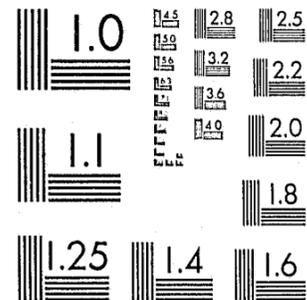


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EDMUND G. BROWN JR., Governor  
STATE OF CALIFORNIA  
OFFICE OF CRIMINAL JUSTICE PLANNING

**California  
Career Criminal  
Prosecution Program**

**SECOND ANNUAL REPORT  
to the  
LEGISLATURE**

83427a

January 1980



# Office of Criminal Justice Planning

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OFFICE OF CRIMINAL JUSTICE PLANNING  
OFFICE OF THE DIRECTOR  
7171 BOWLING DRIVE  
SACRAMENTO, CALIFORNIA 95823



January 7, 1980

Dear Friends of California Law Enforcement:

Working together over the past five years, Governor Brown and the Legislature have given local police and prosecutors important new legal weapons for their fight against serious and violent crime. Among these are fixed-term sentencing, mandatory prison terms for those who carry guns, prey upon the elderly or commit rape, and stretched-out prison terms for dozens of felony crime categories. Site acquisition and engineering work for added prison capacity have been authorized and funded, and are now underway.

This Report covers the successful launching of one of those initiatives, California's unprecedented state-wide effort to deal severely with "career criminals", those experienced felons who have learned how to make crime pay all too well through manipulating the criminal justice system. In its first eighteen months, California's Career Criminal Prosecution Program has achieved some remarkable figures:

- 93% of career criminal defendants are convicted;
- Almost 89% of those convicted are sentenced to state prisons and institutions;
- Over 80% of career criminal defendants are being held in custody pending trial, with bail being set at over triple the previous amounts.

Even though plea-bargaining has been virtually eliminated for these defendants, there has not been a substantial increase in the demand for jury trials.

An additional element of California's coordinated approach to dealing with the professional lawbreaker is now being put in place, the Career Criminal Apprehension Program, a series of grants to police and sheriff's departments. Taken together, the newly-authorized career criminal approaches in law enforcement and prosecuting agencies are recognition that criminal justice resources no longer need to be deployed blindly on an incident-by-incident basis, but may purposefully be brought to bear against individual wrongdoers. Because adequate time has now passed for appellate review of career criminal prosecutions, we may conclude that the due process safeguards written into the Career Criminal Program statutes are adequately protecting against misuse of this approach.

Cordially,

*Doug Cunningham*  
DOUGLAS R. CUNNINGHAM  
Executive Director



State of California  
Department of Justice  
**George Dukerjian**  
(PRONOUNCED DUKE-MAY-GIN)  
Attorney General

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TO: CALIFORNIA LAW ENFORCEMENT

I am pleased to report that those counties which have a Career Criminal Prosecution Unit (CCPU) are, as a result, more actively and effectively taking habitual criminals off the streets of California.

These CCPU's are funded largely by the Career Criminal legislation which I authored as a state senator. That legislation, which is now law, was designed to help make habitual criminals believe that continued criminal misconduct is not worth the risk. We wanted to let them know that swift and sure punishment would be their just reward.

Now, from the latest reports available, I can tell you this:

- More than 93% of the career criminal defendants either pled or were found guilty of at least one charge filed against them.
- Bail settings have increased for career criminal defendants.
- There is a greater use of enhancements, increased lengths of sentences and fewer dismissals or acquittals than for similar defendants prior to the law taking effect.
- The mean average CCPU prosecutor's caseload is one-third less than that of the estimated general prosecutor's caseload.
- Because of procedures set up by CCPU's, prosecutors are developing stronger cases, there is high morale and enthusiasm and there are improved relationships with victims, witnesses and other criminal justice agencies.

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In other words, the CCPU's are meeting the objectives set forth in my original legislation. That means prosecutors will be getting more and more of these one-person crime waves off our streets and into state prison where they belong.

During the period my Career Criminal legislation has been in existence, the state Office of Criminal Justice Planning has independently funded the California District Attorneys Association Career Criminal Legal Research Center. This Center provides in-depth legal research to California's 45 smaller county district attorney offices in prosecutions involving career criminals. It is a tough job which CDAA has done very well. It is important to note the Center has been funded, in part, to provide smaller counties with a specialized legal unit, albeit at the state level, so they may have reasonable access to a resource commonly possessed by the 13 larger county district attorney offices and to supply a small county corollary to the major county funding provided in my Career Criminal legislation.

I have said before and I will continue to say that law-abiding citizens have a constitutional right to be free from fear of crime, to be free from fear to go for a walk day or night, to be free not to have to lock themselves behind bars in their own homes. Working together, with tools such as the CCPU's and tougher sentencing laws, we can help restore that right to all citizens who wish to live peaceful, law-abiding lives.

Finally, after my first year in office, let me tell you how happy I am to be your Attorney General. During all of my 16 years in the Legislature, I enjoyed an excellent working relationship with law enforcement. I know all of us, working together, can help make our streets and our communities safe for our citizens once more. For my part, I will actively support legislation to indefinitely extend funding for CCPU's beyond January 1, 1982, the date current funding is scheduled to end.

Most cordially,

  
George Deukmejian

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

OFFICE OF CRIMINAL JUSTICE PLANNING  
OFFICE OF THE DIRECTOR  
7171 BOWLING DRIVE  
SACRAMENTO, CALIFORNIA 95823



January 7, 1980

The Honorable James R. Mills  
President Pro Tempore of the Senate  
State Capitol  
Sacramento, California 95814

The Honorable Leo T. McCarthy  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Senator Mills and Speaker McCarthy:

I am pleased to present this Second Annual Report on the operation of the California Career Criminal Prosecution Program, pursuant to Chapter 1151 of 1977 Statutes (SB 683, Deukmejian). This report contains cumulative results covering the period from the effective date of the Act, January 1, 1978, through September 30, 1979.

This second report builds upon last January's initial report to the Legislature. Based upon a detailed and rigorously professional analysis of case results during eighteen months of program operation, and comparison with statistical control groups, we report with confidence that the Career Criminal Prosecution Program is meeting its basic goal. That goal is to help local criminal justice officials deal swiftly and severely with the relatively small number of repeat and multiple offenders who are responsible for a massive share of California's serious crime.

In addition, the report identifies several issues to be dealt with when, during 1981, the Legislature considers reauthorization of the Career Criminal Prosecution Program. Also, it touches upon the relationship between SB 683 and OCJP's parallel implementation of the California Career Criminal Apprehension Program, a \$2 million program of law enforcement grants under Chapter 1167 of 1978 Statutes (SB 2039, Holmdahl).

Preparation of this report was primarily the responsibility of OCJP's Deputy Director for Planning and Operations, Nathan Manske, and members of his staff, Charley Cartwright and Robert Spindler, who were greatly assisted by the evaluation contractor for the program, MetaMetrics, Inc., of Sacramento and Washington, D. C. Directed by Joel Phillips, MetaMetrics staff included Lisa Laubacher, Doug Quackenbush, Lynn Cannady, Stacy Surla, Chuck Doolittle of Ernest H. Short and Associates, Fred Springer, David Saari and Lynn Pastrana.

Cordially,



DOUGLAS R. CUNNINGHAM  
Executive Director

Telephone: (916) 445-9156

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## PREFACE AND ACKNOWLEDGEMENTS

In response and in recognition of the fact that a "substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of repeat felony offenders," the State Legislature of California enacted the Career Criminal Act (Chapter 1151, 1977, Statute SB 683) in 1977. With passage of the Deukmejian Bill, the State Legislature appropriated the necessary funds for the establishment of special Career Criminal Prosecution units throughout California to be administered by the Office of Criminal Justice Planning. Concurrent with this intensive statewide application of the career criminal prosecution concept, the Office of Criminal Justice Planning developed a comprehensive evaluation approach in order to determine the success and impact of the Career Criminal Program in the State of California. Of concern to the OCJP was documenting the effect of each individual unit and reporting the results to the State Legislature on an annual basis. To assist them in these evaluation efforts, they sought the assistance of an outside consulting firm.

MetaMetrics Inc., a planning, research and evaluation firm specializing in the evaluations of criminal justice programs, was awarded the contract by the Office of Criminal Justice Planning to conduct a two-year evaluation of the Career Criminal Prosecution Program in the twelve largest jurisdictions. This evaluation effort was initiated in August 1978 and will be completed in October 1980.

This document comprises the final report of the first year evaluation efforts between MetaMetrics Inc. and the Office of Criminal Justice Planning. The purpose of the study was to evaluate and assess the overall impact that the Career Criminal Prosecution Units have had in achieving the stated objectives of the State legislation. This report includes a detailed program description, results of both the process and impact analysis, an identification of the key issues that emerged during the course of the study, and MetaMetrics' findings and recommendations to the Office of Criminal Justice Planning.

The project was a collaborative effort involving the direct contribution and efforts of many individuals. Joel Phillips, the Project Director, was responsible for the overall administration and direction of the project, as well as writing the final report.

Particular recognition is due to Lisa Laubacher and Doug Quackenbush who had primary responsibility in the collection of the baseline data at the twelve project sites. In this effort, they were assisted by Chuck Doolittle, of Ernest H. Short and Associates. Stacy Surla had the difficult job of compiling the

data into usable formats. Dr. Fred Springer provided direction and assistance in the statistical manipulation of the extensive data base.

As consultant to the project, David Saari provided critical insights on the program activities. Assisting on site visits, he conducted numerous interviews with individuals associated with the project and with the criminal justice system. In addition, he reviewed evaluation materials and identified many of the major issues presented in the final report.

Site visits were conducted at all twelve projects. The conduct of this important activity was assumed by MetaMetrics' staff, including Lynn Cannady, Lisa Laubacher, and Joel Phillips. In this effort they were assisted by Chuck Doolittle and David Saari. Ernest H. Short and Associates provided local support and coordination of site visit activities.

Lynn Pastrana deserves special recognition for editing major portions of the final report. Production and typing of the report was a shared responsibility involving Karen Cornell, Sheri Odette, Teresa Muir and Alice Economou.

Special thanks are due to the many individuals in each of the twelve participating counties who granted us their time and insights concerning the Career Criminal Prosecution Unit. In addition to the assistance provided by each of the prosecutors and their staff at each of the sites, MetaMetrics appreciates the observations given to us by members of the judiciary, law enforcement agencies, and attorneys concerning this programming effort.

Finally, we express our special gratitude and thanks to the Office of Criminal Justice Planning, specifically Charlsey C. Cartwright, the Evaluation Director, Robert A. Spindler, CCP Program Monitor, Nathan Manske, Assistant Director, and Doug Cunningham, Director, for their support, assistance, and direction throughout the project.

#### EXECUTIVE SUMMARY

In the fall of 1977, the California State Legislature passed SB 683, the Career Criminal Act (Chapter 1151, 1977 statutes), otherwise known as the California Career Criminal Prosecution Program (CCP). This legislation, authored by Senator George Deukmejian, appropriated funds to establish special Career Criminal Prosecution Units (CCP Units) to intensively prosecute individuals who qualified as "career criminals" as defined in the legislation. Since the inception of the CCP, twenty-one Career Criminal Units have been established in the State of California. These Units are located in the following counties:<sup>1</sup>

Alameda	San Bernardino	San Joaquin
Contra Costa	San Diego	Yolo
Fresno	San Francisco	Santa Barbara
Los Angeles	San Mateo	Marin
Orange	Santa Clara	Solano
Riverside	Ventura	Imperial
Sacramento	Stanislaus	Placer

Establishing, monitoring and evaluating the CCP Program has been the responsibility of the Office of Criminal Justice Planning (OCJP). As part of that responsibility, the OCJP is to provide the state legislature with an annual evaluation report analyzing the processes and impacts associated with Career Criminal Prosecution Program activities in the state.

This is the second annual report of the CCP Program. It represents the findings and recommendations concerning the first sixteen months of CCP Program operations. The primary focus of this report is to examine in detail the collective achievement of the CCP Units in meeting the performance measures and objectives. In addition, this report identifies issues and key factors that have been associated with the establishment and on-going operation of the CCP Units.

This executive summary abstracts major findings and conclusions from the study. The summary is organized around the stated career criminal objectives and results to date.

#### CAREER CRIMINAL PROGRAM OBJECTIVES AND RESULTS TO DATE:

The results of the statistical analysis of the twelve major Career Criminal Prosecution Units, and the results of the monitoring activities conducted by both MetaMetrics and OCJP staff, indicates that the CCP Units are substantially meeting the objectives stated in the legislation, and the OCJP evaluation-legislative report sub-committee requirements. The following

<sup>1</sup>The twelve largest counties - Alameda to Santa Clara in the list above, are funded with 1151 monies. They are the focus of this report.

subsections examine each of the major objectives, and indicates the success that the individual Career Criminal Prosecution Units have had collectively in achieving those measures. The results are based on the analysis of 1133 evaluation data forms (EDFs) of current career criminal cases submitted by the individual CCP Units, and 840 baseline career criminal EDFs identified, collected and analyzed by MetaMetrics.

Objective 1: To demonstrate that all reasonable prosecutorial efforts have been made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

- 86.4% of the current career criminal defendants were in custody at the time of their preliminary hearings and 82.3% were in custody when the case was adjudicated. This was in contrast to the reported 78.9% and 78.8% for the baseline group.
- Average bail was \$33,700 for the career criminal defendant at preliminary as compared to \$10,400 for the baseline career criminal defendant.
- Average bail was \$34,000 for the current group of defendants at trial as compared to \$7,800 for the baseline population.

Objective 2: To eliminate or reduce the use of plea bargainings.

- Slightly less than 61% of all charges (5070) filed on the current career defendants ultimately resulted in convictions in comparison with approximately a 42% result for the baseline defendant population (involved in 2965 charges).
- Only 32% of all current charges were dismissed by the CCP prosecutors as compared with a finding of 51% for the baseline group. Of those charges (1611) that were dismissed by the prosecutor "no substantial sentence benefits" was the reason given in 60% of the cases, followed by "facts and evidence problems" in 30% of the cases.

Objective 3: To demonstrate an increased use of enhancements.

- There was an average of 1.2 enhancements per defendant for the baseline group while the average for the current group was 2.7 per defendants.
- Approximately 55% of the enhancements resulted in convictions for the current group as compared to a 50% conviction rate for the baseline population.

Objective 4: To demonstrate an increase in conviction rates for career criminal offenders prosecuted by CCP Units.

- Approximately 93% of all current career criminal defendants were convicted of one or more charges. This was a statistically significant improvement (at the .05 level) over results reported for the baseline population (89.6%).

Objective 5: To demonstrate a higher rate of conviction on the most serious charges.

- The rate of convictions to the most serious charges among those convicted was only 66.6% for the baseline in comparison to 87.5% for the current career criminal defendant.
- Rate of convictions to the most serious charge among all cases prosecuted was 59.6% for baseline and 81.3% for the current defendants.

Objective 6: To demonstrate an increase in the length of sentence and the ratio of maximum sentences in career criminal cases.

- Incarceration rate among convictions (including State Prison, CYA, CRC and jail) was 71.7% for the baseline and 90.2% for the current convicted career criminals.
- State Prison rate among those convicted was 58.1% for the baseline and 80.9% for the convicted career criminals.
- Average sentence length increased from four years, six months for the baseline group to over five years, five months for the career criminal defendant sentenced to State Prison. There were sixteen life sentences and two death sentences given to the current defendant population in comparison with only two life sentences for the baseline group.

Objective 7: To demonstrate a reduction in the amount of time required to prosecute a case.

- There has been no decrease in the amount of time required to prosecute career criminal cases: This is the only area in which the CCP Units have not successfully met the stated program objectives.

Objective 8: To demonstrate a reduction in the prosecutor's caseload.

- The average active caseload for the CCP Unit was nearly one third less than that reported for the General District Attorney's Office.

Objective 9: To determine whether vertical prosecution, i.e., the use of one prosecutor per case from arraignment to sentencing occurs with career criminal cases.

- Although many Units strive for personal rather than Unit vertical prosecution, this has often not been possible due to conflicting court schedules and/or available staff resources. In only a few cases were non-career criminal prosecutors involved and generally this was at the filing stage.

Objective 10: To determine improved "quality" prosecutorial efforts.

- The CCP Program has resulted in increases at significant levels for all standard performance measures used to determine prosecutorial effectiveness, e.g., conviction rates, top charge conviction, incarceration rate, length of sentences, etc.
- The program, through its use of reduced caseloads and vertical prosecution, has enabled the CCP Units to improve victim/witness and law enforcement relations, and upgrade the quality of case preparation.

Objective 11: To determine cost factors associated with CCP prosecution offices and conduct a cost-effectiveness analysis of the program.

- Based on caseload information provided to the OCJP on a quarterly basis, and the overall costs for operating the CCP statewide, it has cost an average of \$2,000 per case prosecuted by the CCP Units. Because of the higher conviction rate, higher state prison incarceration rate, and the longer period of incarcerations associated with the CCP programming, there will be increased correction costs to handle this population. These costs and other program cost benefits will be discussed at length in the final report.

Objective 12: To determine the impact that the program has had on other components of the criminal justice system, specifically corrections, courts, law enforcement and Public Defender's Offices.

- The CCP Program has resulted in a greater number of defendants being convicted and sentenced to state prison. In addition, these defendants received on an average, nearly a year longer term. This has both costs and management implications for the Department of Corrections.
- Law Enforcement officials have been very pleased with the introduction of CCP Units in their jurisdictions. It has served as a morale booster and has improved prosecutorial/law enforcement relationships.
- There has been an increase in trial rates associated with career criminal prosecution. However, this has not resulted in any noticeable burden on the courts.
- The Public Defender's Office has suffered more from Proposition 13 than has the District Attorney's Office. The CCP Unit's reduced caseload experienced trial attorneys, and no plea bargaining postures have placed an additional burden on the Public Defender's Office.

