecutor screening be completed prior to the defendant's initial court appearance, the timing and location of that court proceeding are important factors in the choice of a screening program. In jurisdictions where the initial court proceeding is in the same building which houses the prosecutor's office and the arresting officer and other witnesses are required to attend that proceeding, intake screening would be the most desirable approach. However, if the initial court appearance is held at a location

distant from the prosecutor's office and the arresting officer and witnesses are not required to attend this appearance, stationhouse screening would better fulfill the needs of the prosecutor.

In selecting a screening method the prosecutor should also consider the police procedures relating to the processing of suspects. Prosecutor screening should occur after the police have had sufficient time to gather the information necessary for the assistant prosecutor to make an informed evaluation of the offense and offender. As a minimum requirement the police should provide the assistant with statements from the major witnesses and the criminal record of the accused. Also, the organizational structure of the police department can affect the choice of screening programs. If the defendant, arresting officer and witnesses are processed through detective divisions, as in Philadelphia, or through the central police headquarters, stationhouse screening can easily be implemented. However, if cases are sent directly from each precinct station to the court for the initial appearance, intake screening would be a more sensible approach, since it would be difficult to man each precinct station with assistant district attorneys.

Finally, manpower constraints within the prosecutor's office will affect the choice of a screening program. Intake screening may permit a more flexible utilization of assistant prosecutors. Since they are stationed in the prosecutor's office, other duties can be assigned to them, such as trial or appellate work, if the need arises

and they have completed their screening duties. However, in Philadelphia assistant prosecutors assigned to the stationhouse screening program also handle the preliminary hearings which are held at the division police stations. Thus, other assistant district attorneys who ordinarily would have been assigned to preliminary hearings are freed to handle other duties.

Summary

There are alternative screening procedures which can be implemented in prosecutor's offices. The major differences in procedures relate to the location of the screening operation, and the extensiveness of the case evaluation. Regardless of the type of screening program selected, there are certain operating procedures which should be a part of the screening process to ensure the best results.

A well designed screening program should provide for review of police-initiated cases by the prosecutor's office at the earliest feasible time subsequent to arrest. The initial prosecutor review should be completed prior to defendant's first court appearance so that an assistant prosecutor rather than a police officer can draft the formal charges. The assistant prosecutor should be provided with sufficient information about the offense and offender in order to intelligently evaluate the following factors: the legality of the arrest and search, the sufficiency of the evidence for conviction, the record and background of the offender, his relationship to the

complaint, and the credibility and seriousness of the case. A truly thorough evaluation of a case should include personal interviews of all persons involved in an offense, including the complainant, other civilian witnesses, arresting officers and the defendant with his counsel if he consents to questioning.

Since the success of a screening program depends primarily on the ability of the assistant prosecutors to exercise sound judgment, it is recommended that experienced assistants be used in the screening process. Ideally, assistants with trial and/or appellate experience should perform the daily screening functions. If that is not possible, the experienced assistant prosecutor who heads the screening unit can provide leadership and advice to less experienced members of the unit when necessary.

Guidelines should be formulated which set the limits of individual discretion in rejecting cases for prosecution. It is recommended that the guidelines be in the form of a written manual detailing the duties and responsibilities of the unit's members. The chief of the unit can ensure that individual assistants comply with office policy by regularly reviewing the cases screened by his unit and advising assistants of their mistakes.

CHAPTER II: SPECIAL PROCESSING

In the preceding chapter, it was recommended that prosecutors implement screening procedure in order to eliminate cases that are inappropriate for prosecution. Although screening will result in decreased caseloads, the remaining volume of cases may still be too large for the available manpower and resources. Such a situation has resulted in prosecutors being forced to adopt assembly-line case processing with assistants being assigned to courtrooms rather than to cases. These assistants try a large number of cases forwarded to the courtroom by the clerk's office. For many trial assistants, their first opportunity to review a case may be in the courtroom prior to trial.

It is evident that the lack of adequate trial preparation adversely affects the performance of the prosecution function. In many jurisdictions, a large percentage of cases are dismissed by the court or dropped by the prosecutor without trial on their merits. Often a repeat offender can exploit a system which is forced to rely on assembly-line case processing. He knows from experience that if his case is continued repeatedly prosecution witnesses may eventually fail to appear for trial, or if they appear, their memories of the crime will be obscured, and thus his case will be dismissed. Publicity by the news media of the inability of the prosecutor's office to obtain convictions may confirm the belief

among local community members that dangerous offenders are going free on technicalities.

Unquestionably cases are lost because of the lack of adequate preparation. However, the lack of sufficient manpower in many offices makes effective case preparation impossible. Thus, procedures must be implemented so that resources can be concentrated on those cases which require particular care and attention. Generally the more serious the case, the greater the need for careful preparation. Yet some cases which superficially appear to be of equal seriousness may require a different degree of preparation because of the circumstances of the offense. A case may also need careful attention because the one act, minor in itself, may be part of a larger pattern such as organized crime or a sensitive local problem. In some instances an offense may be minor -- one that in-house policies will direct prosecutors to disregard -- but if the offender is a recidivist special attention may be necessary because of a pattern of criminal conduct which in total is quite serious. The implementation of a program to specially handle particular cases is based upon the premise that since all cases are different they should be handled differently, with the more serious cases receiving a greater amount of preparation.

The special processing approach to case preparation involves two operations. First, differentiation among particular types of

cases and selection of those priority cases which require extra preparation. Second, assignment of the priority cases to a special unit of assistant prosecutors who are responsible for preparing the cases for trial, or in smaller offices, to individual assistants.

The basic purpose of the system is to allocate manpower and resources where they are most needed. Thus, instead of being overburdened with an unreasonably large number of cases, the prosecutor could predetermine the number and type of cases that should be specially processed and maintain a reasonable case-flow to that particular unit or individual. The smaller caseload will permit each individual prosecutor a greater opportunity to familiarize himself with the selected cases on an individual basis in advance of trial.

A prosecutor may be reluctant to implement a special processing system because of what he perceives as a sacrifice of the overall effectiveness of his office for the concentration of efforts on a particular activity. A prosecutor must assess the policies of his office regarding the desirability of criminal disposition in all cases. Thus, the need for early screening to implement special processing cannot be overemphasized. He must be ready to accept innovative alternatives to prosecution and to seek increased convictions of recidivists or of major offenders.

Implementation

In implementing special processing, it is recommended that the following steps be taken:

1. Determine which types of cases require concentrated preparation for trial;
2. Formulate criteria to guide the identification and selection of those priority cases which require the extra preparation;
3. Develop an early screening procedure to select the priority cases;
4. Establish a unit of assistant prosecutors who will have the responsibility to prepare the selected cases for trial.

This section will examine how special processing can be implemented. In addition it will explore other functions a special unit can perform.

Preliminary Steps to Case Selection

Initially, the prosecutor must decide what the policy of his office will be with regard to the type(s) of cases which will be considered for concentrated processing. Presently, many prosecutors' offices have specialized divisions which handle homicide or narcotics cases. A prosecutor in a locality where the number of reported burglaries has risen dramatically may wish to apply the same strike force concept to burglaries. The improved preparation

of those cases should increase the conviction rate and serve to deter other burglary offenses. The prosecutor who decides to operate on the strike force concept could focus his special processing efforts on other target crimes as the need arises.

The strike force concept may apply as well to categories of offense. In Brooklyn, for instance, a Major Offenses Bureau was established in August 1972, to concentrate upon the prosecution of selected cases in major felony offenses. That bureau has decided to process selected attempted murder, serious assaults, robberies, burglaries, kidnapping, rape, arson, and extortion cases.

In addition, special consideration may be given to an offense which is not a target crime or a major felony offense but is deserving of special attention, particularly if it is committed by a habitual offender. As indicated earlier, the habitual offender is able to manipulate the system to his advantage by capitalizing on continuances which a prosecutor may be forced to request. Since he can exploit the system and gain either a dismissal or the reduction of charges, he should be identified so that his case can be thoroughly prepared. The Major Violators Unit of the U. S. Attorney's Office for the District of Columbia, Superior Court Division, was established in April of 1971 to prepare cases involving the habitual criminal

and serious misdemeanors. Since the reorganization of the Superior Court on February 1, 1971, the jurisdiction has been expanded to include felony offenses.

The prosecutor's decision to concentrate prosecution efforts on particular types of crimes is only the first step in case selection. Criteria must be formulated to aid his assistants in identifying which cases in a general category should be particularly well prepared. For example, the prosecutor may establish a criterion that a specified minimum amount of property must be stolen in order for burglary or robbery cases to qualify for special processing. Further, an offender may be classified as habitual only if the present offense is of the same nature as the prior offenses committed, thereby excluding from special processing a burglary case where the offender's prior record consists of several minor traffic violations. Also, criteria should be formulated for differentiating among the various types of cases. There is no difficulty in ordering priorities between an armed robbery case and a petit larceny case, as the unique characteristics of each are readily identifiable. However, the distinction becomes finer in comparing one armed robbery case with another. The need to order priorities among cases becomes more acute as the number of cases increases in proportion to available manpower and resources.

The criteria which are developed should provide an appropriate measure of the seriousness of the offense and should reflect the distinctive features of the individual cases. They should not just list the factual elements of the offense which merely reiterate the prosecutor's conclusion that a crime has been committed. For example, lack of consent in a non-statutory rape case is a factual matter relevant to the issue of whether a rape has been committed, not how serious the offense is. One appropriate criterion to measure seriousness is the degree of injury suffered by the victim.

In formulating criteria to measure the seriousness of an offense, the prosecutor must consider which aspects make one crime more serious than another. Possible items to be considered are the defendant's background and prior criminal record, whether drugs or weapons were used, the value and amount of property stolen, and the extent of injury. A further consideration is that the more heinous offenses may not be the cases which require special attention. To illustrate, a prosecutor may find that despite the severity of some offenses, case preparation may be routine and relatively uncomplicated because of simple fact patterns and complete investigations by police and forensic scientists. A prosecutor may thus choose to focus his office's attention on more complex cases. The prosecutor should also determine which

criteria should be weighted more heavily than others. For example, in an armed robbery, injury to a victim may be more heavily weighted than the amount of property stolen.

Case Selection

Cases can be identified on a subjective judgment basis or through an objective, systematic mechanism applying the criteria which have been formulated. Ultimately these cases will be reviewed by the chief of the special unit established to handle priority cases.