#### Other Results:

In addition to examining the degree to which the CCP Units have successfully addressed the objectives established by the legislation and OCJP, the Units have also achieved the following results:

- Almost 64% of the career criminal defendants were under some form of criminal justice supervision at the time of the offense for which they were being prosecuted.
- For slightly more than 69% of the career criminal defendants, burglary (25.2%) or robbery (44.5%) were the most serious crimes charged.
- There were an average of 4.5 charges against each current career criminal defendant.
- Approximately 41% of all charges originally brought against the current career criminal defendants resulted in a conviction.

- The results of the four-cell analysis indicated that the Career Criminal Units, at a statistically significant level, showed improvements in conviction rates, top charge conviction, incarceration rates, etc. as compared to the differences reported for the non-career criminal data population.

Conclusion:

This report examines career criminal program performance over a sixteen-month period using 3546 completed evaluation forms as the data base as well as extensive and intensive interviews conducted with over 250 individuals in the local communities. There is sufficient evidence at this time to conclude that the programs are, at least in the aggregate, successfully addressing the program objectives as defined by the state legislation. Specifically, the Career Criminal Units have demonstrated to date:

- increased conviction rates
- increased sentence length
- reduction in the use of plea bargaining
- increased use of enhancement charges
- reduction of prosecutorial caseload
- increased use of vertical prosecution
- increased amount of bail
- increased rate of conviction on most serious charge
- increased incarceration rates
- high morale and enthusiasm for the CCP

The last section of this report identifies some of the key issues that have the potential to affect the future of CCP Programming in the State of California.

SECTION 1

INTRODUCTION

"Most cases are disposed of outside the traditional trial process, either by a decision not to charge a suspect with a criminal offense or by a plea of guilty. In many communities, between one-third and one-half of the cases begun by arrest are disposed by some form of dismissal by police, prosecutors, or judge. When a decision is made to prosecute, it is estimated that in many courts, as many as ninety percent of all convictions are obtained by guilty pleas...

Even when criminal prosecution is appropriate, charges may be dropped or reduced in exchange for a plea of guilty simply to conserve resources for more important cases." <sup>1</sup>

This report represents the first comprehensive examination of the results achieved by the California Career Criminal Prosecution Units (CCP) during their first sixteen months of operations. The enabling legislation that provided funding for Career Criminal Prosecution, required that the Office of Criminal Justice Planning provide the State Legislature with annual reports documenting the progress and achievements of the Units. The report focuses on both process related issues as they pertain to the establishment and operation of a CCP Unit in California, and the achievement of the legislatively mandated performance measures. In this evaluation of the CCP Units, the Office of Criminal Justice Planning has been assisted by MetaMetrics Inc., a consulting firm specializing in the evaluations of criminal justice programs.

<sup>1</sup>The President's Commission on Law Enforcement Administration of Justice, Task Force on Administration of Justice. Task Force Report: The Courts, pg. 4, 1967.

### 1.1 CALIFORNIA CAREER CRIMINAL PROSECUTION PROGRAM

The California Career Criminal Prosecution Program is a direct outgrowth of the National Career Criminal Program initiative that was established by the Law Enforcement Assistance Administration (LEAA) in 1974. Targeted prosecution, the essence of the new Career Criminal Prosecutorial efforts, is not a new concept. However, the concentration on repeat or habitual offenders is new and is based on a body of research that has increasingly indicated that a small number of criminals are disproportionately responsible for much of the reported crime. Based on this evidence, LEAA established a national program in the mid-1970's aimed at providing funds to District Attorney's Offices interested in forming Career Criminal Prosecution Units or Major Violators Units to identify and vigorously prosecute repeat offenders.

The initial reported successes of the National Career Criminal Prosecution concept motivated California legislative leaders, local prosecutors and law enforcement officials to collaborate in the drafting of State legislation that defined career criminal conduct, and provided funds for selected District Attorney's Offices. The result of this collaboration was Senate Bill 683, authored by then Senator George Deukmejian, now Attorney General, which was passed by the Legislature and signed by the Governor in September 1977. This legislation provided for an initial appropriation of \$1.5 million from general funds to the OCJP for the purpose of supervising the implementation and establishment of local CCP Units. This initial appropriation sustained the first six months of program activities from January 1, 1978 through June 30, 1978. In order to continue CCP Program activities, the OCJP requested and received an additional \$3 million in its FY 1978-79 Budget. Sufficient additional funds were included in the FY 1979-80 Budget to maintain the program at the current statewide level.

Currently, there are twenty-one Career Criminal Prosecution Units operating in the State of California, at a budget of slightly more than \$4 million. Specifically, the counties that have implemented Career Criminal Prosecution Units to date include the following:

Alameda	San Bernardino	San Joaquin
Contra Costa	San Diego	Yolo
Fresno	San Francisco	Santa Barbara
Los Angeles	San Mateo	Marin
Orange	Santa Clara	Solano
Riverside	Ventura	Imperial
Sacramento	Stanislaus	Placer

Although there are twenty-one CCP Units currently operating in California, the focus of this report is primarily on the activities and results of the first sixteen months of program operations for the twelve largest counties funded by the OCJP.<sup>2</sup>

### 1.2 PURPOSE AND SCOPE OF THE STUDY

In establishing a statewide Career Criminal Prosecution Program, the California Legislature made it very clear that the success or lack of success of this program was to be determined within a three year period. Because of the costs associated with establishing, maintaining and operating this type of prosecutorial effort, the legislature required a thorough documentation that the CCP Units were in fact achieving the intended legislatively mandated results in order to justify continued funding and support for the program. This factor took on added significance because of recent fiscal restraints that have been imposed on the State through such initiatives as Proposition 13. To that end, the Office of Criminal Justice Planning, was given the authority and responsibility to select, monitor and evaluate the Career Criminal Prosecution Units.

<sup>2</sup>The counties involved in the detailed analysis presented in this report are the first twelve in the above list, that is: Alameda to Santa Clara.

### 1.2.1 CCP Program Objectives

Based on the provisions set forth in the Career Criminal Legislation (SB 683), both the Office of Criminal Justice Planning and the State Legislature were particularly concerned that the Career Criminal Prosecution Program satisfy the following objectives:

- Objective 1: To demonstrate that all reasonable prosecutorial efforts have been made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.
- Objective 2: To demonstrate an increased use of enhancements.
- Objective 3: To eliminate or reduce the use of plea bargainings.
- Objective 4: To demonstrate an increase in conviction rates for career criminal offenders prosecuted by CCP Units.
- Objective 5: To demonstrate a higher rate of conviction on the most serious charges.
- Objective 6: To demonstrate an increase in the length of sentence and the ratio of maximum sentences in career criminal cases.
- Objective 7: To demonstrate a reduction in the amount of time required to prosecute a case.
- Objective 8: To demonstrate a reduction in the prosecutor's caseload.
- Objective 9: To determine whether vertical prosecution, i.e. the use of one prosecutor per case from arraignment to sentencing, occurred with career criminal cases.

These are standard performance measures that are quantifiable and often used by prosecution programs to measure staff achievements. In order to ascertain the achievement of these performance measures, the Office of Criminal Justice Planning developed an elaborate evaluation design involving a pre/post

comparison of current defendants with a selected control group (see Appendix A). In addition to the quantifiable performance measures indicated above, there were several other key objectives that were stressed in the state legislation that do not require a pre/post statistical or quantitative analysis. These include:

- Objective 10: To determine if improved "quality" prosecutorial efforts have occurred with CCP programming activities.
- Objective 11: To determine the cost factors associated with CCP Prosecution Offices and conduct a cost-effectiveness analysis of the program.
- Objective 12: To determine the impact that the program has had on other components of the criminal justice system, specifically corrections, courts, law enforcement and Public Defender's Offices.

These objectives are further addressed in Sections 2, 3 and 4 of this report.

### 1.3 STUDY METHODS AND SOURCES OF INFORMATION

A complete discussion of the study design and evaluation methodology is included in Appendix A. A brief overview of the evaluation design and the major data sources utilized in this evaluation study follows. This overview provides a context by which the reader can better understand the conclusions and findings derived in the study.

#### 1.3.1 Four Cell Evaluation Model

The evaluation methodology proposed by the Office of Criminal Justice Planning, and subsequently followed by the evaluators, consisted of a four-cell pre/post analysis of defendant data. This method utilized the approach of comparing pre-program data (baseline) with post-program data (current) for the following two sets of defendants:

- Career Criminal Defendants. These are defendants who would have qualified as career criminals in the past had there been a program, and those persons now being prosecuted by the CCP Units (Cells A and B).
- Non-Career Criminal Defendants. These are defendants prosecuted by the District Attorney's Office that do not, or would not have, qualified as career criminals (Cells C and D).

Measurement of the stated objectives was determined by a pre/post comparison of current career criminal defendants with the selected baseline career criminal group. Slightly less than two thousand cases, 840 cases for the baseline group and 1133 cases for the current group, comprise these two data cells. In addition, information was also collected on a pre/post basis for non-career criminal defendants from each major site involved in the evaluation. This data base consisted of 1653 cases. This analysis of the non-career criminal population provided a basis by which to compare and contrast the difference observed in analysis of the career criminal groups. This study represents the first statewide evaluation of Career Criminal Prosecution programming to utilize a four-cell evaluation model. Generally, this type of evaluation involves only pre/post analysis of a control or baseline group matched with the current group of defendants.

#### 1.3.2 Data Sources

The data instrument for all four cells of data consisted of a one-page evaluation data form (EDF) that documented all aspects of a case disposition. The individual CCP Units involved in the study were responsible for completing an EDF on each defendant processed by the Unit: The MetaMetrics staff assumed the responsibility for screening, identifying, and completing an EDF for the remaining three cells of data, i.e. baseline (pre-program) non-career and career criminals, and current non-career criminal populations. In addition, all

participating programs had the responsibility of completing a quarterly summary sheet providing case status information. This also was utilized in the evaluation process.

#### 1.3.3 Interview Sources

The scope of the study, the diversity of the project sites with problems peculiar to each county, and the numerous issues involved with this type of program required an extensive reliance on the use of interviews with key personnel in each of the jurisdictions. Consequently, MetaMetrics and the OCJP staff conducted numerous interviews among the following groups:

- CCP Unit Staff. All project sites were visited, in many instances, two or more times during the first sixteen months of program operations. During these visits, interviews were conducted with the Program Chief and key staff members, including Deputy Attorneys, Investigators, and Administrative and Clerical personnel.
- The District Attorney's Staff. In addition to interviewing members assigned to the CCP Units, interviews were also conducted with the District Attorney and other prosecutors not associated with career criminal prosecution.
- Defense Attorneys. Attorneys involved with the representation of the career criminal defendants, either as private counsel, court appointed counsel, or members from the public defender's office, were interviewed at all project sites.
- The Judiciary. Both Superior and Municipal Court Judges who had been involved with career criminal cases were interviewed.
- Probation Department. Probation Officers involved in the preparation of pre-sentence investigative reports on the convicted career criminal defendants were interviewed.
- Law Enforcement Agencies. Members from the police and sheriff's departments who played an active role in career criminal case investigations were also interviewed.

Over 250 individuals in the twelve counties were interviewed during the course of the first year evaluation effort. This will be an ongoing process in that it will enable the Office of Criminal Justice Planning to provide the State Legislature with critical information on the overall effectiveness and impact that the CCP Program has had on the local criminal justice system.

#### 1.3.4 Documentary Sources

In addition to the analysis of completed EDF's from all counties and the interviews conducted with key members of the criminal justice system in all counties, a review of pertinent literature and other documentary sources was undertaken. Specifically, evaluation studies of career criminal programs were reviewed, county grant applications were examined, pertinent articles and documents related to incapacitation types of efforts, such as the CCP, were also reviewed.

#### 1.4 REPORT FORMAT

This report is the second of three annual reports to the State Legislature concerning the results and impact of the Career Criminal Program in the State of California. The format and content of this report focuses on process or operation's related issues associated with the implementation of the Career Criminal Units in the various District Attorney's Offices. The emphasis of the report is directed at examining the achievements of the stated program objectives identified by the State Legislature and the Office of Criminal Justice Planning. Specifically, this report addresses the following topics:

- Describes the Career Criminal Prosecution processes, operations, and case management procedures.
- Documents in detail the success that the units have had collectively in achieving the stated objectives.

- Identifies key issues and the effects that the program has had on both the local criminal justice systems and their potential statewide implications.
- Presents a summary of findings and recommendations concerning Career Criminal Prosecution Program activities in the State of California.

Statistical information and analysis on program achievement is presented in Section 3 of this report on an aggregate statewide basis. For individual county-by-county statistical results, the reader is referred to Appendix B. In the third and final report to the Governor and state legislators concerning Career Criminal Prosecution Program activities, a more detailed county-by-county description of program differences, successes and failures will be examined.

This report represents the first comprehensive examination of the CCP Program objectives and the degree to which the funded Units have been successful in achieving them. However, the future of the Career Criminal Prosecution Program in the State of California hinges upon a frank recognition that there exists important questions and issues that are not necessarily reflected in the evaluation objectives of the program. As will be shown in Section 3 of the report, the program has, successfully met all but one of the stated objectives. The fact that they have done so speaks positively of the program overall, and would tend to support funding decisions concerning the continued viability and support for this type of program. However, in examining the achievement of performance of the various CCP Units, it is important that the broader issues associated with this type of program also be identified and considered in any future legislative activities in this area. These issues include but are not limited to:

- Has the Career Criminal Program in California been successful, and if so, by what standards?

- Will there be a continued need in the future for the Career Criminal Statute and state appropriations?
- Are the appropriate individuals being prosecuted as career criminals?
- What is the role of juveniles and juvenile records in future CCP Programming efforts?
- Is the career criminal statute, as currently structured in California, soundly conceived? If not, in what areas is it deficient and what types of changes need to be made?
- Should the (California) counties retain the discretionary control in determining "career criminal" status?
- To what extent is the CCP Program replicable, and should all counties have such a unit?

To the extent that it has been possible, these issues are addressed in this report. They will certainly assume greater significance in the final report to the State Legislature to be completed in October 1980. Attempting to address these issues will make the entire evaluation process a much fairer, accurate and significant one that enhances the standard process of producing quantitatively oriented evaluations. In this way, all interests are carefully taken into account, and the evaluation is kept in the range of common sense considerations.

## SECTION 2 CCP PROGRAM DESCRIPTION AND OPERATION

With passage of the Career Criminal legislation (SB 683), and the establishment of a funding procedure within the Office of Criminal Justice Planning to implement Career Criminal Units throughout the state, Career Criminal Prosecution Units became operational in March 1978. Initially, twelve counties were identified and selected for the establishment of Career Criminal Prosecution Units. In several instances, these counties had existing programs operating through the use of federal (LEAA) funding sources. Subsequent to the initial grants establishing the twelve Career Criminal Units in California, the state funded nine additional grants to smaller counties. As of September 1979 there were twenty-one Career Criminal Prosecution Units in operation. This section describes the CCP Program, case management procedures and costs associated with career criminal prosecution.

### 2.1 CCP GOALS AND OBJECTIVES

Based on the provisions set forth in the Career Criminal legislation, OCJP and the Evaluation/Legislative Report Advisory Subcommittee of the California Career Criminal Prosecution Program Steering Committee, developed the goals and objectives used to assess Career Criminal Prosecution Unit performances. These objectives were selected to insure their appropriateness in evaluating the accomplishments of the individual Units. Responsibility for evaluating the CCP Unit's accomplishments and for assuring that these objectives have been met is shared by OCJP and the individual CCP Units.

Statistical data, on an aggregate basis, measuring the performance and achievement of program objectives are presented and analyzed in Sections 3 and 4 of this report.

### 2.1.1 The Target Population

The overall focus of the California Career Criminal Prosecution Program does not differ substantially from similar types of programs operating throughout the country. The goal was, and remains one, of identifying, vigorously prosecuting, and incapacitating through incarceration, recidivistic offenders. The California CCP Program does differ substantially from other career criminal prosecutorial activities in that it was established through a state statute that made the definition of the target population (career criminals) crime specific: that is, to be selected as a career criminal by any of the Units a defendant must first before any other selection criteria are considered, be charged with one of the seven identified target offenses specified in SB 683 legislation (i.e. Arson, Burglary, Drugs - 11351 or 11352, Grand Theft, Grand Theft Auto, Receiving Stolen Property, and Robbery). Having one or more charges, involving the seven target offenses, merely qualifies a defendant as a potential career criminal. The legislation is quite specific as to the other qualifying criteria that are considered in a determination of career criminality.

The legislation defines three possibilities for a defendant qualifying as a career criminal. They are:

- A career criminal is an individual currently charged with three or more separate transactions involving the target offenses.
- A career criminal is a defendant charged with at least one of the target offenses, in addition to having a prior criminal history with felony conviction of Arson, Burglary - first degree, Kidnapping for Rape, Lewd and lascivious conduct on a child, Murder, Oral copulation with force, Armed robbery, or Sodomy with force within the last ten years, excluding time spent in prison.
- A career criminal defendant is an individual charged with one or more of the seven target offenses and who has suffered two prior felony convictions in the following crime areas: Arson, Assault with a deadly weapon, Burglary, any unlawful use of a Controlled Substance, Grand theft, Grand theft auto, Kidnapping for robbery, Receiving stolen property, or Robbery, within the last ten years, excluding time spent in prison.

Each unit was allowed to emphasize one or more of the crimes specified in the legislation based on the existing levels of criminal activities within their county and individual Unit staffing limitations.