An innovative procedure for the objective identification of priority cases has been developed for the United States Attorney's Office of the District of Columbia, and is one aspect of that office's multi-purpose information system.^{1/} In developing an automated information system for that office

it was apparent that what was needed was an identification of important cases, so that at least they might be prepared, a summary of problem areas and in general a systematic method of allocating scarce resources.

^{1/} This computer-based system, PROMIS (Prosecutor's Management Information System), was jointly developed under an LEAA grant by the Office of Crime Analysis, District of Columbia Government and the U. S. Attorney's Office, District of Columbia. It is this same system which enables the prosecutor to readily identify the habitual criminal from the police record and bail information which has been fed into the computer. For information on PROMIS, contact the National Center for Prosecution Management, 1900 L Street, N.W., Washington, D. C., 20036.

A daily list which designates the priority to be given to each case is a key feature of the system. The list enables the prosecutor to ensure that important cases are not overlooked and to allocate resources so these cases will be effectively presented. The priority case listing is a case weighting system. The weight given to any particular case is determined by a number of factors. The seriousness of the offense, likelihood of successful prosecution and the defendant's prior criminal involvement are the dominant elements. Each case is evaluated by the prosecutor when charges are initially instituted.^{2/}

The weights for the selection were adapted from the work of several criminologists ^{3/}, "modified to reflect the policy judgments of experienced prosecutors".^{4/} The United States Attorney's Office for the District of Columbia utilizes the computer-based case scoring system in its daily operations, and the administrators of that office view this system as a very valuable aid though still an experimental one which requires continual refinement.

^{2/} Watts and Work, "Developing An Automated Information System For the Prosecutor," 9 American Criminal Law Quarterly, 164, 165-6 (1970)

^{3/} Thorsten Sellin and Marvin E. Wolfgang, The Measurement of Delinquency, New York, John Wiley & Sons, Inc. 1964.

D. M. Gottfredson and K. Ballard, Jr., "Differences in Parole Decisions Associated with Decision Makers," Journal of Research in Crime and Delinquency, July, 1966.

D. M. Gottfredson and R. F. Beverly, "Development and Operational Use of Prediction Methods in Correctional Work," Proceedings of the Social Statistical Section of the American Statistical Association of Washington, American Statistical Association 1962.

^{4/} Watts and Work, "Developing an Automated Information System For the Prosecutor supra."

A manual case scoring system has been designed by the National Center for Prosecution Management, and is being utilized by the Wayne County (Detroit) Office of the Prosecuting Attorney.^{5/} In the automated and manual systems, assistant prosecutors who are assigned to the screening procedure make entries on an offense and defendant evaluation sheet ^{6/} for the items which are applicable to the case he is evaluating. The specific items of information pertain to general criteria: seriousness of the offense, seriousness of the criminal record of the offender.

With the manual system the completed evaluation sheet is forwarded to a clerk who is responsible for the actual scoring. The numerical weights assigned to the entries which were checked-off on the evaluation form are contained in the scoring chart. The assistant prosecutor does not compute the scores; and thus he is not biased in the entry-making by knowing the scoring system. Using a calculator and the scoring chart, the clerk computes the composite score of the case on the basis of the procedures and formulas outlined on the chart. The higher the scores, the higher the priority for special processing. A prosecutor's office may

^{5/} National Center for Prosecution Management, A System for Manual Evaluation of Case Processing in the Prosecutor's Office (March 1972). This booklet on manual evaluation can be obtained by contacting the Center at 1900 L Street, N.W., Washington, D.C. 20036.
^{6/} See Attachment 1.

set an arbitrary score that a case must meet to be selected for priority handling. However, there may be an exceptional case involving a volatile community or political problem where facts are extraneous to the information items on the evaluation sheet. In the District of Columbia, those cases are earmarked as special exceptions to be reviewed by the chief of the unit.

This evaluation system can be utilized in any prosecutor's office. There can be adjustments in the weights to be assigned to the various items because of the different characteristics and attitudes in each locality with regard to particular types and incidences of offenses.

For special units to function effectively, balance between manpower and resources on the one hand and caseload on the other must be maintained. The unit must not fall prey to the system it was designed to avoid -- the inability of prosecutors to prepare cases because of a burdensome caseload. Therefore, the chief of the unit must be responsible for regulating caseflow and accepting for special processing only as many cases as his unit can reasonably handle. Of course, he should still be flexible and accept the exceptional case. The chief should review all cases referred to his unit and make the final decision whether the unit should undertake the prosecution.

There should be a stage for the identification of priority cases prior to the chief's review and selection. If there is a screening procedure in operation, cases can be identified in conjunction with that program to maximize the efficiency of a prosecutor's office by eliminating the need to set up another stage to designate cases for special processing.

It is recommended that a multi-purpose form be developed such as the Prosecution Report utilized in the District of Columbia. ^{7/} This form could be completed upon an offender's arrest for bail determination and during the screening process. Such a multi-purpose form would provide regularity and uniformity in reporting and transfer, thus eliminating problems of interpretation that may arise when errors occur in transposing information.

The initial screening of a case may occur at various points in different offices. In all cases two considerations apply: first, since the primary purpose of special processing is the concentrated preparation of a case for trial, it is strongly recommended that screening take place at the earliest stage possible. Second, the screening should occur at a time when the defendant's prior arrest record is available. This is especially pertinent if special attention is directed to cases involving the habitual offender.

^{7/} See Attachment 2.

Composition of Special Units

In smaller offices which are not burdened with an unreasonably large backlog, the prosecutor can continue to assign priority cases on a case-by-case basis to trial assistants with particular expertise and experience. In the office of a large metropolitan area, individual case assignment is virtually impossible for the vast majority of cases. For that reason, it is recommended that special units be established for the specific purpose of handling priority cases. The special unit members could be individually responsible for the preparation of cases since the caseload would be limited to a number of cases that each member could be expected to prepare. It would be similar to the situation in a law office where one associate would be responsible for his assigned caseload.

The prosecutor who staffs the unit should consider how much manpower and resources he can commit to priority handling without adversely affecting the overall operations of his office. Caseload must be limited because the unit must avoid the very situation it was organized to avoid -- the loss of a case without being tried on its merits because of lack of preparation. The whole thrust and philosophy of the special unit is that preparation is focused on serious cases and that all other cases will be prepared as before. The flexible application of special processing permits each individual prosecutor to make his own determination as to the number

of cases the unit will process. For example, based upon the evaluation of work processed through the Kings County Supreme Court, the Major Offenses Bureau in Brooklyn anticipates a caseload of 500 to 700 cases -- each of the 10 assistants effectively carrying 50 to 60 cases per year. In the District of Columbia, on the other hand, the special unit of 5-8 members prepares between 15 and 20 cases a day. However, since their major emphasis is on trial preparation,^{8/} they may not be responsible for the trial of all cases assigned to their unit for preparation as are the members of the Brooklyn unit. This, of course, enables them to handle a greater volume of cases.

The special unit should be free of other duties and bear responsibility for all aspects of the preparation and investigation of priority cases from their inception through the prosecutorial process until sentence is imposed. The special team members can internally arrange for backup coverage. In Brooklyn, for example, each individual prosecutor is part of a team. An assistant is responsible for familiarizing himself with his partner's cases, and if his partner were unable to follow up a lead or appear in

^{8/} Interview with Assistant U.S. Attorney Rick Beizer, Chief, Major Violators Unit, Superior Court Section, U. S. Attorney's Office for the District of Columbia.

court, he could step in with a minimum amount of preparation. Additionally, if a prosecutor has sufficient resources, he should allocate the necessary supportive staff, including clerical employees and investigators.

A chief should be appointed to head the unit. He will be responsible for the final review and acceptance of all cases to be processed by the unit and for the assignment of cases to its members. Also, it is important that he develop evaluation procedures which will enable him, and in turn the prosecutor, to report on the effectiveness of the special unit in terms of the conviction rate and reduced trial delay. Further, this method of processing will aid in identifying problems that may arise in the preparation of cases.

All case jackets and other material pertaining to the priority cases should be under the control of the special unit. Actual custody of case jackets by the unit, rather than in a central file room, permits a team member to have ready access to his cases at all times, to spot possible problems, and to solve them in a more efficient manner. The chief of the unit will have to develop a system to keep track of cases that have been assigned to his unit, as well as a calendaring system, to alert his staff to trial dates. In the District of Columbia, the PROMIS computer prepares a calendar list of cases for trial and the chief can check against that list.

The capabilities and functions of a special unit will vary among jurisdictions. In the District of Columbia, there is a separate major violators calendar, so daily at least one assistant prosecutor from the Major Violators Unit is assigned to plea negotiation and case preparation for all of the major violator cases up for trial on that date. These "case-chasers" track down witnesses on the morning of the trial and assure the trial assistant that the case is ready to proceed. This arrangement resulted from the discovery by the unit that one major factor causing the breakdown of criminal cases was the absence of a prosecution witness. In addition to the responsibility for major violator cases, per se, the special unit has additional duties which are related to its general functions. For instance, since they deal primarily with the problem of recidivism, the special unit is responsible for parole or probation violators, and bond violators and bond modification hearings.

In jurisdictions where prosecutors serve an investigative function their duties may be directed toward that role. The Brooklyn prosecutor's office has an assignment known as the "riding detail". Prior to the establishment of their Major Offenses Bureau, the assistant who was on the riding detail went to the scene of a homicide and participated in the investigation. Arrangements have been made for the police to notify the Major Offenses Bureau if there has been a crime committed which may properly be handled by the Bureau. If so, there will be on-the-scene and precinct investigations at which the assistants will:

"take statements from all witnesses and defendants, and where required will give the proper constitutional warnings. They will conduct lineups wherever necessary and in accordance with the format prescribed in the law Whenever necessary, Assistants will also proceed to hospitals or homes of witnesses or victims wherever possible and/or necessary to complete an investigation."^{9/}

The Brooklyn Major Offenses Bureau is constrained by a case assignment system whereby priority cases may be assigned routinely with less serious cases. In order to circumvent such a problem, they have recommended the establishment of a separate trial division to try the cases which the prosecutor's office has selected for special processing.

Advantages of Special Case Processing

The flexibility of the special case processing system provided the prosecutor with an opportunity to adjust its application to assure the overall effectiveness of his office's operations. He can adjust the criteria of the scoring and ranking process to reflect the crime profile or community attitude toward specific aspects of crime. The "system may also be employed on a selective basis; consequently those prosecutors who handle a high volume of routine traffic cases need not include them in the valuation system if they prefer not to".^{10/} The implementation

^{9/} Phillip E. Lagana, Chief, Major Offenses Bureau, Kings County (Brooklyn) District Attorney's Office, First Report "On Major Offenses Bureau", July 7, 1972, 6.