### 2.1.2 CCP Program Goals

As specified in the enabling legislation (SB 683) the Career Criminal Prosecution Program had the following major goals and objectives:

- Modify current prosecutorial activities to insure the vigorous prosecution of the identified career criminal defendant. Specifically, these enhanced prosecutorial activities are to include:
  - vertical prosecutorial representation
  - assignment of highly qualified prosecutors and investigators to the units
  - a significant reduction of caseloads for prosecutors and investigators assigned to the unit.
- Establish and maintain a system by which the prompt identification of the career criminal offender occurs.
- Establish a set of policies and procedures to govern career criminal prosecution. Specifically, this is to be achieved through the following practices:
  - a plea of guilty or a trial conviction will be sought for the most serious offense charged
  - all reasonable prosecutorial efforts will be made to resist the pretrial release of a career criminal defendant
  - all reasonable prosecutorial efforts will be made to reduce time between arrest and eventual disposition of the charge(s)
  - maintain a no plea bargaining posture.

As both the Preliminary Report and this report document, the individual CCP Units have largely and successfully achieved these mandated objectives.

### 2.2 CCP PROGRAM DESCRIPTION

The District Attorney Offices given CCP Program grants, initiated a series of actions and procedures that were similar in

most of the funded counties. Essentially career criminal prosecution involves a concentration of prosecutorial activities that have traditionally existed within the District Attorney's Office. As a form of targeted prosecution, it is neither new nor particularly innovative. The tough, heinous, brutal homicide, forcible rape or kidnapping have traditionally been expedited through the system through the use of more experienced lawyers, greater concentration of police and prosecutorial resources of attention, resulting in a more vigorous prosecution of the case. The difference with career criminal prosecution, is the concentration of these activities on what is viewed as perhaps lesser or more minor types of criminal activities (i.e., robberies, burglaries, grand theft, etc.).

This subsection presents a brief description of the CCP Units, funding, resources, staffing and Unit responsibilities.

#### 2.2.1 CCP Program Funding

Funding for the first year (16 months) of CCP Program operation consisted of \$4,936,073 for the 21 programs, ranging from \$16,875 for Placer County to \$1,075,842 for Los Angeles County. This funding includes both Federal and state general funds. Funding decisions were based on the population of and size of the counties applying for grants. Tables 2-1 and 2-2 consider the CCP Unit funding on a county-by-county basis.

#### 2.2.2 Establishing a CCP Unit

The majority of the CCP Units engaged in similar activities in establishing a CCP Unit. Specifically, the District Attorney and/or key administrative personnel within the prosecution office made the following determinations:

- Selection of Staff. Staff was selected with two criteria in mind. Because counties were given a budget for CCP Unit operation, based on their population size, the District Attorney's Office in turn based personnel resource allocation to the Units in light of budgetary constraints. Secondly, a decision was made, in the majority of counties, to go with the more senior, experienced trial deputies

for assignment into the Unit. The budget amount, the expense of having experienced trial attorneys, and the anticipated reduced caseload, all became factors that influenced ultimate staffing decisions made at each of the program sites. Some counties, envisioning a larger caseload, elected to go with lesser grade, yet qualified, attorneys and thus increase the personnel size of the Unit rather than maintain a Unit of highly experienced attorneys.

- Target Crime Selection. Concurrent with staffing decisions, most counties selected the target crimes based on the seriousness of the crime problem within the community, in conjunction with the anticipated size and probable caseload of the Units. Thus, the majority of the larger counties concentrated on fewer of the target crimes, while smaller counties, with an overall lower felony criminal caseload, were able to concentrate on multiple if not all seven target crime categories.
- Unit Identification. An important factor in the development of the CCP Program was the decision to establish specific Units, consisting of designated deputies following defined case management procedures. The autonomy of these Units was enhanced through physical segregation of the Units within the District Attorney's Office, and the assignment of investigators and clerical/secretarial support staff to assist the CCP deputies. Although these are obvious policies associated with career criminal prosecution, the District Attorneys quite clearly viewed the effort as a program with a separate identity and entity rather than as a series of policies that would pertain to the general office upon identification of a career criminal defendant.
- Establishing Contact with Other Components in the Criminal Justice System. An important activity for many of the Career Criminal Units was establishing contact and developing a rapport with law enforcement agencies, the probation department, and the courts.

#### 2.2.3 Program Staffing

A Career Criminal Prosecution Unit allocation of personnel differs substantially from the overall staffing of the participating District Attorney's Offices. Typically, the CCP Unit staff consists of several senior (Grade 3 and 4) trial deputies, a legal secretary, and in most Units, a full-time investigator(s).

TABLE 2-1

LARGE AND MEDIUM SIZE COUNTIES  
STATE AND FEDERAL FUNDS ALLOCATED  
TO CAREER CRIMINAL PROGRAMS

POPULATION GROUP	CALIFORNIA CAREER CRIMINAL PROSECUTION PROGRAM FUNDS (SB683)						LEAA FUNDS		PROGRAM TOTAL
	COUNTY	PROGRAM OPERATION DATE	MAXIMUM ALLOWABLE ALLOCATION	REQUESTED ALLOCATION	OCJP APPROVED ALLOCATION	EXTENSION	CALIFORNIA BLOCK FUNDS	FEDERAL DISCRETIONARY FUNDS	
Over 1,000,000 - Less than 2,000,000	Over 2,000,000	Los Angeles	March 13, 1978	\$450,000	\$449,981	\$449,981	\$ 48,187	\$519,907 - Federal 28,884 - State 28,883 - Local \$577,674 - Sub-total	\$1,075,842
	Orange	March 1, 1978	\$275,000	\$159,726	\$159,726	\$ 5,500	\$ 99,208 - Federal 5,511 - State 5,512 - Local \$110,231 - Sub-total	\$ 275,457	
	San Diego	March 1, 1978	\$275,000	\$321,856	\$275,000	\$ 45,000		\$ 320,000	
	Santa Clara	March 1, 1978	\$275,000	\$274,989	\$274,539			\$ 274,539	
	Alameda	April 3, 1978	\$275,000	\$273,468	\$273,468	\$ 34,202		\$ 307,670	

TABLE 2-1  
(Continued)

		CALIFORNIA CAREER CRIMINAL PROSECUTION PROGRAM FUNDS (SB683)				LEAA FUNDS		PROGRAM TOTAL
COUNTY	PROGRAM OPERATION DATE	MAXIMUM ALLOWABLE ALLOCATION	REQUESTED ALLOCATION	OCJP APPROVED ALLOCATION	EXTENSION	CALIFORNIA BLOCK FUNDS	FEDERAL DIS- CRETIONARY FUNDS	
POPULATION GROUP Over 400,000 - Less than 1,000,000	San Bernardino	March 1, 1978	\$250,000	\$250,000	\$250,000	\$ 55,289		\$ 305,289
	Sacramento	March 1, 1978	\$250,000	\$249,938	\$249,938	\$ 33,600		\$ 283,538
	San Francisco	March 1, 1978	\$250,000	\$ 32,962	\$ 32,962		** Federal - \$296,564 Local - 32,962 Sub-total - \$329,616	\$ 362,578
	Contra Costa	March 1, 1978	\$250,000	\$250,000	\$250,000	\$ 66,089		\$ 316,089
	San Mateo	March 1, 1978	\$250,000	\$245,962	\$245,962			*** \$ 228,962
	Riverside	March 23, 1978	\$250,000	\$250,000	\$250,000	\$ 56,626		\$ 306,626
	Fresno	July 1, 1978 Grant 6/1/78	\$250,000	\$228,310	\$138,015		\$81,265 - Federal 4,515 - Local 4,515 - State \$90,295 - Sub-total	\$ 228,310
SUB-TOTAL		\$3,300,000	\$2,987,192	\$2,849,591	\$344,493	\$778,200	\$329,616	\$4,284,900

NOTE: Footnotes are on the following page.

TABLE 2-1  
FOOTNOTES

1. Program Total is a sixteen month period.
  2. Allocations were granted as of March 1, 1978 (with the exception of Fresno, which was granted June 1, 1978); however the program operation date is the actual date of the program's inception.
  3. OCJP approved allocation for twelve months - March 1, 1978 through February 1979.
  4. Extension: OCJP approved allocation for a four-month extension - March 1979 through June 1979.
- \* San Diego County provided \$46,856 in additional local funding required to maintain the staff.
- \*\* San Francisco: First year federal grant began in January 1977.  
San Francisco: Second year federal grant began in mid-April 1978 and ran through August 1979. Second year funds in the amount of \$288,248 - federal  
32,028 - local  
\$320,276 - Sub-total
- \*\*\* San Mateo operated with \$17,000.00 less than the actual grant allocation.

TABLE 2-2  
 SMALL COUNTIES  
 STATE AND FEDERAL FUNDS ALLOCATED  
 TO CAREER CRIMINAL PROGRAMS

		CALIFORNIA CAREER CRIMINAL PROSECUTION PROGRAM FUNDS (SB683)					LEAA FUNDS		PROGRAM TOTAL	
		COUNTY	PROGRAM OPERATION DATE	MAXIMUM ALLOWABLE ALLOCATION	REQUESTED ALLOCATION	OCJP APPROVED ALLOCATION	EXTENSION	CALIFORNIA BLOCK FUNDS	FEDERAL DIS- CRETIONARY FUNDS	
POPULATION GROUP	Over 400,000 Less than 1,000,000	Ventura	Sept. 1, 1978					Federal - \$299,098 Local - 33,233 Sub-total - \$332,331		\$332,331
	Less than 400,000	Stanislaus	Jan. 1, 1978					\$ 58,375 3,243 - Local 3,243 - State \$ 64,861 - Sub-total		\$ 64,861
		San Joaquin	Jan. 1, 1978					\$104,787 5,515 - Local 5,515 - State \$115,817 - Sub-total		\$115,817
		Yolo	Sept. 1, 1978					\$ 20,000 1,111 - Local 1,111 - State \$ 22,222 - Sub-total		\$ 22,222
		Santa Barbara	Oct. 1, 1978					\$ 20,000 1,111 - State 1,111 - Local \$ 22,222 - Sub-total		\$ 22,222

2.9

TABLE 2-2  
(Continued)

CALIFORNIA CAREER CRIMINAL PROSECUTION PROGRAM FUNDS (SB683)						LEAA FUNDS		PROGRAM TOTAL
COUNTY	PROGRAM OPERATION DATE	MAXIMUM ALLOWABLE ALLOCATION	REQUESTED ALLOCATION	OCJP APPROVED ALLOCATION	EXTENSION	CALIFORNIA BLOCK FUNDS	FEDERAL DISCRETIONARY FUNDS	
POPULATION GROUP Less than 400,000	Marin	Sept. 1, 1978				\$ 20,000 1,111 - State 1,111 - Local \$ 22,222 - Sub-total		\$ 22,222
	Solano	Feb. 1, 1979				\$ 20,000 1,111 - State 11,290 - Local \$ 32,401 - Sub-total		\$ 32,401
	Imperial	June 1, 1979				\$ 20,000 1,111 - State 1,111 - Local \$ 22,222 - Sub-total		\$ 22,222
	Placer	Dec. 1, 1978				\$ 15,000 834 - State 1,041 - Local \$ 16,875 - Sub-total		\$ 16,875
	GRAND TOTAL			\$2,849,591	\$344,493	\$318,842	\$332,331	\$651,173
						\$1,097,042	\$661,947	\$4,936,073

2.10

However, it is the ratio of attorneys in the overall staffing pattern that distinguishes Career Criminal Prosecution Units from the general District Attorney's Office. As Table 2-3 indicates, the proportion of attorneys to the overall staff in the CCP Units is higher than normal, with slightly more than 55% of the Unit staff positions filled by attorneys. With nearly 19% of the staff being investigators, there is a higher ratio of investigators to cases in the CCP Units than typically occurs in a District Attorney's Office. The clerical and other related support personnel for the Units comprise slightly less than 27% of the total authorized staff.<sup>1</sup>

The fact that CCP Units have nearly doubled the ratio of attorneys to staff, as compared with a typical District Attorney's Office structure, accounts to a large degree for the higher costs associated with operating and maintaining Career Criminal Prosecution units.

Each of the Career Criminal Units is staffed with a Project Director, who, generally, is one of the deputies assigned to the Unit. The Project Director, as well as the deputies assigned to the Units, are all experienced trial attorneys, who were transferred from the main office to the Units.

The CCP Unit is above all a team effort, highly skilled and functional, with a clearly articulated set of objectives. It

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<sup>1</sup> The "Preliminary Report to the Legislature, the California Career Criminal Program 1978" used data supplied by the Bureau of Criminal Justice Statistics - 1978, indicating there were a total of 5,351 individuals employed in the prosecuting staff for the twelve participating District Attorney Offices. Of these, only 1,571 or approximately 30% of the overall staff were attorneys. Investigators accounted for 14% of the staff, while clerical and other support personnel accounted for the remaining 56% of the prosecution staff. As can be seen in Table 2-3, the staffing pattern, with its emphasis on attorneys, is substantially different in the Career Criminal Prosecution Units.

TABLE 2-3

CAREER CRIMINAL PROGRAM  
 NUMBERS OF PERSONNEL BY JOB CLASSIFICATION

COUNTY	ATTORNEYS	INVESTIGATORS	CLERICAL	OTHER	TOTAL
Alameda	4	2	1	--	7
Contra Costa	5	1	2	3	11
Fresno	3*	2*	1	--	6
Los Angeles	7	1	2	--	10
Orange	5	1.5	1	--	7.5
Riverside	5	2	3	--	10
Sacramento	5*	3*	1	--	9
San Bernardino	4	2	2	--	8
San Diego	6	--	3	1	10
San Francisco	5*	2	1*	3*	11
San Mateo	4*	--	1	--	5
Santa Clara	3*	2*	2	--	7
TOTAL	56	18.5	20	7	101.5

\*Indicates a change in staff took place.

generally consists of four to five seasoned trial attorneys, and an experienced investigative, clerical and support staff. Key CCP Unit staff roles, positions and functions are as follows:

- Attorneys. According to discussions with the prosecuting attorneys assigned to the Units, attorneys were chosen for their prosecutorial abilities and overall experience. In many cases, they consisted of deputies at the third, fourth, and fifth grade levels. Prosecutorial tough-mindedness was another distinguishing characteristic of many of the attorneys selected for the programs. The success of any program is largely determined by the abilities of the individual selected to administrate. Thus, the success that most of the Units had this past year reflects positively on the calibre and competence of the attorneys involved in the programs.
- Investigator. Nine of the twelve programs have one or more full-time investigators assigned to the Units. Again, the CCP Units tend to select the more experienced and highly qualified investigators, all of these being experienced law enforcement officers. There were three job-related activities typically associated with this position: conducting background investigations on the defendants, assisting in criminal investigations, and preparing court evidence.
- Clerical/Secretarial. The evaluation data needs in addition to normal workload, that have been associated with CCP program operations required that the Units select very competent clerical/secretarial support staff.

A few of the Career Criminal Units have additional support personnel who fulfill a variety of functions under the direction of the Project Director, enhancing the prosecution staff.

A grant requirement and key function of all Career Criminal Units is that detailed case information be completed on each defendant involved with the program. With most of the CCP Units this task is performed by the clerical/secretarial staff, however, Units that have access to a Research Analyst use this individual to fulfill this program requirement. Both San Diego and San Francisco have full-time Research Analysts who are responsible for the collection, analysis, and maintenance of all case data and statistics relevant to the Career Criminal Unit.

The Contra Costa Career Criminal Unit added to their prosecution staff the services of a Criminologist. Assisting in complex field and laboratory work, the criminologist is responsible for examining crime scenes for the purpose of collecting, preserving and studying physical evidence. Directing his interpretation of results of laboratory findings to the Unit's attorneys enhances career criminal prosecution. In addition, Contra Costa utilized part-time law clerks to assist the Unit's attorneys in conducting legal research.

#### 2.2.4 Caseload Information

In order to determine the relationship between career criminal cases to other felony cases handled in their prosecution office, each county submitted quarterly progress reports indicating caseload information. This report tabulates and summarizes, on a monthly basis, prosecution office activities including: number of felony warrants authorized, number of cases accepted and completed by the Unit and the average caseload per deputy for both the Unit and the general District Attorney's Office.

Table 2-4 presents an overview of the information contained in the quarterly reports submitted to OCJP, representing approximately twelve months of program activity. However, because some programs got a later start than others and not all reports were complete, there are some gaps in the data presented. Alameda, Riverside, and Santa Clara Units reflect eleven months of data, the remaining nine counties all reflect twelve months of data information beginning in March 1978 through February 1979. The Fresno Career Criminal Unit began operation in June 1978, and although the data reflects twelve months of information the period covered is from the Unit's inception to May 1979.

Analysis of the information contained in Table 2-4 reveals the following:

- Approximately 3.3% of all felony cases filed in the participating District Attorney Offices during this period were

TABLE 2-4  
 QUARTERLY REPORT SUMMARY<sup>1</sup>

COUNTY	Number of Felonies Filed in D.A.'s Office	Number of Cases Referred to CCP	Number of Cases Accepted	Cases Accepted as Percentage of Total	Number of Cases Completed by CCP	Caseload Average CCP Unit	General D.A. Office Caseload Average
Alameda	5,191	322	117	2.3	69	7.3	35.5
Contra Costa	1,505	N/A	98	6.5	58	8.3	25.0
Fresno	2,827	163	124	4.4	69	10.7	29.7
Los Angeles	25,165	224	150	0.6	75	12.7	N/A
Orange	2,943	193	141	4.8	102	8.8	29.5
Riverside	2,047	504	85	3.8	55	4.9	31.2
Sacramento	5,055	170	161	3.2	87	10.5	37.5
San Bernardino	4,354	150	106	2.4	65	9.5	41.0
San Diego	8,056	72 <sup>2</sup>	117	1.5	63	6.3	20.8
San Francisco	5,238	116	106	2.0	102	9.6	37.3
San Mateo	2,562	239	212	8.3	140	14.0	32.5
Santa Clara	6,497	214	168	2.4	101	23.3	28.2
TOTAL	72,181	2,367	1,585	2.2*	986		

2.15

NOTE: Footnotes follow on next page.