^{10/} A system for Manual Evaluation of Case Processing in the Prosecutor's Office, 6.

of a special processing mechanism permits a prosecutor to monitor and evaluate the types of cases flowing through his office and to reallocate his manpower and resources as the needs of the office dictate.

The ability of the special processing units (individuals) to adequately review and prepare cases will improve the quality of justice. There will be a decrease in court delay due to fewer trial continuances. Continued pressure on judges and defense counsel, as a result of the prosecutor's readiness for trial, will make them aware of the no-nonsense attitude of the special unit. Also, increased preparation will reduce the possibility of important cases being lost by inadvertent slip-ups.

A particular advantage of the special processing system is the ability of the prosecutor to redefine the improved performance and success of his office by identifying and publicizing the increased number of convictions. In the District of Columbia, the U. S. Attorney was able in a 6-month period from its inception in April, 1971, to secure convictions in 75% of the cases assigned to its members -- 25% more than the 1970 misdemeanor conviction rate for all cases of 50%.^{11/} The Major Violators Unit has been

^{11/} "Special Team Raises Misdemeanor Conviction Rate", The Washington Post, Friday, December 31, 1971, p. B 1.

able to maintain a conviction rate of "between 25 to 30 percentage points higher than the general conviction rate for misdemeanor offenders. The plea rate in the Unit was approximately 20 percent points higher than the plea rate for other misdemeanor offenders."^{12/} In addition to the increase in the conviction rate, the Unit has been able to dramatically reduce the percentages of cases dismissed by the court for want of prosecution or nolle prossed by their office. Understandably, a prosecutor can influence the "success" of special processing if he selects for priority handling those serious and complex cases with the greatest possibility of returning guilty pleas or convictions.

Summary

It is recognized that of the large number of criminal cases which merit prosecution many involving serious offenses and repeat offenders require extra preparation prior to trial. A special processing system is designed to provide the needed extra attention. The implementation of a special processing system can be accomplished in the following steps: determine which offenses require extra preparation; formulate criteria to guide the identification and

^{12/} "Report of the Superior Court Division, Fiscal Year 1972," July 21, 1972 at 2. These statistics compare Major Violators Unit cases and all other cases tried in the same year. No statistics were available to compare conviction and plea rates for the Major Violators Unit cases in 1971 and the rates for a similar sample of cases in 1970, prior to the Unit's establishment.

selection of those priority cases requiring such preparation; establish an early screening procedure designed to select priority cases; and establish a special unit of attorneys with the responsibility of selecting and preparing priority cases for trial.

A systematic selection procedure will enable the assigned attorneys to evaluate the quality of the cases entering the criminal process, and to differentiate among cases in terms of the seriousness of the offenses and offender and the urgency for trial. The effectiveness of the selection process will in part depend on the willingness of the police and other investigative agencies to provide sufficient information about the offense and offender. Thus their cooperation will be a necessary part of the special processing system. It is recommended that cases be selected for special processing at the earliest possible time in a criminal proceeding. It is also recommended that criteria reflecting the needs and policies of the prosecutor's office be formulated to guide the selection of cases.

The basic responsibilities of the special unit would be to select priority cases and to prepare them for trial. However, additional duties can be assigned to the unit, such as conducting supplemental investigations and litigating all aspects of the cases from the preliminary hearing through the imposition of sentence. The extent of the special unit's duties will depend,

of course, upon the needs and resources of each prosecutor's office. It is recommended that experienced attorneys be assigned to the unit with a senior staff attorney as its chief.

ATTACHMENT NO. 1

As referred to on page 36 of the text, this is an offense and defendant evaluation sheet, used by the United States Attorney's Office, Washington, D. C. Assistants who are assigned to the screening procedure complete this form which is a check-list and requires entries only for the items which are applicable to the particular case being evaluated.

The procedure for the ranking of cases by relative priority or urgency is one aspect of the Prosecutor's Management Information System (PROMIS) which is intended to assist the prosecutor in the management and processing of criminal court cases. Further information and material concerning this system is available through the National Center for Prosecution Management, 1900 L Street, N.W., Washington, D. C. 20036; and Charles R. Work, Chief, Superior Court Division, United States Attorney's Office, Washington, D. C., 20001

METROPOLITAN POLICE DEPARTMENT WASH., D. C. PROSECUTION REPORT

PD FORM 163 REVISED 3/70

1. PROSECUTOR'S CHARGES		2. COMPLAINT NO.
8. DEFENDANT'S TRUE NAME (Last, First, Middle) ID ONLY		3. I.D. NUMBER
9. DEFENDANT'S NAME (Last, First, Middle)		4. ARREST NO.
10. ALIASES OR NICKNAME	12. SEX 13. RACE 14. DATE OF BIRTH	5. T. T. NO.
11. ADDRESS	15. CITY AND STATE OF BIRTH	6. CID NUMBER
16. TIME IN THE DISTRICT OF COLUMBIA		7. SOC. SEC. NO.

17. CO-DEFENDANTS: NUMBER IF MORE THAN 4 CO-DEFENDANTS, LIST NAME & ADDRESSES OF OTHERS IN STATEMENT OF FACTS SEC.

18. NAME AND ADDRESS	NAME AND ADDRESS
1	2
3	4

19. POLICE CHARGE(S)

20. LOCATION OF OFFENSE	DATE	TIME
21. LOCATION OF ARREST	DATE	TIME
22. ARRESTING OFFICER'S NAME, RANK, BADGE NO. & UNIT OR AGENCY	23. ASSISTING OFFICER'S NAME, RANK, BADGE NO. & UNIT OR AGENCY	

24. DEFENDANT ADVISED OF RIGHTS

DATE	TIME	LOCATION	ADVISING OFFICER'S NAME	RANK	BADGE NO.	UNIT
------	------	----------	-------------------------	------	-----------	------

25. WITNESSES: FOR ADDITIONAL WITNESSES USE STATEMENT OF FACTS SECTION

NAME (Last, First & M.I.)	ADDRESS	AGE	HOME PHONE	BUSINESS PHONE
1				
2				
3				
4				

26. PROPERTY STOLEN (✓ IF YES) AND RECOVERED (✓ IF YES) (OR ITEMS OF EVIDENCE)

(a) IDENTIFICATION	(b) HOW, WHERE, WHEN RECOVERED	(c) FROM WHOM	(d) / If Stolen
1			
2			
3			
4			

27. WORK HISTORY (INCLUDE PRESENT JOB, IF ANY ON LINE 1)

FROM - DATES - TO	EMPLOYER	ADDRESS	BUS. PHONE	OCCUPATION
1				
2				
3				

28. ARREST RECORD SUMMARY

1	2
3	4
5	6

29. M.O. (Weapons or Instruments used, Hangouts and Habits)

30. RIGHT THUMB PRINT

REVERSE CARBON

31. FAMILY AND RELATIVES				
RELATIONSHIP	AGE	NAME (Last, First & M.I.)	ADDRESS	PHONE NUMBER

32. FRIENDS AND ASSOCIATES			
NAME (Last, First & M.I.)	AGE	ADDRESS	PHONE NUMBER

33. ATTACHMENTS BROUGHT TO PROSECUTOR: (Check) <input type="checkbox"/> CONTINUATION REPORT <input type="checkbox"/> LOCAL RECORD <input type="checkbox"/> ARREST REPORT <input type="checkbox"/> F B I RECORD <input type="checkbox"/> OFFENSE REPORT <input type="checkbox"/> STATEMENTS <input type="checkbox"/> SUPPLEMENT REPORT <input type="checkbox"/> CERTIFICATE OF NO <input type="checkbox"/> SEARCH WARRANT <input type="checkbox"/> GUN LICENSE <input type="checkbox"/> ARREST WARRANT <input type="checkbox"/> CITATION		34. DRAFT STATUS: NO. & ADDRESS OF LOCAL DRAFT BOARD 35. SELECTIVE SERVICE NO. OR ARMED FORCES SERIAL NO. 36. MILITARY EXPERIENCE: BRANCH OF SERVICE & DATES FROM - TO 37. DATE OF INDUCTION 38. DATE AND TYPE OF DISCHARGE
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

39. STATEMENT OF FACTS Give a brief statement, in your own words, of the facts surrounding the offence and the arrest. Indicate oral or written statements made by the defendant(s). Use Continuation Form PD 202 A for additional space. Note present condition of any injured person(s).

40. FOR PROSECUTORS USE

41. FINAL DISPOSITION							
42. SIG. OF OFFICER MAKING STATEMENT	BADGE	RANK	UNIT	DATE	43. SIGNATURE OF REVIEWING OFFICIAL	DATE	

ATTACHMENT NO. 2

The text on page 38 indicated that a multi-purpose form would provide regularity and uniformity in the report and transfer of information. A form such as that completed by members of the D. C. Police Department could also eliminate duplication of time spent in the interviewing process.



POLICE OFFICER'S CRIME ANALYSIS

WORKSHEET FOR PROMIS

(Prosecutor's Management Information System)

The United States Attorney's Office would be grateful if you would assist by filling out this form. The data you furnish will aid in efficiently processing this case.

Please complete one form for each defendant in the case. If you have questions about any of the items, the Assistant United States Attorney who screens the case will be glad to assist you.

P.O. Badge No.	PDID No.	Defendant's Name	Complaint No.	AUSA Code	Date
----------------	----------	------------------	---------------	-----------	------