TABLE 2-4

FOOTNOTES

1. This data represents four quarters of program activities as reported to OCJP in the Quarterly Reports. Not all counties commended in March, consequently, the data does not reflect four full quarters of information.
2. Missing September - February data.
- \* 3.1 -- if Los Angeles is not included.

referred to the Career Criminal Unit for prosecution. Approximately 67% of those referred to the Units were accepted for career criminal prosecution.

- Approximately 2.2% of all felony warrants resulted in a career criminal case. Excluding Los Angeles data, which accounts for approximately one-third of the data base, results in a 3.1% relationship of cases accepted into the Unit to felony warrants authorized.
- Caseload averages per deputy in the CCP Unit were considerably less than those reported in the general office. On an average, the career criminal attorney caseload was one-third of that carried by an attorney in the general office.

Methods used in reporting and operating the Career Criminal Units differ and consequently affect some of the statistics. As Table 2-4 indicates, the correlation between cases referred to the CCP Unit and those accepted differs greatly from county to county. This reflects the screening procedure utilized by the various counties. In some instances, law enforcement agencies are the initial reporting or screening source for potential career criminal cases. In other counties, cases that fall within the targeted crime criteria are automatically referred to the Career Criminal Prosecution Unit, while still in other jurisdictions, preliminary screening of those cases occurs prior to their referral to the Unit. All of these factors have a bearing on the relationship of cases referred and those cases accepted by an individual Career Criminal Unit.

Because of this variance in reporting and referral procedures, a better measure is to examine the total number of felony warrants authorized in relation to the total number of cases accepted by the individual Units. On an average, approximately 2.2% of all felony cases filed in the District Attorney's Offices involved career criminal defendants. However, the average of career criminal cases as a percentage of total felonies filed varies considerably from a low of 0.6% in Los Angeles to a high of 8.3% in San Mateo. Factors influencing this difference included the number of target crimes handled by the Unit, to the caseload size of all the District Attorney Offices. Some recent studies indicate or suggest that the career

criminal segment of the criminal population is approximately six to ten percent. The results in California to date would suggest that this criminal element might be smaller than research has indicated to date.

#### 2.2.5 CCP Unit Responsibilities

SB683 defines the responsibilities and functions of the District Attorney Offices receiving funds to establish a Career Criminal Unit. Although broadly speaking, the functions of the Career Criminal Prosecution Unit parallel that of the prosecution office, there are approaches and techniques utilized by the Career Criminal Unit that differ from typical prosecutorial functions. Based on SB683 and interviews with CCP unit staff indicate several factors that differentiate the Unit from other felony prosecution activities of the prosecutor's office. These include:

- Vertical Prosecution. The prosecutor who makes the initial filing or appearance in a career criminal case will perform in all subsequent court appearances, on that particular case through its conclusion, including sentencing.
- Jurisdictional Responsibility. Once a case is slated for career criminal prosecution, it becomes the exclusive responsibility of that Unit regardless of where in the county the arrest was made.
- Staff Experience. The prosecution office is mandated by SB 683 to assign highly qualified investigators and prosecutors to career criminal cases.
- Caseload Size. There is to be a substantial reduction of caseloads for prosecutors and investigators assigned to the Career Criminal Unit.
- Prosecutorial Involvement. In a departure from typical prosecutorial assignment, deputies assigned to the Career Criminal Unit are expected to be personally involved with their cases throughout the adjudication process.
- Victim/Witness Involvement. With the adherence to vertical prosecution practices, and a reduction of the caseload, the prosecution spends considerably more time with the victims and witnesses involved in the case.

- Plea Bargaining. The Career Criminal Units do not, or at least minimize, the degree to which plea bargaining activities take place.
- Trial Preparation. The career criminal deputies are fully prepared to go to trial in any case that the defendant chooses not to plead guilty to the most serious charge.
- Sentencing Recommendation. Whenever possible, the Career Criminal Unit deputies take an active role in determining the appropriate sentence for the convicted defendant.

#### 2.3 CASELOAD MANAGEMENT PROCEDURES

Largely based on the legislation, but also in part derivative from the experience of other career criminal programs, the California CCP Units have developed certain program policies and procedures that characterize their overall efforts. While differences exist among the various CCP Units in the ways that they prosecute targeted cases, they are very similar in intent and have established many parallel mechanisms. The actions taken in each jurisdiction have been designed to improve the prosecution of career criminal cases, over that of routine cases, by doing things that are not feasible in the majority of cases prosecuted. The special treatment accorded career criminals in these Units can be categorized in the following ways:

- Changes in case handling (vertical prosecution)
- Changes in resource allocation (senior prosecutors)
- Changes in policy governing case disposition (descriptive pleading)
- Attempts to dispose target cases in as expeditious a manner as possible (objections to court continuances and delays).
- Attempts to increase the likelihood of lengthy incarceration periods imposed by the courts upon convicted felons (arguments before the court for consecutive sentences and/or maximum sentences).

The effects of each of these initiatives and the measurable changes in the specially treated cases are described in Section 3 of this report.

### 2.3.1 Screening Process

Case identification is perhaps the most critical step in a targeted prosecution program. Early identification of target cases dictates to a large degree the prosecutor's ability to provide the intensive effort that is associated with career criminal prosecution.

To a large extent, the identification process of the career criminal case is largely determined by the particular and individual dynamics and flow of the routine criminal process in each jurisdiction.

The legislation allowed each Career Criminal Unit discretion to define or select which target crime categories they would specialize or concentrate their attentions on, based on crime statistics associated with that county, "If crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county." Consequently, not all of the counties focused their prosecutorial resources on all seven targeted crime categories. The target crimes selected by each of the individual Units is as follows:

- All seven target offenses
  - Sacramento
  - Fresno
  - San Mateo
  - Riverside
  - Contra Costa
- Robbery and Burglary
  - Los Angeles
  - San Francisco
  - Alameda
  - Orange
  - San Diego
  - Santa Clara

- Robbery, Burglary, Grand Theft, Grand Theft Auto, Receiving Stolen Property

-- San Bernardino

Recognizing there are individual procedures and policies, based on local criminal justice system peculiarities, there exist essentially four means or "nets" designed to identify and screen the career criminal defendant in all of the counties. They are:

- Law enforcement agencies identify the arrestee as a potential career criminal defendant.
- The complaint issuance section or warrant officer within the District Attorney's Office.
- Trial deputies at the preliminary examination.
- Superior court division or felony trial deputies.

Once a case has been identified for career criminal prosecution it is reviewed by the Career Criminal Unit Chief to determine whether, in fact, it belongs in the Unit. Specifically, a defendant's criminal history review is completed, and a determination as to the defendant's suitability and applicability in meeting the established state criteria is made. In all of the participating jurisdictions, career criminal definitions and case selection procedures (within the definition of California Penal Code section 999(e)(a)) are generally based upon the criminal history of the defendant, the nature of the current offense, or a combination of the two. The screening process is routine, and is based upon the career criminal prosecutor's examination of objective information (e.g., the defendant's prior record and current charges). Selections made from this screening process are done on a case-by-case basis and remain largely in the discretionary control of the experienced prosecutor. The nature of the current charge is a critical factor because of the specific population of criminals that have been targeted for prosecution.

### 2.3.2 Vertical Representation

Within the CCP Unit, a number of related actions have been developed to provide special, improved attention to the prosecution

of the targeted cases. In general, these actions attempt to side-step certain case handling obstacles (e.g., such as dispersion of responsibility for the prosecution of a single case among numbers of different prosecuting attorneys) made necessary in routine prosecution due to the mass case volume and limited personnel resources. The added resources of the state-funded Units are dedicated to approximating vertical or personal prosecution in career criminal cases; that is, one deputy handling a case throughout the adjudication process.

Generally, the more experienced trial deputies were assigned to the Career Criminal Unit, and an effort was made to insure that their caseload level remained substantially lower than the general prosecution level.

Deputies assigned to the Unit handle career criminal cases from the time of their identification through final case disposition. In almost every Unit, deputies performed the full range of prosecutorial activities (i.e., bail/bond reviews, plea negotiations, arraignments, motions, hearings, trials). Because the career criminal cases are assumed to be more serious than others, the programs have stressed, as a matter of policy, the incapacitation of the career criminal defendant: both at the pretrial level through the recommendation of high bail or bond, and through post conviction with the recommendation of maximum sentences.

### 2.3.3 CCP Case Procedures

Figure 2-5 presents an overview of case management procedures associated with career criminal prosecution in contrast with prosecutorial activities followed in a District Attorney's Office.

Selection of a career criminal case initiates a series of case management practices that are uniquely associated with career criminal prosecution; specifically:

- **Arraignment.** At arraignment the career criminal deputy assigned to the case will take all efforts to insure that the defendant not be released. This is usually accomplished

FIGURE 2-5  
COMPARISON OF THE CAREER CRIMINAL UNIT CHARACTERISTICS  
WITH THE GENERAL DISTRICT ATTORNEY'S OFFICE

	CAREER CRIMINAL UNIT	GENERAL D.A.s OFFICE
<u>STAFF</u>	• Small size consisting of experienced trial attorneys.	• Large, includes new inexperienced attorneys.
	• Investigator to staff ratio is small.	• Investigator to staff ratio is large.
<u>CASELOAD</u>	• Small, varies from county to county, generally 10 to 15 cases per attorney at any time.	• Large, varies. Generally 30 or more cases per attorney at any time.
<u>CASE SELECTION PROCEDURES</u>	• Very detailed, based on provisions set forth in SB 683.	• All cases with sufficient evidence must be accepted.
<u>CASE MANAGEMENT PROCEDURES</u>	• Detailed background checks on the defendants are conducted.	• Prior histories generally not examined thoroughly for accuracy and completeness.
	• Vertical representation.	• Many attorneys are involved in a case.
	• Early entry of experienced trial attorneys.	• Experienced deputies generally enter a case at the Superior Court level.
	• Maximum prosecutorial involvement in case preparations.	• Large caseloads generally precludes intense individualized attention.
	• Maximum use of investigators - both from staff and law enforcement agencies.	• Role of investigators limited to routine investigative functions.
	• Increased victim/witness contacts - generally only with the trial deputy.	• Large caseload generally precludes numerous victim/witness contacts.
	• Continuances vigorously opposed.	• Continuances generally granted.
	• Fully prepared to go to trial.	• Generally, fully prepared to negotiate.
	• Minimal plea or charge negotiations.	• Considerable plea negotiations.
	• Seek maximum state prison sentences.	• Plea negotiations generally preclude maximum sentence.
• Track case disposition on Evaluation Data Forms (EDFs).	• Cases are tracked for BCS purposes, information not as detailed as EDFs.	

through the imposition of high bail/bond amounts.

- Investigative Resources. The early and active involvement of the CCP prosecutor in a case offer results in on-site inspection of the crime scene, earlier contacts with victim/witnesses and an ability to plan for future investigative needs. Activities in this area are facilitated through the use of Unit investigative resources.
- Victim/Witness Involvement. Vertical representation has minimized the number of contacts with different prosecutors that typically occurs in a case. This has eased the burden of being a victim/witness in a criminal prosecution effort.
- Motions. The policy of the CCP Unit is to resist all defense motions for continuances at all stages during court proceedings. CCP Units have the use of motions.
- Plea Negotiations. All CCP Units adhere to a no plea bargaining posture. Charges are reduced only if there are no substantial sentence benefits or strong evidentiary problems (Career Criminal, victim, witness, calls to show, et cetera).
- Trial Policies. All CCP Units maintain a willingness to go to trial in cases in which pleas to the top charges are not forthcoming. This has resulted in an increase in trial rates for the CCP Unit related cases.
- Sentencing. CCP Unit attorneys actively seek maximum sentences for convicted career criminals. To this end they contact the Probation Department, witnesses and apply some discrete pressure on the Judge at sentencing.

Simply stated, the Career Criminal Prosecution Unit does not differ function or purpose but only in structure from prosecutorial activities typically associated with the District Attorney's Office.

#### 2.4 CCP COST ANALYSIS

A principle concern of the local and State policymakers may be the cost of operating a Career Criminal Prosecution Program statewide. Specifically, the program objective developed by the OCJP and the Steering Committee in this area was the following:

OBJECTIVE: To determine the cost factors associated with CCP Units and conduct a cost effectiveness analysis of the program.

Cost accountability in the criminal justice system has only recently become a priority with program managers. It has resulted in a variety of ways of calculating costs and program benefits at both the tangible and intangible levels. Real or tangible costs are easily defined. Unfortunately, this tends not to be the case with the hidden or intangible cost associated with programming activities.

By its very nature the CCP Program is labor intensive. Because increased staff time is provided in the Career Criminal Prosecution Units, operational costs are greater per caseload when compared with traditional prosecution offices. Furthermore, the high ratio of experienced attorneys to staff in the Career Criminal Units in conjunction with the lower caseloads currently accounts for the greater costs associated with operating and maintaining this type of program. However, simply examining program costs on a caseload basis fails to consider the benefits gained through improved prosecution that results in higher conviction and incarceration rates.

##### 2.4.1 Caseload Costs

The basic cost factors associated with operating the Career Criminal Prosecution Program in California is the program budget (\$3,194,084) and the number of defendants handled by the CCP Units (1585 defendants). Examining this ratio of cases to the overall program budget reveals that after sixteen months of CCP operations it cost an average of \$2,016.00 per defendant dealt with by the CCP Unit.

The comparison of this cost to general prosecution costs on a per defendant basis is difficult to assess given the many variables involved, e.g. felony cases vs. misdemeanors, experienced trial deputies vs. a mixture of experience and inexperienced deputies, etc. However, the 1976 Bureau of Criminal Statistics indicates that a total prosecution budget of over \$93 million

dollars (reported by fifty-eight counties) was expended to file a total of 125,371 complaints - of which only 36,676 made it to Superior Court. Using this raw data suggests that it cost approximately \$744 per complaint filed. Examining this estimate of per defendant costs suggests that Career Criminal Prosecution is nearly three times more expensive than the typical case handled by a prosecution office. This basic cost analysis fails to consider the fact that nearly all CCP cases were ultimately disposed of at the Superior Court level, and generally involved multiple counts and charges which made them quite different from the typical case handled by the District Attorney's Office.<sup>1</sup>

#### 2.4.2 CCP Program Benefit Costs

However, the principle difficulty in conducting this type of analysis is the assignment of value to intangible, but very real benefits associated with this type of programming effort. These benefits may include such diverse areas as increased confidence in public safety, to reduce law enforcement and court costs associated with convicting the repeat offender. These factors, which are tangible and real, yet difficult to calculate include such costs as:

- Court costs. The higher reported incidents of trials associated with CCP Programming has real measurable costs. To determine these costs in relation to the everyday typical costs associated with operating a complicated court structure would be very difficult, if not impossible, to determine.
- Correctional Costs. The fact that considerably more defendants are convicted, and incarcerated to state prison terms because of CCP Program involvement, and the fact that those incarcerated are given a much longer average prison term, have profound implications for correction costs. This cost can and will be calculated at the conclusion of the evaluation.

<sup>1</sup>A recent study conducted by INSLAW suggests that CCP takes anywhere from five to seven times as many attorney hours as the prosecution of routine criminal matters. If this is so, costs should reflect this difference. This extreme difference has not been observed with the CCP Program.

- Societal Costs and Benefits. Society pays the price to have career criminal defendants identified, prosecuted and incarcerated. These costs are real and measurable. Perhaps less tangible, but equally substantial, are the cost savings and benefits derived through the reduction of criminal activities that comes with the incarceration or incapacitation of the convicted career criminal defendant.
- Crime Costs. Even though the California Career Criminal Legislation specified property related offenses as the target for CCP prosecution, it is difficult to compute victimization costs based on criminal conduct. There is no standard cost incurred by a victim of a felonious act although some researchers have probed into this area. This problem is further compounded by attempting to assess monetary values to psychological trauma and loss suffered by the victim. T. P. Higgins in an article on "Crime costs associated with California juveniles" calculated the average costs to a citizen was approximately \$900.00. However, at this point without a careful review of every single instance involving career criminal prosecution, it is impossible to attribute a dollar loss per felony encounter.
- Systems Costs and Benefits. There are several factors that make any cost benefit analysis of the Career Criminal Prosecution Program impact on the criminal justice system easier to identify. There are very real correctional costs associated with the increased period of confinement which occurs to more individuals prosecuted by a CCP Unit than would be the case. The finding that nearly one-third of them were given consecutive sentences will also result in additional correction costs. If the premise of career criminality is an accurate one, that is, an individual who repeatedly is involved in criminal conduct resulting in numerous encounters with the criminal justice system, then there are certain savings and benefits to be derived through his incapacitation. By serving that additional year than the average defendant in the baseline population, should result in the career criminal defendant coming into contact with the front end of the criminal justice system, e.g. law enforcement agencies, prosecutors and the courts, less frequently. In this instance, again, the correctional costs are tangible while the benefits associated with this minimization of criminal justice system contact are less real and more difficult to determine costs savings. Furthermore, it is premised on the notion that continued repeat activities which may or may not be true with a defendant population that is increasingly getting older.

The final report on the California Career Prosecution Program will examine in detail all of these cost factors associated with Career Criminal Prosecution Programming.