I - OFFENSE

- 1 DID DEFENDANT POSSESS A WEAPON AT TIME OF OFFENSE?** YES NO UNK 1
- YES, gun or other prohibited weapon (PPW) J
 YES, non-prohibited weapon (e.g., baseball bat, butcher knife, etc.) K
 NO L
 UNK. U
- 2 DID OFFENSE INVOLVE INJURY OR DEATH?** YES NO UNK 2
- If "YES," complete all that are applicable:
- (a) Number receiving minor injuries but not treated 2
 (b) Number treated and released 3
 (c) Number hospitalized 4
 (d) Number killed 5
- 3 WAS VICTIM(S) THREATENED OR INTIMIDATED?** YES NO UNK 3
- (Go to question 4 if offense involves sex, homicide, simple assault or ADW, only)
- If "YES," record number of victim(s) individually and deliberately threatened or intimidated for each of the following:
- (a) By physical force or verbal only 6
 (b) By display of weapon(s) 7
- 4 DID OFFENSE INCLUDE A SEX CRIME?** YES NO UNK 4
- (Exclude Soliciting Prostitution, SLIP)
- If "YES," complete all that are applicable:
- (a) Number, forced sexual intercourse (includes rape, forced incest, sodomy, or other sexual assault) 8
 (b) Number of victims threatened or intimidated 9
 Number by display of weapon(s)
 Number by physical force, or verbal, only
 None (Check)
 Unknown (Check)
- 5 DID OFFENSE INVOLVE STEALING, DAMAGE, OR DESTRUCTION OF PROPERTY?** YES NO UNK 5
- If "YES," complete all that are applicable:
- (a) Number of motor vehicles stolen 10
 (b) Approximate number of other items stolen
 (c) Approximate dollar value of property stolen, damaged or destroyed 11
 (Exclude automobiles recovered intact and undamaged)
- \$1 - 4 H
 5 - 10 J
 11 - 49 K
 50 - 99 L
 100 - 250 M
 251 - 2,000 N
 2,001 - 9,000 P
 9,001 - 30,000 Y
 30,001 - 80,000 I
 Over 80,000 B
- 6 DID OFFENSE INVOLVE FORCED ENTRY OF A PUBLIC PREMISE OR ANY UNAUTHORIZED ENTRY OF A PRIVATE PREMISE?** YES NO UNK 6
- If "YES," number of premises: 12
- 7 DID OFFENSE INVOLVE ARSON?** YES NO UNK 7
- If "YES," did arson involve high potential for injury? YES NO 13
- 8 WAS DEFENDANT ARRESTED AT OR NEAR SCENE OF OFFENSE?** YES NO UNK 8

- 9 IS SCIENTIFIC EVIDENCE AVAILABLE?** YES NO UNK 9
- Check any of the following which are or can be made available:
- Urine (BNDD) Photograph(s)
 Fingerprints Ballistics
 Handwriting Paint test
 Blood Hair/fiber test
 Other (specify below)
- 10 WERE NARCOTICS INVOLVED IN THIS CASE?** YES NO UNK 10
- If "YES," check the appropriate block(s) below:
- Possess H J
 Sell K L
 Marijuana M N
 Amphetamines, barbiturates, or hallucinogen
 Heroin/PIC or other opiate

II - DEFENDANT

- 11 IS DEFENDANT A RESIDENT OF D.C. AREA?** YES NO UNK 11
- If "YES," how long? 17
- (a) Less than one year L
 (b) 1-5 years M
 (c) Over 5 years N
 (d) Unknown duration W
- 12 DOES DEFENDANT HAVE ANY PHYSICAL OR HEALTH PROBLEM?** YES NO UNK 12
- If "YES," nature of problem(s): (Check all that apply)
- (a) Physical disability or bad health 18
 (b) Indication of use of heroin or other opiate, at any time 19
 (c) Indication of chronic alcohol abuse 20
- 13 IS DEFENDANT PRESENTLY EMPLOYED?** YES NO UNK 13
- 14 HOW LONG WAS PRESENT OR LAST JOB HELD?** 22
- Less than 6 months Y
 More than 6 months M
 Never employed N
 Unknown U

III - VICTIM

- 15 IS THIS A VICTIMLESS CRIME?** YES NO 15
- (Examples: narcotics, sexual solicitation, CDW/PPW/UPP, etc.)
- (If "YES," go to PART IV)
- 16 IS VICTIM A LAW OFFICER?** YES NO UNK 16
- (If "YES," go to PART IV)
- 17 IS VICTIM A CORPORATION, ASSOCIATION, OR INSTITUTION?** YES NO UNK 17
- (If "YES," go to PART IV)
- 18 IS VICTIM A RESIDENT OF D.C. AREA?** YES NO UNK 18
- If "YES," how long? 25
- (a) Less than 1 year J
 (b) 1 - 5 years K
 (c) Over 5 years L
 (d) Unknown duration W
- 19 WHAT ARE VICTIM'S SEX AND AGE?** 26
- Sex Male M Female N
- Age 27

- 20 DOES VICTIM HAVE ANY PHYSICAL OR HEALTH PROBLEMS?** YES NO UNK 20
- If "YES," check all that are applicable:
- (a) Physical disability or bad health 28
 (b) Indication of use of heroin or other opiate, at any time 29
 (c) Indication of chronic alcohol abuse 30
- 21 IS VICTIM EMPLOYED?** YES NO UNK 21
- 22 DOES VICTIM HAVE AN ARREST RECORD? (Exclude drunk or disorderly)** YES NO UNK 22

IV - WITNESS

- (If more than one witness, choose most essential witness)
- 23 IS THERE A WITNESS OTHER THAN COMPLAINANT?** YES NO UNK 23
- (If "NO" or "UNK," go to PART V)
- 24 IS THERE A WITNESS OTHER THAN ARRESTING POLICE OFFICER (APO) OR HIS ASSISTANT?** YES NO UNK 24
- (If "NO," go to question 29)
- 25 WHAT IS LAY WITNESS' AGE?** 33
- 26 DOES LAY WITNESS HAVE ANY PHYSICAL OR HEALTH PROBLEMS?** YES NO UNK 26
- 27 IS LAY WITNESS EMPLOYED?** YES NO UNK 27
- 28 DOES LAY WITNESS HAVE AN ARREST RECORD? (Exclude drunk or disorderly)** YES NO UNK 28
- 29 WERE ANY OF THE WITNESSES EYE WITNESSES?** 37
- YES, only one Y
 YES, more than one M
 NO N
 UNK U

V - RELATIONSHIPS

- (If more than one victim, choose the same one as in PART III) (Primary or First Victim)
- WHAT IS THE RELATIONSHIP:
- 30 OF VICTIM TO DEFENDANT?** 30
- 31 ESSENTIAL WITNESS TO DEFENDANT?** 31
- 32 ESSENTIAL WITNESS TO VICTIM?** (If there is one in addition to victim) 32
- Spouse (Including common law) 38 J
 Child C
 Other Family K
 Ex-spouse D
 Co-habiting E
 Girl or Boy Friend F
 Friend M
 Acquaintance N
 Neighbor L
 Employer or Employee G
 Stranger H
 Other (Specify): U

VI - AVAILABILITY OF DOCUMENTARY EVIDENCE

- 33 IN ADDITION TO PD FORM 163 AND ATTACHMENTS, WHAT OTHER ARREST-RELATED FORMS HAVE BEEN PREPARED?** 33
- PD Form 81 PD Form 255
 PD Form 251 BND Form 7
 PD Form 252 None
 Other
- 34 WAS THERE AN ARREST-RELATED "RADIO-RUN"?** YES NO 34
- 35 LIST ANY OTHER TYPE OR SOURCE OF DOCUMENTARY OR PHOTOGRAPHIC EVIDENCE:** 35

Do NOT Complete this part (For AUSA's Use Only)

VII - SPECIAL FACTORS

- 36 CONSENSUAL CRIME? (By mutual consent)** YES NO 36
- 37 CORROBORATION THAT CRIME WAS COMMITTED? (Admission, or other)** YES NO 37
- 38 EXCULPATORY EVIDENCE PRESENT?** YES NO 38
- 39 WAS THERE PROVOCATION BY VICTIM?** YES NO 39
- 40 VICTIM PARTICIPATION? (Victim participated in part of the offense)** YES NO 40
- 41 DEFENDANT ONLY AN AIDER OR ABETTOR?** YES NO 41
- 42 LAY WITNESS AIDER OR ABETTOR?** YES NO 42
- 43 ANY TESTIMONY PROBLEMS?** YES NO UNK 43
- If "YES," check any that appear to apply:
- Victim reluctant 48
 Most essential lay witness reluctant 49
 Most essential witness (include APO) not credible 50
- 44 WERE THERE RACIAL COMPLICATIONS?** YES NO UNK 44
- If "YES," check the appropriate block(s) where individual's involvement has racial overtones or where the individual is likely to arouse inordinate sympathy or antagonism during trial:
- Victim 51
 Defendant 52
 Witness 53
- 45 DOES DEFENDANT HAVE AN ARREST RECORD?** YES NO UNK 45
- If "YES," check all that apply:
- (a) Arrested in last five years 54
 (b) First arrest was for auto theft 55
 (c) Has used alias or aliases 56
- If defendant has arrest record, complete as many as possible:
- (d) Number of previous arrests, if known (excl. drunk or disorderly) 57
 (e) Number of previous arrests for crimes against person, if known 58
 (f) Years of last three arrests, if known (last 2 digits, for example '72, '71, '70) 59
- 46 WAS DEFENDANT ON CONDITIONAL RELEASE FOR A PREVIOUS CRIME AT TIME OF ARREST?** YES NO UNK 46
- If "YES," specify type: 60
- Bail J
 Superior Court Probation M
 District Court Probation N
 D.C. Court Probation or Parole O
 D.C. Dept. of Corrections (Halfway House, youth/adult parole) P
 Other Q
 Unknown type W
- 47 DEFENDANT'S STATUS AT TIME OF PAPERING:** 61
- Lock-up J
 Jail K
 Stationhouse bond release L
 Citation release M
 Stationhouse personal recognizance N
 Grand Jury original P
 Walk-in Q
 Other (specify) N
- 48 OVERRIDE? (Check "YES" if case involves a racial confrontation, assault on a public official, or a major violator)** YES NO 48
- 49 CONVICTION IMPEACHMENT POSSIBLE? (Pursuant to 14 DC Code, Section 305, supplement V, 1972)** YES NO 49
- 50 PROBABILITY OF WINNING:** 64
- Poor (Under 50%) P
 Fair (50% - 75%) F
 Good (75% - 90%) G
 Excellent (90% - 100%) E

POLICE OFFICER STOP HERE

UNITED STATES
DEPARTMENT OF JUSTICE

LAW ENFORCEMENT ASSISTANCE
ADMINISTRATION

Notice

May 14, 1973

Subject:

PRESCRIPTIVE PACKAGE -- CASE
SCREENING AND SELECTED CASE PROCES-
SING IN PROSECUTOR'S OFFICES

LERRATUM

The forms following Attachments No. 1 and No. 2 were misplaced in printing the above publication. The form, Police Officer's Crime Analysis Worksheet for Promis should have followed the divider sheet of Attachment No. 1, and the form, Metropolitan Police Department, Washington, D.C., Prosecution Report should have followed the divider sheet of Attachment No. 2.

END