### SECTION 3 CCP PROGRAM ASSESSMENT

At a practical level, the evaluation of the California Career Criminal Prosecution Program is concerned with determining the effectiveness of career criminal case management practices within the funded county. The purpose of the program is to concentrate criminal justice resources on the identified career criminal. (The Office of Criminal Justice Planning is concerned with documenting the effect of implementing the individual units in the funded counties. In order to facilitate this task, the OCJP required that each participating county complete an Evaluation Data Form (EDF) on each defendant prosecuted by that Unit. In addition, each county was requested to submit a quarterly progress report detailing their program activities. This information was provided to MetaMetrics, Inc. for analysis. MetaMetrics, Inc. also assumed the responsibility of identifying, collecting, and analyzing cases from each of the twelve counties involved in the evaluation.

This section analyzes on an aggregate basis the results that the Career Criminal Prosecution Unit have had in comparison with the selected control or baseline population. All of the performance measures and objectives identified by the CCP Evaluation/Legislative Report Advisory Sub-Committee and the OCJP Staff are examined. The utility of examining the data on an aggregate basis is twofold. One, it minimizes accounting for the numerous factors affecting individual county performances and results. Secondly, it provides an overview of CCP Program performance in relation to the legislatively mandated objectives. A total of 1973 career criminal defendants constitute the data population used in the pre/post analysis of CCP Unit Performances. The structure of this section will approximate the flow of a case through the Criminal Justice System, that is, from arrest to case disposition to sentencing. Lastly, this section will conclude

with a four-cell analysis, in which the results of the non-career criminal pre/post analysis is compared and contrasted with the observed results associated with CCP Unit activities.

### 3.1 DEMOGRAPHIC INFORMATION

The basic demographic information of defendants handled by the CCP Units during the past sixteen months of program operation and those that constituted the baseline group is presented in this subsection.

The development of the Career Criminal Prosecution Program in California was done without regard to targeting defendants on the basis of race, age, or sex considerations. Career criminals were defined specifically on the basis of criminal conduct and an established pattern of criminality. However, recent research in this area has increasingly recognized that there remains much that is unknown concerning career criminals and their behavior. Such issues as the type of individuals that are involved, the extent of their criminal conduct, and patterns of career criminality remain largely speculative. To the extent that the CCP Program can shed insight and information on this population is of major interest and concern.

#### 3.1.1 Sex

Approximately 96% of the defendants prosecuted by the Career Criminal Unit during the first sixteen months of operation were male. A similar finding occurred with the baseline population. In both instances, the results approximate those found by the National Legal Data Center in their analysis of twenty-two career criminal units.<sup>1</sup> Although recent crime statistics indicate the increasing role of women in crime, they as a group continue to represent only a small portion of the apprehended career criminals.

<sup>1</sup>The NLDC study was conducted in 1978 for the Law Enforcement Assistance Administration.

#### 3.1.2 Racial Composition

As can be seen in Table 3-1, there is a slight difference in the racial compositions of the two groups, with the baseline group having proportionately more blacks than the current population. Examination of the individual county data reveals that in no one county are blacks disproportionately represented in the baseline population. In all counties, they are within 5-10% of the current group results. The fact that blacks are slightly overrepresented in the baseline group in several of the counties can be accounted for by the sampling procedure used in selecting this data population. Given the size of the District Attorney's caseload in those counties and the fact that a disproportionate number of blacks are part of that data base, it is possible that the sampling procedure used to identify the baseline cases could have resulted in more blacks being identified than representatives of other races.

#### 3.1.3 Age

There was slightly less than a year's difference in the average age of the defendants that made up the two groups. All analyses to date of Career Criminal Prosecution Units have indicated that twenty-eight is the average age of the career criminal defendants. The only national survey of Career Criminal Prosecution Programs, conducted by the National Legal Data Center in 1978, found that the average age of the 7,500 defendants surveyed was approximately 28.5 years of age, which closely approximates the results of the California Career Criminal Prosecution Program. This result is in part attributable to the fact that many Career Criminal Programs have as a threshold criterion a demonstration of an established pattern of criminality as reflected in prior arrests and convictions.

TABLE 3-1  
DEFENDANT PROFILES

	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
<b>SEX</b>				
Male	801	95.5	1087	96.0
Female	33	3.9	39	3.4
Unknown/Blank	5	0.6	7	.6
Total	839	100.0	1133	100.0
<b>RACE</b>				
White	313	37.3	465	41.1
Black	360	42.9	408	36.0
Mex-Amer.	142	16.9	202	17.8
Nat.-Amer.	3	0.4	13	1.2
Oriental	4	0.5	7	0.6
Other	2	0.2	7	0.6
Unknown/Blank	15	1.8	30	2.7
Total	839	100.0	1132	100.0
<b>AGE RANGE</b>				
Under 18	7	0.8	26	2.3
18-20	115	13.7	135	11.9
21-24	233	27.8	243	21.5
25-29	227	27.0	303	26.8
30-34	128	15.3	214	18.9
35+	129	15.4	199	17.6
Unknown/Blank	---	---	12	1.0
Total	839	100.0	1132	100.0
MEAN	27.6		28.3	
MEAN RANGE	23.9 - 30.0		27.1 - 32.5	
AGE RANGE	17 - 66		16 - 55	

Because the California Career Criminal Prosecution Program also emphasizes prior conviction, it will tend to result in an older defendant being selected for this program. Although the CCP Programs can deal with juveniles who meet the criteria, they are prohibited from using juvenile records in making any determination of career criminality. Until such time that prosecutors are able to utilize juvenile records of potential career criminals, it is anticipated that the identified and targeted career criminal in California will continue to be a male defendant in his late twenties.

### 3.2 DEFENDANT STATUS

An important feature of the California Career Criminal Prosecution Program Evaluation Data Form is a built-in monitoring of the defendant's status throughout the adjudication of the case. Tables 3-2 through 3-4 present the results of the analysis concerning the defendant's status at the time of offense, at the time of the preliminary examination, and at the trial.

The status of the defendant, particularly their pretrial release, was seen as an important issue in the Career Criminal Legislation. Consequently, OCJP and the Steering Committee identified a program objective to deal with this issue. It was the following:

Objective 1: To demonstrate that all reasonable prosecutorial efforts have been made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

As will be shown, the CCP Units have successfully achieved this mandated objective. They have reduced by 50% the percentage of individuals released on their own recognizance and have increased substantially the number of defendants held in custody at the preliminary hearing juncture.

Although the results are not as significant for the defendant's status at time of trial or final case disposition, it suggests that the CCP Unit Prosecutors have continued to be successful in resisting the pretrial release of the criminal defendants. The CCP Program has been extremely successful in getting higher bail/bond amounts set for this defendant population. This is attributable, in part, to the early and vigorous introduction into the case by the CCP Units.

### 3.2.1 Defendant Status at Time of Offense

Examining Table 3-2, defendant's status at the time the offense is committed indicates a difference between the baseline and current groups that has some bearing on interpreting the results. Less than 20% of the defendants involved in the baseline career criminal population group had no commitment or were not involved with the Criminal Justice System at the time of their offense, i.e. probation or parole. This is contrasted to the slightly more than 30% no-commitment rate reported for the current career criminal defendant. This would seem to indicate that the baseline career criminal defendant population is a hardened and experienced group in terms of criminal justice system interaction than the current career criminal defendants. This being so, one would anticipate stronger sanctions resulting in their disposition than perhaps would be associated with the current career criminal defendants. As later analysis will demonstrate, this does not occur.

Although the current career criminal defendant is less likely than the baseline defendant to be under some form of criminal justice system supervision at the time of offense, it is significant to note that nearly 64% of the 1,133 current career defendants were under some form of criminal justice sanction at the time of the commission of the offense. Slightly more than 35% of them were on prison, CYA, or CRC

parole while just under 25% were on a probationary status. In summary, the current career criminal defendant handled by the CCP Units in California is no newcomer to the Criminal Justice System.

TABLE 3-2  
DEFENDANT STATUS AT OFFENSE

STATUS	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
No Commitment	161	19.2	362	32.0
Pre-Trial Rel.	24	2.9	29	2.6
Prison Parole	190	22.6	315	27.8
CYA Parole	41	4.9	42	3.7
CRC Parole	33	3.9	47	4.1
Probation	331	39.4	279	24.6
In Prison	2	0.2	10	0.9
Other	5	0.6	12	1.0
Blank/ Unknown	<u>53</u>	<u>6.3</u>	<u>37</u>	<u>3.3</u>
TOTAL:	840	100.0	1133	100.0
Under Some Form Of Criminal Justice Sanction:		73.9%		63.7%

### 3.2.2 Status at Time of Preliminary Hearing

Table 3-3 presents information concerning the defendant's status at the time of the preliminary hearing. Because of the difficulty in selecting status information for the baseline group and the fact that many of the EDFs on the current criminal population were left blank, tables 3-3 and also 3-4 present the results on an adjusted basis. The column marked relative frequencies include blank or missing information while the adjusted frequencies give the percentages of all known or completed responses.

Vertical representation, a keystone feature of Career Criminal Prosecution, has enabled the prosecutor to enter a case early in its development in order to minimize pre-trial release of the defendant. As a consequence of this early intervention, the defendants have been given increasingly higher bail/bond amounts or have been held in custody until their trial for case resolution. There is a significant difference in the percentage of defendants held in custody for the baseline versus the current career criminal group at the preliminary hearing juncture. Nearly 87% of the current career criminal defendant population is in custody at the time of the preliminary hearing as compared to slightly less than 79% of the defendants that constituted the baseline group. More importantly, the CCP Unit Prosecutors have been extremely successful in increasing the average bond amount for these defendants. The average bail/bond amount for the current career criminal group was slightly less than \$34,000 (based on information involving 454 defendants); however, only 9% of the defendant population were out on some bail/bond arrangement. This in comparison to the nearly 14% of the baseline group. It is also important to note that while nearly 7% of the baseline career criminal defendants were out on their own recognizance, that number has been cut in half for the current group with only 3.5% of the defendant population out on their own recognizance.

TABLE 3-3  
DEFENDANT STATUS AT PRELIMINARY HEARING

STATUS	BASELINE			CURRENT		
	# of Defs.	Rel. Freq.	Adj. Freq.	# of Defs.	Rel. Freq.	Adj. Freq.
In Custody	581	69.2	78.9	968	85.4	86.4
At Large	---	---	---	14	1.2	1.2
O.R.	48	5.7	6.5	39	3.4	3.5
Other	3	0.3	0.4	1	0.1	0.1
Bonded Only	105	12.5	14.2	98	8.7	8.8
Unknown	103	12.3	---	13	1.2	---
TOTAL:	840	100.0	100.0	1133	100.0	100.0
TOTAL BONDED		217			454	
TOTAL BOND/BAIL		\$10,400			\$33,700	

### 3.2.3 Defendant's Status at Trial

Table 3-4 reflects the defendant's status at trial<sup>1</sup>, or more appropriately indicates the status of the defendant at the time of the final disposition in the case. Determining the status of the defendant at the time of case disposition was difficult for the baseline population. This factor coupled with nearly 20% under-reporting by the current CCP Unit makes analysis in this area difficult. Based on the known responses for the two groups, we see a significant difference in the in-custody status for the baseline and current period (34% v. 66%). However, adjusted frequency, taking into account

<sup>1</sup>Although the evaluation data form (EDF) requested information concerning the defendant's status at the time of trial, it was communicated to all of the CCP Units that information concerning the defendant's status at the time of plea or final adjudication of the case would be indicated in this place. This was because few cases actually resulted in a trial process.

the unknowns, results in a less dramatic difference between the baseline criminal group versus an 82% result for the current population.

There was a significant difference in the average bail/bond amount for defendants in the baseline group in comparison to the results achieved by the CCP Units. The average bond amount for the baseline group was slightly less than \$8,000 while results for the treatment group approximated \$34,000. However, there was considerable difficulty in getting bail/bond information for defendants selected into the baseline data group.

TABLE 3-4  
DEFENDANT STATUS AT TRIAL

STATUS	BASELINE			CURRENT		
	# of Defs.	Rel. Freq.	Adj. Freq.	# of Defs.	Rel. Freq.	Adj. Freq.
In Custody	285	33.9	78.8	749	66.1	82.3
At Large	---	----	----	---	----	----
O.R.	24	2.8	6.6	35	3.1	3.8
Other	3	0.4	0.8	5	0.4	0.5
Bonded Only	50	6.0	13.8	121	10.7	13.4
Unknown	478	56.9	----	223	19.7	----
TOTAL:	840	100.0	100.0	1133	100.0	100.0
TOTAL BONDED		65			360	
TOTAL BOND/BAIL		\$7,800			\$34,000	

### 3.2.4 Re-arrested/Probation Revocation Status

Table 3-5 indicates whether the defendant was either re-arrested or had his probation revoked during the period under review. Data was not available with both the baseline and current group in this area which prevents any pre/post analysis of this issue. The criminal propensity of the current defendant group is demonstrated by the fact that nearly 4% of them that were currently being prosecuted by the Career Criminal Unit were re-arrested on subsequent offenses. In approximately 7% of the cases, the current group had their probation status revoked. These results differ substantially from the preliminary findings of the Lazar Institute Study of Pre-trial Release, in which they found nearly 16% of the defendants were re-arrested while on pre-trial release. The fact that many of the defendants were in custody throughout the duration of their case of adjudication process, largely accounts for the small percentage of re-arrested defendants. Under-reporting by the various CCP Units also accounts for some of these results.

TABLE 3-5  
REARRESTED/PROBATION REVOCATION

	BASELINE		CURRENT	
	# of Defs.	Rel. Freq.	# of Defs.	Rel. Freq.
REARRESTED				
Yes	16	1.9	38	3.4
No	1	0.1	226	19.9
Unknown/Blank	823	98.0	869	76.7
TOTAL:	840	100.0	1133	100.0
PROBATION REVOCATION				
Yes	79	9.4	80	7.1
No	15	1.8	235	20.7
Unknown/Blank	746	88.8	818	72.2
TOTAL:	840	100.0	1133	100.0

### 3.2.5 Summary

One of the stated objectives of the Career Criminal Prosecution Program is to incapacitate the career criminal defendant. The end result of this program objective then is incarceration of the convicted defendant. However, given the defendant's demonstrated career criminal proclivity, the deputies involved in the CCP Units have assumed a more vigorous approach in dealing with the defendant. This has been manifested by their effort to prevent the pre-trial release of the defendants involved or being handled by their Units and in this effort they have been very successful.

### 3.3 SELECTION CRITERIA

The selection criteria used by CCP Units to identify career criminals is defined by State Legislation (SB 583). According to the legislation, a career criminal is defined as an individual who has been arrested for the commission or attempted commission of one of seven targeted felonies (e.g. robbery, burglary, grand theft, etc.), and who has the necessary prerequisite background of prior criminal activities as defined in Career Criminal Legislation. Tables 3-6 and 3-7 indicate the breakdown of the defendants by the seven targeted offenses. Slightly more than 91% of the current career criminal group were charged with either burglary, robbery, or receiving stolen property, compared with 95% of the baseline defendants being charged with one of those three target offenses.

Approximately 40% of the baseline cases and 50% of the current career criminal cases involved defendants charged with multiple counts of the target felonies. In these instances, the most serious offense, as indicated on the evaluation data form, was used as the primary felony for purpose of this data analysis.

TABLE 3-6  
SELECTION CRITERIA-TARGET OFFENSE

CRIME CATEGORY	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
Arson	---	----	8	0.7
Burglary	372	44.3	401	35.4
Drugs	17	2.0	49	4.3
Grand Theft	12	1.4	28	2.5
Grand Theft Auto	6	0.7	11	1.0
Receiving Stolen Property	35	4.2	141	12.4
Robbery	398	47.4	490	43.3
Other	---	----	5	0.4
TOTAL:	840	100.0	1133	100.0

The fact that the majority of the cases involved are either burglary or robbery target offenses for both the baseline and current population groups reflects the emphasis of the screening criteria utilized by these twelve counties. Nearly half the counties concentrated solely on these two crime categories. Furthermore, in those counties that selected all seven target offenses, burglaries and robberies constitute the bulk of criminal activities.

TABLE 3-7  
SELECTION CRITERIA

	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
Three or More Target Offenses	344	41.0	565	49.9
Less than 3 + One Conviction in 10 yrs.	177	21.1	230	20.3
Less than 3 + Two Convictions in 10 yrs.	318	37.8	321	28.3
Unknown/Blank	<u>1</u>	<u>0.1</u>	<u>17</u>	<u>1.5</u>
TOTAL:	840	100.0	1133	100.0
Three or More Target Offenses and One Conviction in 10 yrs.	40	11.6	59	10.4
Three or More Target Offenses and Two Convictions in 10 yrs.	69	20.1	76	13.5
Three or More Target Offenses Only	<u>235</u>	<u>68.3</u>	<u>430</u>	<u>76.1</u>
TOTAL:	344	100.0	563	100.0

While Table 3-6 examined the defendant in terms of the offense that made him eligible for criminal prosecution consideration, Table 3-7 specifies how the defendant actually qualified for admission into the Unit. In slightly less than 50% of the cases, the defendant in the current group qualified solely on his current criminal activities, while in the remaining 51% of the instances, it was his prior criminal history that determined his program eligibility.<sup>2</sup>

<sup>2</sup>The difference between the baseline and current group data base in this instance reflects sampling procedures used to select the population. Closed case files were selected randomly; consequently, if a defendant was involved in multiple cases which were not consolidated, it would be doubtful that that individual would make it into the program on the basis of having committed 3 or more felonies.

Table 3-7 also includes a further analysis of those defendants that qualified on the basis of three or more separate transactions. It attempts to determine the number of defendants that would have been selected into the program based on their prior criminal record and not "sprees" of three or more transaction criteria. Unfortunately, due to some misinterpretation on completing the selection criteria portion of the evaluation data form, there was considerable under-reporting in this area. It was the CCP Unit interpretation that upon qualifying a defendant on the basis of three or more transactions, it was not necessary to also indicate whether that defendant would have in any case qualified on the basis of his prior criminal records. Based on information provided on the EDF, nearly 25% of those defendants that qualified on three or more charges would have also qualified or been selected into the Career Criminal Prosecution Program on the basis of their demonstrated prior criminality. This still leaves a considerable number of defendants (430 defendants) who qualified for the program on the basis of three or more transactions.

#### 3.4 CHARGE INFORMATION

The charge and disposition section of the EDF contained the most relevant and most significant information concerning the performance of the Career Criminal Prosecution Units. It presents information on all charges placed against the defendant with the resulting disposition.

Most analyses of prosecutorial performance measures are primarily concerned with "case" not "charge" disposition information. Charging information has been examined in detail because of two objectives stated by the Office of Criminal Justice Planning, which were:

- Objective 2: To eliminate or reduce use of plea bargaining.
- Objective 3: To demonstrate an increased use of enhancement.

This section demonstrated that the CCP Units have been successful in achieving both of these objectives.

### 3.4.1 Charging Information

The 840 defendants in the baseline career criminal defendant population massed a total of 2,965 charges or approximately 3.5 charge per defendant. For the current group, the number was 5,070 charges for the 1,133 defendants, or nearly 4.5 charges per defendant. Table 3-8 considers the number of charges per defendant for both the baseline and current groups while Table 3-9 indicates what charges were involved.

TABLE 3-8  
CHARGING INFORMATION

	BASELINE		CURRENT	
	# of Defs.	Rel. Freq.	# of Defs.	Rel. Freq.
<b>CHARGES:</b>				
1/2	372	44.3	450	39.7
3/4	256	30.5	284	25.1
5/6	114	13.6	180	15.9
7/8	48	5.7	87	7.7
9/10	28	3.3	53	4.7
11/12	7	0.8	26	2.3
13/14	8	1.0	13	1.1
15+	7	0.8	40	3.5
<b>TOTAL:</b>	<b>840</b>	<b>100.0</b>	<b>1133</b>	<b>100.0</b>

Table 3-9 examines all charges filed against both the baseline and the current career criminal defendants. It indicates overall similarities in charging patterns for the two groups. The only major difference was that there were less robberies and more burglaries reported for the baseline group than there were for the treatment population.

TABLE 3-9  
CHARGE BREAKDOWN

	BASELINE		CURRENT	
	# of Charges	Rel. Freq.	# of Charges	Rel. Freq.
<b>CHARGES:</b>				
Arson	2	0.1	78	1.5
Arson 447a/448	1	0.1	1	0.1
Assault w/ Deadly Weapon	68	2.3	109	2.0
Burglary	211	7.1	611	12.0
Burglary--1st	158	5.3	209	4.1
Burglary--2nd	710	23.9	463	9.1
Drugs 11351/11352	54	1.8	158	3.1
Grand Theft	91	3.1	95	1.9
Grand Theft Auto	35	1.2	79	1.5
Kidnapping 207	12	0.4	18	0.4
Kidnapping 209	10	0.3	47	0.9
L & L Conduct on a Child	---	---	1	0.2
Murder	13	0.4	33	0.7
Oral Copulation/ Force	17	0.6	19	0.4
Rape/Force	26	0.9	51	1.0
Receiving Stolen Property	295	9.9	307	6.1
Robbery	458	15.5	1466	28.9
Robbery/Armed	471	15.9	788	15.5
Sodomy/Force	9	0.3	10	0.2
Other Felonies	324	10.9	527	10.4
<b>TOTAL:</b>	<b>2965</b>	<b>100.0</b>	<b>5070</b>	<b>100.0</b>

3.4.2 Charge Disposition Information

Table 3-10 presents information on the dispositions of all charges involved of defendants in the baseline and current groups. It demonstrates clearly the substantial difference that the CCP Units have had to date in the twelve counties. They have been exceptionally successful in the comparison with the baseline group in convicting the defendant on the majority of the charges filed.

TABLE 3-10  
CHARGE DISPOSITION INFORMATION

	BASELINE		CURRENT	
	Number of Charges	Relative Frequency	Number of Charges	Relative Frequency
CONVICTIONS				
Unreduced	1129	38.0	2900	57.2
Reduced	124	4.2	179	3.5
Unknown	----	-----	9	0.2
Subtotal	(1253)	(42.2)	(3088)	(60.9)
DISMISSALS				
Prosecution	1521	51.3	1611	31.8
Court	135	4.6	271	5.3
Subtotal	(1656)	(55.9)	(1882)	(37.1)
ACQUITTALS	56	1.9	100	2.0
Subtotal	(56)	(1.9)	(100)	(2.0)
TOTAL:	2965	100%	5070	100%

Slightly less than 61% of all charges filed on the current group ultimately resulted in conviction in comparison with approximately a 40% result for the baseline defendant population. One of the major thrusts of Career Criminal Programming, has been the reduction or elimination of plea bargaining. The fact that the CCP Units have been successful

in this endeavor overall is reflected in the dismissals of charges that have occurred with the current versus baseline defendant groups. More than 50% of the charges for the baseline group were dismissed by the prosecution; but with the current population, the prosecution has initiated slightly less than 32% of the charges or a 19% difference.

TABLE 3-11  
CHARGE DISPOSITION - DISMISSALS

	BASELINE		CURRENT	
	Number of Charges	Relative Frequency	Number of Charges	Relative Frequency
PROSECUTION DISMISSALS				
Facts/Evidence	98	6.4	483	30.0
No Substantial Sentence Benefit	71	4.7	965	59.9
Improved Prosecution on Cases	35	2.3	39	2.4
Extraordinary Circumstances	589	38.7	77	4.8
No Reason Given	728	47.9	47	2.9
TOTAL:	1521	100.0	1611	100.0
COURT DISMISSALS				
Motion to Suppress	19	14.1	34	12.5
Insufficient Evidence/ Probable Cause	50	37.0	55	20.3
Insufficient Evidence/ Acquittal	16	11.9	33	12.2
Other	23	17.0	138	50.9
No Reason	27	20.0	11	4.1
TOTAL:	135	100.0	271	100.0
TOTAL CHARGES DISMISSED:	1656		1882	
Percent Prosecution Related:		91.8		85.6
Percent Court Related:		8.2		14.4

Table 3-11 presents a detailed breakdown of reasons for dismissals of the charges in both the baseline and current population. The fact that CCP Prosecutors dismissed approximately 32% of the current career criminal charges merits further attention. Results presented in Table 3-11 suggest that if charge-bargaining is occurring in CCP Units, it is not at the expense of the defendant's receiving a potentially lighter term. The analysis of the EDF's reveals that in nearly 60% of the cases where charges were dropped by the CCP Units, there was no substantial sentence benefit to be derived by the prosecution of those charges. Evidentiary problems are a legitimate reason for dismissing charges and this occurred with 30% of the charges in the current group.

### 3.4.3 The Use of Enhancements

Table 3-12 examines the use of enhancements for both the baseline and the current population. Overall, the analysis indicates a similar pattern of distribution of enhancement for both data groups. The predominant enhancement used for both groups was Penal Code 12022.5 - use of a firearm in the commission or attempted commission of a felony. It is significant to note that there was an average of 1.2 enhancements per defendant for the baseline group while the average for the treatment population was nearly double that at 2.7. Thus, the stated program objective of increasing the use of enhancement allegations in career criminal prosecution is being accomplished by the CCP Units.

TABLE 3-12  
USE OF ENHANCEMENTS<sup>3</sup>

	BASELINE		CURRENT	
	# of Charges	Rel Freq.	# of Charges	Rel. Freq.
ENHANCEMENTS				
667.5a	33	2.9	46	1.5
667.5b	295	26.0	668	21.6
12022.5	435	38.4	1339	43.2
12022.7	20	1.8	97	3.1
12022.a	78	6.9	345	11.1
12022.b	157	13.8	378	12.2
Other	<u>116</u>	<u>10.2</u>	<u>225</u>	<u>7.3</u>
TOTAL:	1134	100.0	3098	100.0

<sup>3</sup>The definition for each of the Penal Code enhancement sections is the following:

- PC 667.5a Prior Prison Term - Where one of the new offenses and the prior offense is one of the violent felonies specified... (1) Murder; (2) Mayhem; (3) Voluntary Manslaughter; (4) Rape by force, violence, use of a narcotic, or threat of great bodily harm; (5) Sodomy by force, violence, duress, menace or threat of great bodily harm; (6) Oral copulation by force, violence, duress, menace, or threat of great bodily harm; (7) Lewd acts on a child under 14 years of age; (8) Any felony punishable by death or imprisonment in the state prison of life; (9) Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged or any felony in which the defendant uses a firearm which use has been charged and proved as provided in 12022.5.
- PC 667.5b Prior Prison Term - Except where subdivision (a) applies, where the prior or new offense is any felony for which a prison sentence is imposed.
- PC 12022.5 Use of a firearm in the commission or attempted commission of a felony.
- PC 12022.7 Intent and infliction of great bodily injury
- PC 12022.a Armed with a firearm in the commission or attempted commission of a felony.
- PC 12022.b Use of a deadly or dangerous weapon in the commission or attempted commission of a felony.

Table 3-13 examines the disposition of the enhancing allegations associated with career criminal prosecution. The current group demonstrates a higher rate of conviction (58%) to the enhancing allegation in comparison with the reported 50% conviction rate for the baseline group. This demonstrates a significant improvement with conviction to one or more of the enhancements with career criminal prosecution. However, it becomes more significant considering the fact that the defendants in the current group had nearly twice as many enhancements per defendant than that reported for the baseline group. Because conviction with enhancements has sentencing ramifications, the success of the Career Criminal Prosecution Units in this area takes on added importance.

TABLE 3-13  
ENHANCEMENT DISPOSITION

	BASELINE		CURRENT	
	# of Charges	Rel. Freq.	# of Charges	Rel. Freq.
CONVICTIONS	562	49.6	1707	55.1
UNKNOWN CONVICTIONS:	6	0.5	80	2.6
Subtotal:	(568)	(50.1)	(1787)	(57.7)
DISMISSALS				
Prosecution	470	41.5	968	31.2
Court	89	7.8	248	8.0
Subtotal:	(559)	(49.3)	(1216)	(39.2)
ACQUITTALS	7	0.6	95	3.1
Subtotal:	(7)	(0.6)	(95)	(3.1)
TOTAL:	1134	100.0	3098	100.0

### 3.5 DEFENDANT DISPOSITION

The key performance measures used to assess the effectiveness of a prosecution office are the degree and amount of plea bargaining that occurs, the overall conviction rate, and the number and reasons for dismissed cases. Because the CCP Units are operating with experienced trial attorneys handling a reduced caseload, it can be anticipated that overall effectiveness as measured by the performance measures would improve. The key issue then becomes determining whether the degree of success is of a significant difference to justify the added expense associated with operating this type of program.

Objective 4: To demonstrate an increase in conviction rates for career criminal offenders prosecuted by the CCP Units.

Objective 5: To demonstrate a higher rate of conviction on the most serious charge.

This subsection examines overall CCP Program accomplishments with these important performance measures.

#### 3.5.1 Conviction Rate

Table 3-14 presents information concerning the case disposition of the career criminals for both the baseline and current groups. Overall, the Career Criminal Units successfully convicted their defendants in 93% of the cases as compared with a reported 89.5% for the baseline group.<sup>4</sup> Although this represents a small percentage difference between the baseline and the current population, it is statistically significant at the 0.05 level, given the size of the data base used in the analysis. This ranged from a reported high of 99% for one of the counties to a low of 85% for another.

<sup>4</sup>Conviction rate was defined in the following manner:

$$\text{Conviction Rate} = \frac{\text{Convictions}}{\text{Convictions} + \text{Acquittals} + \text{Dismissals}}$$

TABLE 3-14  
DEFENDANT DISPOSITION

	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
<b>CONVICTIONS</b>				
Pled	654	77.9	841	74.2
Jury	88	10.4	197	17.4
Court	8	1.0	11	1.0
Blank/Unknown	2	0.2	4	0.3
Subtotal:	(752)	(89.5)	(1053)	(92.9)
<b>ACQUITTED</b>				
	11	1.3	18	1.6
Subtotal:	(11)	(1.3)	(18)	(1.6)
<b>DISMISSED</b>				
Prosecution	48	5.7	38	3.4
Court	29	3.5	24	2.1
Subtotal:	(77)	(9.2)	(62)	(5.5)
<b>TOTAL:</b>	<b>840</b>	<b>100.0</b>	<b>1133</b>	<b>100.0</b>
Trial Rate:	12.8		20.0	
Conviction Rate:	89.5		92.9	

Some mention should be made of the high conviction rate associated with the baseline group. The nearly 90% conviction rate attained by the baseline population can be accounted for by several reasons. The primary factor influencing this high rate is the fact that the majority of the sample baseline cases were derived from closed Superior Court records which in California have high conviction rates. Secondly, based on the charge information presented in the previous subsection, it would tend to suggest that the high conviction rates

achieved in the baseline group was done so through a plea or charge negotiations with the defendants.

### 3.5.2 Strength of Conviction

Equally important in examining overall conviction rates associated with the prosecution is the strength of the conviction achieved by a District Attorney's Office. Table 3-15 presents information on the strength of conviction for both the baseline and current group. Information in this table represents some of the more significant findings to date of CCP operations in California. Although there was only a slight difference in overall conviction rates between the baseline and current period, the strength of the conviction, i.e. conviction to most serious charge, was considerably enhanced with career criminal prosecution. Of those defendants convicted, only 67% of the baseline population were convicted to the most serious charge. This in comparison to a nearly 88% finding for the current group. Another way of examining that data would be that the defendant in the baseline population stood less than a 60% chance of being convicted on the most serious charge while more than 80% of the defendants of the current group were convicted of the most serious charge among all those prosecuted by the CCP Unit. Lastly, examining the rate of pleas to the most serious charge among all those defendants that plead their case out reveals that in the baseline population approximately 66% of the pleas accepted were pleas to the most serious charge while the CCP attorneys were successful in nearly 90% of the pleas accepted insuring that they were pleas to the most serious charge. This evidence supports preliminary findings that suggested a reduction in plea bargaining associated with CCP Units.

**CONTINUED**

**1 OF 3**

TABLE 3-15  
STRENGTH OF CONVICTION

	BASELINE		CURRENT	
	Number of Defendants	Relative Frequency	Number of Defendants	Relative Frequency
Rate of Convictions to most serious charge-- among convictions	501 (n=752)	66.6	921 (n=1053)	87.5
Rate of Convictions to the most serious charge-- among prosecutions	501 (n=840)	59.6	921 (n=1133)	81.3
Rate of Pleas to the most serious charge-- among plea dispositions	428 (n=653)	65.5	756 (n=841)	89.9

### 3.5.3 Trial Rate

A primary concern of the judiciary with this type of program was that it would result in an increased burden on the court. It was felt that a "no plea bargaining" posture by the District Attorney's Office would result in more cases going to trial. This has occurred with a reported trial rate incident of approximately 20% for the current population in comparison to a reported 16% for the baseline group. However, given the number of cases that involved trials in relation to the overall case docket in the twelve jurisdictions examined, it can be safely stated that the Career Criminal Prosecution Program to date has not posed a significant problem for court management.

### 3.6 SENTENCING INFORMATION

A primary thrust of the Career Criminal Legislation was to insure the incapacitation of the identified career criminal population through their conviction and incarceration in one of the state correctional facilities. Specifically, the objective as developed by OCJP and the Steering Committee is as follows:

Objective 6: To demonstrate an increase in the length of sentencing and the ratio of maximum sentences in career criminal cases.

TABLE 3-16  
SENTENCE DISPOSITION

	BASELINE		CURRENT	
	# of Defs.	Rel. Freq.	# of Defs.	Rel. Freq.
CYA	33	4.4	44	4.2
CRC	36	4.8	38	3.6
Probation	40	5.3	17	1.6
Probation/Jail	164	21.8	77	7.3
Prison	437	58.1	852	80.9
Other	3	0.4	8	0.8
Jail	33	4.4	16	1.5
Unknown	6	0.8	1	0.1
TOTAL:	752	100.0	1053	100.0

#### 3.6.1 Sentence Disposition

Table 3-16 presents information concerning sentences that were given to convicted defendants for both the baseline and current groups. Approximately 81% of the defendants convicted by the CCP Units were ultimately given state prison

terms. This is a statistically significant difference over results reported for the baseline population. In addition, the CCP Units were extremely successful in reducing the number of defendants receiving a probation/jail sentence. They were successful in discouraging probated sentences in comparison to the reported group results. Overall, the tendency in sentencing disposition was one of incarceration of some form such as CRC, CYA, jail and most importantly, state prison.

### 3.6.2 Incarceration Rates

There are several ways of examining or analyzing incarceration rate. Table 3-17 presents four ways of interpreting incarceration rates.

Defining incarceration rates to include all forms of confinement, i.e. prison, CYA, CRC, and jail, results in the finding that nearly 71% of the baseline population convicted of one or more charges were sentenced to some form of incarceration. In comparison, career criminal prosecutors were successful in nearly 90% of convictions in getting some form of correctional confinement. This represents a substantial improvement over the baseline results. Using this same definition of incarceration but examining the rate for all defendants prosecuted rather than convicted, results in a finding that 64% of all defendants prosecuted in the baseline population received some form of state mandated confinement. For the CCP Units, this figure is an impressive 83.7%.

Another way to examine incarceration rates is to look at those defendants convicted of one or more charges and whether they were given a state prison term. As indicated previously, less than 60% of the convicted baseline population were given state prison terms in comparison with 81% of the convicted current defendants.

Perhaps the most basic incarceration rate examines the probability of a defendant entering into the program ultimately receiving a state prison sentence. For the baseline group, a defendant faced slightly more than a 50% chance of going to state prison compared with a 75% rate found for all defendants handled by the CCP Units. This is a statistically significant finding concerning the CCP Program activities.

TABLE 3-17  
INCARCERATION RATES

	BASELINE		CURRENT	
	# of Defs.	Rel. Freq.	# of Defs.	Rel. Freq.
Incarceration rate-- among convictions (includes state prison, CYA, CRC, and jail)	539 (n=752)	71.7	950 (n=1053)	90.2
Incarceration rate-- among prosecutions (includes state prison, CYA, CRC, and jail)	539 (n=840)	64.1	950 (n=1133)	83.8
State prison rate-- among those convicted	437 (n=752)	58.1	852 (n=1053)	80.9
State Prison Rate-- among prosecutions	437 (n=840)	52.0	852 (n=1133)	75.2

These represent some of the key findings to date of the Career Criminal Prosecution Program in the State of California. These findings will take on added significance in any future deliberations concerning continued state support of CCP activities, due to the obvious impact the program has had and will continue to have on corrections. Not only are the CCP

Units convicting defendants at a higher rate, but the convictions are resulting in consecutive sentences at state correctional facilities. This represents one of the hidden costs of maintaining and supporting this type of program initiative. There have been some preliminary reports suggesting that since the introduction of determinate sentencing (SB 42) more defendants have gone to state prison, and these findings support that conclusion.

TABLE 3-18  
SENTENCING - TYPE OF SENTENCE

	BASELINE		CURRENT	
	# of Defs.	Rel. Freq.	# of Defs.	Rel. Freq.
Concurrent	135	17.9	111	10.6
Consecutive	108	14.4	337	32.0
Both	76	10.1	133	12.6
Concurrent Other	10	1.3	2	0.2
Consecutive Other	15	2.0	14	1.3
	<u>408</u>	<u>54.3</u>	<u>456</u>	<u>43.3</u>
TOTAL:	752	100.0	1053	100.0
-----				
Aggravated	54	7.2	243	23.1
Mitigated	30	4.0	29	2.8
Neither	<u>668</u>	<u>88.8</u>	<u>781</u>	<u>74.1</u>
TOTAL:	752	100.0	1053	100.0

### 3.6.3. Type of Sentence

Table 3-18 presents information concerning the type of sentences that were given the defendants in both the baseline and current populations. The Career Criminal Prosecution

Program has been extremely successful in getting consecutive sentences imposed upon those defendants convicted by the program. This has an obvious implication for ultimate prison sentencing. Nearly 32% of the defendants convicted by the Career Criminal Prosecution Program were given consecutive sentences compared to less than 15% of the convicted defendants in the baseline group. Furthermore, the CCP Units have been successful in getting the aggravated term in approximately one-fourth of the convicted cases. This also has an implication for the range of sentences that can be given by a Judge. It represents a significant increase in the number of aggravated convictions reported for the baseline population.

### 3.6.4 Terms Imposed

Table 3-19 examines the sentences that were given to the convicted defendants in both populations. In examining this data, several important facts should be stressed. Although the difference between the average prison term received by the convicted baseline defendant compared with the current group was only twelve months, it should be noted that eighteen of the defendants that were part of the current group received either life or death sentences that were not computed into this average. Secondly, the average prison term received by the current group is very much in line with what was recommended in those cases. The same statement cannot be made for the baseline population. Lastly, the majority of the convictions involved burglary and robbery cases that have legal maximums that closely approximate the results found for the current group. The introduction of SB 42 established fixed limits as to possible sentences that an individual could be given. For the majority of the cases handled by the Career Criminal Unit, a 5-year, 5-month average closely approximates the legal maximum possible in these cases.

TABLE 3-19  
SENTENCING - PRISON AND JAIL TERMS

	BASELINE				CURRENT			
	# of Defs.	Yrs/mos.	Life	Death	# of Defs.	Yrs/mos.	Life	Death
Average Prosecution	21	6/7	1	--	977	6/0	18	5
Average Prison Term	359	4/6	2	--	852	5/5	16	2
RANGES:		4 years/1 month		-	7 years/1 month			

In order to better determine the impact that the program has had to date on sentencing by crime type, an analysis was done that examined prison sentence by major charge. Furthermore, the analysis takes into account whether the conviction and resulting sentencing involved the use of enhancing allegations or not. This table (3-20) graphically presents the effects that the program is having on sentencing outcome. In nearly every instance, the current group sentences, both with and without enhancement, demonstrate a considerable improvement over that indicated for the convicted baseline population. In many instances, the sentences given for the current group approximate the legal maximum possible in those cases.

TABLE 3-20  
PRISON SENTENCE BY MAJOR CHARGE -  
WITH/WITHOUT ENHANCEMENTS

Crime Category	BASELINE				CURRENT			
	# of Defs.	Average Yrs/mos.	Life	Death	# of Defs.	Average Yrs/mos.	Life	Death
ARSON								
w/out enhancements	--				--			
with enhancements	--				1	2/0		
ARSON 447a/44a								
Sole	--				--			
With	--				--			
Assault DEADLY WEAPON								
Sole	1	3/0						
With	1	4/0			2	5/6		
BURGLARY								
Sole	23	3/0			74	3/2		
With	9	1/1			35	3/10		
BURGLARY-1st								
Sole	25	3/0			21	4/5		
With	6	3/7			28	4/10		
BURGLARY-2nd								
Sole	75	2/4			60	2/10		
With	18	3/1			52	3/8		
DRUGS								
Sole	4	3/8			19	3/11		
With	2	4/4			10	6/7		
GRAND THEFT								
Sole	1	1/6			11	3/2		
With	2	6/8			3	3/4		
GRAND THEFT AUTO								
Sole	2	2/0						
With					4	5/10		

Table 3-20; con't.

Crime Category	# of Defs.	BASELINE			CURRENT		
		Average Yrs./mos.	Life	Death	# of Defs.	Average Yrs./mos.	Life
KIDNAPPING							
207							
Sole	4	5/10			5	8/0	1
With							
KIDNAPPING							
209							
Sole	1	7/0			2	7/0	1
With					3	5/0	1
L & L CONDUCT ON CHILD							
Sole	--				--		
With	--				--		
MURDER							
Sole	2	5/0	1		3	5/0	
With	1	23/0			16	19/7	8 2
ORAL COPULATION							
Sole	1	3/0					
With	1	8/4			1	9/0	
RAPE							
Sole	2	5/0			2	6/6	
With	2	8/7			10	12/4	
RECEIVING STOLEN PROPERTY							
Sole	11	2/2			30	3/5	
With	6	3/10			18	4/4	
ROBBERY							
Sole	73	3/3			52	4/10	
With	48	5/7			202	7/1	1
ARMED ROBBERY							
Sole	18	4/6			19	4/11	1
With	93	6/2			150	6/11	2
SODOMY							
Sole	1	No Sent			--		
With	--				--		
OTHER							
Sole	3	1/7			11	3/2	
With	1	4/0			8	3/6	

## 3.7 CASE PROCESSING

In addition to improving prosecutorial performance in the conviction of the defendants, the Units were also concerned with improving overall case processing as reflected by lower case age, a reduction of continuances that lead to delays, and insuring that vertical representation occurred. Specifically, the objectives set forth by the OCJP and steering committee in this area were the following:

- Objective 7: To demonstrate a reduction in the amount of time required to prosecute a case.
- Objective 8: To demonstrate a reduction in the prosecutor's caseload.
- Objective 9: To utilize vertical prosecution in career criminal cases.

This subsection examines the degree to which the CCP Units successfully addressed these objectives.

## 3.7.1 Case Age

The elapsed time from arrest to case disposition is higher for the current group than that found for the baseline population. This remains, after sixteen months of program operation, the only area in which the Units have not successfully met the stated program objective. Unfortunately, there was insufficient information to determine the degree of continuances and delays that were associated with the baseline career criminal group, thus making it difficult to interpret the factors that have the potential to affect case age. What is known of the current population is that Defense Attorney's were very successful in seeking continuances, and that this had a significant impact on the case age. Where information was available (486 cases), continuances resulted in an average delay of nearly sixty-seven days per case. This had a substantial negative impact on case processing for the Career Criminal Program. Other studies in evaluations conducted on career criminal programs have tended to support the notions that case age is not speeded up by this process.

TABLE 3-21  
CASE PROCESSING INFORMATION

	Baseline		Current	
	Average	Cases	Average	Cases
<u>Continuances</u>				
Defense	1.9	17	3.3	389
Prosecution	1.5	10	1.5	47
Court	2.0	29	2.6	129
<u>Delays (days)</u>				
From continuances	70.0	57	66.9	486
Defendant unavailable	87.7	58	80.3	118
<u>Case Age (days)</u>				
Time from arrest to conviction	103.5	156	118.0 <sup>1</sup>	999
Time from arrest to dismissal	98.2	29	92.4 <sup>2</sup>	65
Time in CCU	N/A	N/A	104.3	883
<u>CCU Ranges (days)</u>				
Time from arrest to conviction			47.6 - 191.4	
Time from arrest to dismissal			32.2 - 153.0	
Days in CCU			79.2 - 152.7	
Note: Excluding L.A., data results in the following averages:				
	1. 110.4 days			
	2. 83.4 days			

### 3.7.2 Caseload Average

The CCP Unit prosecutor had a substantially reduced caseload in comparison with the average caseload for a non-CCP prosecutor. This was an intended result of the CCP programming, and accounts to a large degree in the success that the CCP Units have had.

Table 3-22 demonstrates the difference in caseload averages for the CCP prosecutor in relation to his counterpart in the District Attorney's Office.

TABLE 3-22  
CASELOAD AVERAGES

COUNTY	Caseload Average CCP Unit	General D.A. Office Caseload Average
Alameda	7.3	35.5
Contra Costa	18.3	25.0
Fresno	10.7	29.7
Los Angeles	12.7	N/A
Orange	8.8	29.5
Riverside	4.9	31.2
Sacramento	10.5	37.5
San Bernardino	9.5	41.0
San Diego	6.3	20.8
San Francisco	9.6	37.3
San Mateo	14.0	32.3
Santa Clara	23.0	28.2

### 3.7.3 Vertical Representation

As indicated in the preliminary report to the legislature, vertical prosecution is one of the aspects of the Career Criminal Program which sets it apart from other operations in the District Attorney's Office. Although many Units strive for personal rather than Unit vertical prosecution of the career criminal cases, this has not been possible because of conflicting court schedules and/or available staff resources. Consequently, many of the Units have resorted to vertical Career Criminal Prosecution. Based on

information contained on the EDF, the CCP Units minimize the number of prosecutors involved in any career criminal case. As Table 3-23 indicates, in only 340 cases (or 30%) were three different career criminal attorneys involved at the filing, preliminary and trial levels. Furthermore, in only a few instances were non-career criminal prosecutors involved in the prosecution process of career criminal cases. Generally, if this situation occurred, it was at the filing stage.

TABLE 3-23  
PROSECUTOR AT FILING, PRELIMINARY, TRIAL

	BASELINE		TREATMENT	
	# of Cases	Rel. Freq.	# of Cases	Rel. Freq.
Same all 3 times	24	2.9	297	26.2
Same filing/pre	4	0.5	152	13.4
Same pre/trial	4	0.5	281	24.8
Same filing/trial	3	0.4	51	4.5
Different all 3 times	16	1.9	340	30.0
Unknown/blank	789	93.8	12	1.1
TOTAL	840	100.0	1133	100.0

### 3.8 RESULTS OF THE FOUR CELL ANALYSIS

The evaluation of the California CCP Program is unique in its use of a four-cell model. To this point in the report, only the pre/post analysis of career criminals has been presented. This subsection examines the relationship between the observed results of the Career Criminal Program in relation to what was occurring with non-career criminal cases during the study period. Table 3-24 compares key performance measures for all four sets of data.

TABLE 3-24  
FOUR-CELL RESULTS

	Non-Career Criminals			Career Criminals		
	Baseline	Current	Change	Baseline	Current	Change
Number of Cases	950	623		840	1133	
Average Age of Defendant Population	24.6	23.3		27.6	28.3	
<u>CONVICTION (%)</u>						
Plead Guilty	72.6	76.4	+3.8	77.9	74.2	-3.7
Jury	5.3	4.5	-0.2	13.4	17.4	+7.0
Court	2.1	1.0	-1.1	1.0	1.0	+0.0
Unknown/Blank	0.2	-	-	2.2	0.3	+0.1
Subtotal	(80.2)	(81.9)	+1.7	(89.5)	(92.9)	+3.4
	n=762	n=510		n=752	n=1053	
<u>ACQUITTAL (%)</u>						
Subtotal	(0.9)	(1.1)	+0.2	(1.3)	(1.6)	+0.3
	n=9	n=7		n=11	n=18	
<u>DISMISSAL (%)</u>						
Prosecution	15.2	13.8	-1.4	5.7	3.4	+0.3
Court	3.7	3.2	-0.5	3.5	2.1	-2.3
Subtotal	(18.9)	(17.0)	-1.9	(9.2)	(5.5)	-1.4
	n=179	n=106		n=77	n=62	
TOTAL	100.0	100.0		100.0	100.0	
	n=950	n=623		n=840	n=1133	
<hr/>						
Trial Rate	8.3	6.6		12.7	20.0	
	n=79	n=41		n=107	n=226	
Plea Rate	2.6	76.4		77.9	74.2	
	n=690	n=492		n=854	n=841	
Charge Conviction Rate	50.6	20.8		42.2	60.9	
	n=932	n=600		n=1253	n=3088	

TABLE 3-24 - CONTINUED

	Non-Career Criminals			Career Criminals		
	Baseline	Current	Change	Baseline	Current	Change
<u>STRENGTH OF CONVICTION (%)</u>						
Rate of Conviction to Most Serious Charge -- Among Convictions	52.9 n=762	60.8 n=510	+7.9	66.6 n=752	87.5 n=1063	+20.9
Rate of Conviction to Most Serious Charge -- Among Prosecutions	64.9 n=950	49.8 n=623	-15.1	59.6 n=840	81.3 n=1133	+21.7
Rate of Pleas to Most Serious Charge -- Among Plea Dispositions	52.6 n=690	77.7 n=476	+25.1	65.5 n=653	89.9 n=841	+24.4
<u>ENHANCEMENT CONVICTIONS (%)</u>	44.4 n=150	38.2 n=91	+6.2	50.1 n=568	57.7 n=1787	+7.6
<u>DISPOSITION (%)</u>						
CYA	8.9	12.0	+3.1	4.4	4.2	-0.2
CRC	4.6	2.7	-1.9	4.8	3.6	-1.2
Probation	10.0	6.9	-3.1	5.3	1.6	-3.7
Probation/Jail	50.0	48.2	-1.8	21.8	7.5	-14.3
Prison	16.4	17.1	+0.7	58.1	80.9	+22.8
Other	2.2	2.7	+0.5	0.4	0.8	+0.4
Jail	7.9	9.8	+1.9	4.4	1.5	-2.9
Unknown	-	0.0	-	0.8	0.1	-0.7
Total	100.0 n=762	100.0 n=510		100.0 n=752	100.0 n=1053	
<u>INCARCERATION RATES (%)</u>						
Incarceration Rate Among Convictions (includes State prison, CYA, CRC and Jail)	37.8 n=288	41.8 n=212	+4.0	71.7 n=539	90.1 n=950	+18.4
Incarceration Rate Among Prosecutions (includes State Prison, CYA, CRC and Jail)	30.3 n=950	34.0 n=623	+3.7	64.1 n=840	83.7 n=1133	+19.6

TABLE 3-24 - CONTINUED

	<u>Non-Career Criminals</u>			<u>Career Criminals</u>		
	<u>Baseline</u>	<u>Current</u>	<u>Change</u>	<u>Baseline</u>	<u>Current</u>	<u>Change</u>
<u>INCARCERATION RATES (%) - Continued</u>						
State Prison Rate Among those Convicted	16.4 n=125	17.2 n=87	+0.8	58.1 n=437	80.9 n=852	+22.8
State Prison Rate Among Prosecutions	13.2 n=950	14.0 n=623	-0.8	52.0 n=840	75.2 n=1133	+23.2
<u>AVERAGE CASE AGE (days)</u>						
Arrest to Conviction	90.1	92.8	+2.7	103.5	118.0	+14.5
Arrest to Dismissal	84.2	70.0	-14.2	98.2	92.4	-5.8

### 3.8.1 Four-Cell Improvement Analysis

The comparison of baseline and current data for CCP Unit cases with parallel data for non-CCP Unit cases allows strong conclusions regarding the impacts of the CCP Program. Assume, for example, that the four-cell comparison for a given performance indicator yields the following results:

- o A statistically significant improvement in performance indicators between baseline and current CCP Unit data.
- o No statistically significant improvement (or an actual decline between baseline and current indicator levels for non-CCP Unit cases.

In these instances, the interpretations would be straightforward. The factors which produced significant improvement in performance indicators with respect to cases which meet CCP Unit definitional criteria have not produced significant improvement for non-career criminal cases. Thus, we have strong grounds to infer that the reasons for improvement in CCP Unit-eligible cases are program specific, i.e., the program has made a difference.

On the other hand, if the four-cell comparison revealed a significant improvement in non-CCP Unit performance indicators and

no significant improvement in CCP Unit indicators -- or if there were no significant improvement for either set of data -- there would be strong evidence that the program has not made a difference.

Unfortunately, not all results are this clear. A difficult problem of interpretation is encountered when both CCP Unit and non-CCP Unit data indicate statistically significant improvement between baseline and current periods, but the magnitude of the improvement is greater for CCP Unit cases. The question for analysis is no longer whether the program makes a significant difference when compared to the baseline period. Rather, the question becomes whether the improvement for CCP Unit cases is significantly greater than the improvement for non-CCP Unit cases.

In fact, the above situation pertains to several important indicators in the present study. For these select indicators, conviction rates, conviction to top charge, incarceration rate, state prison commitment rate, a "four-cell improvement analysis" has been applied to directly test the statistical significance of differences in the amount of improvement for CCP Unit as compared to non-CCP Unit data.

To accomplish this test, a comparison is made between the portion of the potential performance improvement which has been realized in each comparison group (i.e., CCP and non-CCP). Measuring improvement as proportion of potential improvement provides a standard basis of comparison and allows direct statistical testing of differences in those proportions. The procedure is fully explained in the following four-cell analysis of conviction rates.<sup>1</sup>

<sup>1</sup> Although a similar analysis was conducted on all other key performance indicators demonstrating significant differences, only the rate of conviction is presented in this report. Not only is this a key variable, it represented the only variable in which it was felt the four-cell improvement analysis might not indicate the difference the CCP Units have had when compared to the non-career criminal population analysis.

3.8.2 Conviction Rates

Table 3-25 summarizes the comparison of conviction rates between the four comparison groups in the current study.

TABLE 3-25  
FOUR CELL COMPARISON OF CONVICTION RATES

	Baseline	Current
CCP	89.5% (n=840)	92.9% (n=1133)
NON-CCP	80.2% (n=950)	81.9% (n=623)

Both CCP and non-CCP comparison groups experience an improvement in conviction rate over the baseline period, and the degree of improvement is statistically significant at the 0.10 level in each case. Yet the magnitude of improvement for CCP Unit cases (92.9% - 89.5% = 3.4%) is somewhat greater than the improvement for non-CCP cases (81.9% - 80.2% = 1.7%).

To directly assess whether the improvement of 3.4% is significantly greater than the improvement of 1.7%, it is helpful to consider each percentage as the degree of improvement over the expected conviction rate during the current period. This expected rate would be identical to the conviction rates for each rate during the baseline period. In other words, if nothing changed between the baseline and the current period, one would expect that, -- .895 x 1133 = 1014 members of the current CCP sample would be convicted, and -- .802 x 623 = 500 members of the current non-CCP sample would be convicted.

Looked at from the perspective of potential improvement in conviction rates for each group, it follows that the maximum possible improvement in the number of convictions over the expected rate for the current CCP Unit sample would be:

-- 1133 - 1014 = 119.

The maximum improvement over the expected rate for the current non-CCP sample would be:

-- 623 - 500 = 123.

These maximum "potential" improvement rates for each sub-group provide a baseline for testing the significance of differences between the "actual gains" made with respect to CCP cases as compared to non-CCP cases. The "actual" improvement over the "expected" rate in the current sample is:

-- 92.9% - 89.5% = 3.4% x 1133 = 39 convictions more than "expected", or,

-- 39/119 = 32.7% of the "potential" improvement.

The "actual" improvement for the current non-CCP sample is:

-- 81.9% - 80.2% = 1.7% x 623 = 11 convictions more than "expected", or,

-- 11/123 = 8.9% of the "potential" improvement.

TABLE 3-26  
COMPARISON OF ACTUAL IMPROVEMENT  
AS A PORTION OF POTENTIAL IMPROVEMENT  
FOR CURRENT CCP AND NON-CCP SAMPLES

	Actual Improvement	Unrealized Potential Improvement	Total Potential Improvement
CCP	32.7% (n=39)	67.3% (n=80)	100% (n=119)
NON-CCP	8.9% (n=11)	91.1% (n=112)	100% (n=123)
	(n=50)	(n=192)	(N=242)
	Chi-square = 20.93 1 degree of freedom		significance .001

Comparing the "actual" improvement as a portion of "potential" improvement (as in Table 3-26) for each group provides a meaningful direct assessment of the statistical significance of the difference between the improvement for each group.

The four-cell improvement analysis for conviction rates indicates a difference between the magnitudes of those rates which is statistically significant at the .001 level. These results support a conclusion that the program makes a difference in the degree to which conviction rates for CCP cases have increased when compared to non-CCP cases. As indicated earlier, similar levels of improvement caused by the presence of the CCP Program were found with the following performance indicators: incarceration rates, state prison commitment rate, top charge conviction rate, and charge conviction rate.

### 3.9 QUALITY PROSECUTION

A major concern of the OCJP was stated in the following objective:

Objective 10: To determine improved "quality" prosecutorial efforts.

This section of the report is evidence to the effect that the CCP Units have had in improving the level of prosecutorial efforts to achieve all but one of the stated objectives. Furthermore, "quality" prosecution associated with the CCP Program goes beyond the quantifiable performance measures used to define program success. In this instance, it has resulted in improved relationships with law enforcement agencies and perhaps most importantly, with the victims and witnesses. As the following section in the report documents, the CCP Program has given law enforcement officers, involved with the program, a renewed sense of purpose and accomplishment; a feeling that their efforts are worthwhile and appreciated. Victims and witnesses are often the forgotten individuals in the Criminal Justice System. Often they feel that they have

been victimized twice; once by the criminal, and secondly, by the system. This program has done much to alleviate the stress of being involved in criminal prosecution, and has gone a long way to reaffirm their belief that the system can and does function in an equitable manner.

### 3.10 OTHER CALIFORNIA CAREER CRIMINAL AND PROSECUTION PROGRAMS

Programs designed to improve the effectiveness of the prosecution of criminals in California, particularly career criminals -- goes beyond the activities of the CCP. Some of these efforts are described below. They range from projects which replicate CCU's to projects which improve the services rendered to victims and encourage the use of witnesses to improve criminal investigations.

#### 3.10.1 Other Career Criminal Prosecution Units

In addition to the twelve CCP projects, there are nine other career criminal projects currently operating in California. As described in Section 2, these projects are financed with federal funds from the Law Enforcement Assistance Administration (LEAA) and are located in the District Attorney's offices of the following counties:

- Ventura
- Stanislaus
- San Joaquin
- Yolo
- Santa Barbara
- Marin
- Solano
- Imperial
- Placer

Of the nine projects, the Ventura County project is financed directly from LEAA as a discretionary grant, and is modeled after the national Career Criminal Program. The remaining eight projects are funded through the California Office of Criminal Justice Planning with LEAA funds, and they are patterned

after SB 683, Chapter 1151, to be consistent with the CCP. At a \$332,331 funding level, the Ventura discretionary program is comparable in size to the CCP program sites employing two attorneys, two investigators, a systems analyst, and a legal secretary, and prosecuted 160 cases/148 defendants during a two-year period. According to their second-year report<sup>1</sup>, after two years of operation, performance data of the Ventura County Career Criminal Prosecution Unit indicate the following accomplishments:

- 0.0 percent defendant trial acquittal rate.
- 96.7 percent defendant conviction rate.
- 3.3 percent defendant dismissal rate.
- 98.4 percent top charge conviction rate.
- 84.0 percent prison (CDC) sentencing rate.
- 95.0 percent new (non-concurrent) sentencing rate.<sup>2</sup>

The remaining eight projects are considerably smaller in scope and are located in counties with considerably less population than the CCP counties.<sup>3</sup> With the exceptions of Stanislaus and San Joaquin Counties which receive annual funding of approximately \$65,000 and \$116,000, respectively, these counties do not have career criminal "units" in the same form as the larger counties. They each receive between \$17,000 - \$32,000 to help provide resources necessary to allow them to conduct vertical prosecution and more intensive prosecution

<sup>1</sup> "Career Criminal Prosecution: Second Year Report," Michael D. Bradbury, District Attorney, Ventura County, May 1979.

<sup>2</sup> This represents the percentage of sentences given to convicted career criminals which were not concurrent with other sentence obligation, but which were new sentences or consecutively imposed sentences.

<sup>3</sup> These counties range in population from approximately 85,000 to 305,000.

of career criminals. The following matrix shows the staffing budgeted in these projects:

	<u>Attorney</u>	<u>Investigator</u>	<u>Legal Researcher</u>	<u>Clerical</u>
Stanislaus	1	1		
San Joaquin	2		1	1
Yolo	1			
Santa Barbara	1			
Marin	.5			
Solano	1			
Imperial	1			
Placer		1		.1
	7.5	2	1	1.1

Because of the size of the six smallest career criminal projects, it is difficult to evaluate them for impact. In those counties, the grants are an important contribution to efforts the District Attorneys are making toward improving the prosecution of career criminals. Since these grants do not support a separately identifiable "unit", impact information is difficult to obtain and may not be reliable. Also, baseline data against which to compare is either difficult or impossible to gather and would overtax project staff's time.

Both the Stanislaus and San Joaquin projects, however, have been evaluated and report much of the same success as the larger CCU's. Baseline data in both counties were gathered by project staff. After the first eight months of operation,

Stanislaus reported that their unit had reduced the number of days from arrest to final disposition from 119.5 to 84.4 days; pretrial release was reduced by 26.8 percent; pretrial bailing was reduced by 22.3 percent; and, release on own recognizance was reduced by 13.4 percent. There was a slight increase in state prison convictions and length of sentence.<sup>4</sup> A much greater proportion of the career criminals were convicted of the original charges -- 75 percent of the career criminal cases as opposed to 41.9 percent of baseline cases experienced no charge reduction. The average career criminal unit caseload was approximately 30 as compared with approximately 48 outside of the unit. From its beginning in mid 1978 through November, 1979, this unit has handled a total of 109 cases.

From mid 1978 through November, 1979, San Joaquin's project has completed, or is in the process of prosecuting, 245 defendants, and the unit's average caseload is 6.49 as compared with 45.10 outside of the unit. Their annual evaluation report showed an increase in the rate of conviction from 83 percent to 89.8 percent. Of those convicted, 86.4 percent as compared to 56.4 percent were sentenced to state prison, and an additional average of 1.35 years was added to the length of the prison terms. The average length of time required to prosecute cases, however, increased by 14.76 days.

As these data indicate, a substantial career criminal prosecution effort has developed apart from the state-funded CCP.

<sup>4</sup> According to their evaluation, county rates of conviction and length of sentencing were already very high.

With the exception of the Ventura discretionary grant which receives funding directly from LEAA, OCJP has required that these projects operate consistently with CCP guidelines established pursuant to SB 684. This will further enable OCJP to report the accomplishments in future reports to the Legislature.

### 3.10.2 Other California Prosecution Programs

- Prosecution's Assistance for Life Parole Hearings

In November, 1979, \$112,500 in federal LEAA funds were grants to the California Department of Justice to operate the "District Attorney's Support Project". This project provides compensation for local District Attorney travel and per diem expenses incurred because of their participation in state parole board hearings relating to inmates sentenced to prison for life. This function was performed by the Attorney General's Office until enactment of Assembly Bill 2632 (Chapter 329, 1978 Statutes) making local prosecutors responsible for this function.

- Prosecution of Cases Originating in State Correctional Institutions

About \$50,000 of LEAA funds were grant by the California Council on Criminal Justice to the City of Chino Police Department in San Bernardino County to provide two full-time investigators from

the police department to work with the California Institution for Men and the California Youth Training School. These investigators, working in the two state institutions located in Chino, investigate crimes occurring within the institutions and establish investigation training programs and establish intelligence networks within the institutions. The goal of the project is to improve the percentage of successful criminal complaint filings. An assessment of the project's accomplishments is expected in March, 1980. An additional \$25,000 has been awarded to continue this program. The District Attorney of San Luis Obispo County received an award of \$25,134 from the California Council on Criminal Justice to implement a similar program.

- California Witness Protection Program

More than \$130,000 of LEAA funds were granted to the California Department of Justice for the first fifteen months of this program. The program provides monetary assistance to local law enforcement agencies and prosecutions for witness protection activities, thereby making it possible to increase the number of successful prosecutions of criminals. During the first ten months of the program, assistance was given to 12 law enforcement agencies and 12 District Attorney's offices. Through this assistance, protection was provided to 28 witnesses and 37 members of witnesses' households. Eighty-two criminals were

prosecuted through the utilization of these witnesses. More recently, this program has been expanded as the result of LEAA's authorizing OCJP to use about \$300,000 in prior years' federal funds for continuation of this program.

- California Victim/Witness Assistance Program

Through two statutes, AB 1434 (Chapter 1256 of 1977 Statutes) and SB 383 (Chapter 713 of 1979 Statutes), OCJP is charged with developing programs to provide Victim/Witness services throughout the state. There are three elements to the statewide effort.

1. In June, 1978, \$477,000 of LEAA funds were awarded to fund six Victim/Witness projects which were in addition to eleven other such projects operating in California. These projects provide services to victims and witnesses and are consistent with the mandates in AB 1434. An evaluation of these projects will be completed no later than March, 1980.
2. In keeping with the statutory charges coming out of SB 383 and AB 1434, OCJP is requesting a state appropriation of \$3 million from the State Indemnity Fund to support local Victim/Witness Centers in the state. The funding is expected to provide continuing support to those centers which are consistent with AB 1434 and to create new centers as funding will allow.
3. OCJP has been awarded a grant from LEAA totalling \$76,000 to provide Victim/Witness Center Program coordination.

- Career Criminal Legal Research Center

The California Council on Criminal Justice has awarded a \$96,000 grant to the California District Attorneys Association to assist district attorneys serving less populated counties. The Center provides legal research services on prosecutions involving career criminals to over 40 counties.

#### SECTION 4

##### CCP PROGRAM IMPACT ON THE LOCAL CRIMINAL JUSTICE SYSTEM

The Career Criminal Prosecution Program is a critical link in the District Attorney's overall effort to increase the effectiveness of the criminal justice system and to reduce the incidence of crime through the selective prosecution of an identified population of repeat offenders. Although the CCP Program is prosecution-based involving a limited number of trial attorneys, it appears to have had substantial and far-ranging consequences for all components of the criminal justice system. In order to determine the full extent of potential system impact associated with CCP Programming, the Office of Criminal Justice Planning specifically established the following program objective:

Objective 12: To determine the impact that the program has had on other components of the criminal justice system, specifically corrections, courts, law enforcement and Public Defender's Offices.

This section identifies some of the consequences that have been associated with Career Criminal Prosecution Program development at the local level. Specifically, it examines the impact that the CCP Program has had on the following components of the local criminal justice system:

- Courts
- Law Enforcement
- District Attorney's Office
- Private counsel and the Public Defender's Office
- Community

This section is based on over 250 intensive interviews with various representatives of the Criminal Justice System in each of the major program sites.

#### 4.1 THE COURTS

The operational procedures associated with the management of the Career Criminal Prosecution Program have had a direct bearing on court administration in the funded jurisdictions. Specifically, efforts to achieve a no plea bargaining posture, quicker adjudication, and the maximum state prison exposure have affected the judiciary and court administration in the respective counties.

##### 4.1.1 Settlement Policies

State statistics indicate that approximately 80-85% of all criminal cases in California are settled prior to going to trial. This has resulted in a long and well-established pattern of negotiating the outcome of a case with the defendant's representative and the District Attorney's Office. The extent to which the judge is active in this process varied from county to county, and even within given counties. In all counties, the no plea bargaining posture taken by the Career Criminal Prosecution Unit has had an impact on the settling of cases.

Traditionally, there are several factors taken into consideration in the settlement or plea bargaining of a case:

- Infirmity or evidentiary strength of the case
- The defendant's background
- Range of reasonableness -- realistic appraisal of the maximum sentencing possibilities
- Public reaction to the disposition

The primary consideration in dealing with career criminal cases has been the maintaining of a tough, non-negotiable position. This has been true at all twelve of the principal Career Criminal Prosecution Units involved in this evaluation.

However, as many of the deputy attorneys have indicated, this prosecutorial touchness must be tempered by a realistic appraisal of the case, an understanding of the judicial climate, and the limitations inherent with determinant sentencing (SB 42).

The 40 Superior and Municipal Court Judges interviewed were initially somewhat apprehensive of the Career Criminal Prosecution Program. In particular, they were concerned that the District Attorney's no plea bargaining position would result in an increased trial rate, further burdening an overcrowded court docket, and that it would interfere with their role in settling cases. The data indicates that CCU prosecution has resulted in a slight increase in trial rates at the Superior Court level. There remains some concern with the impact the CCU Program has had in case settlement practices.

##### 4.1.2 Suitability of the Career Criminal Defendants

With one exception, the consensus of all judges interviewed was that the Career Criminal Prosecution Program has been effective in identifying and prosecuting career criminals. Many of the judges were concerned with the tendency of the CCP Units to include youthful or first-time offenders with no prior criminal history into the program.<sup>1</sup> Although these defendants were usually involved in a crime spree situation, generally residential burglaries, and thus satisfied the multiple transaction requirement they questioned the appropriateness of selecting this type of defendant into the program. Furthermore, they indicated that the credibility of career criminal prosecution is diminished by focusing their attention on these types of defendants.

##### 4.1.3 Sentencing Practices

The judges interviewed stated that sentencing practices have not been affected by the imposition of a Career Criminal Prosecution Program. However, career criminal defendants tend to be convicted on more charges than non-career criminal defendants due to the no plea bargaining stance which has resulted in longer terms being prescribed for those defendants.

<sup>1</sup>Juvenile criminal records can not be used to qualify a defendant for the Career Criminal Unit.

One judge of the Superior Court in Orange County summarized the issue of the influence of the career criminal program on sentencing in the following manner, "The Career Criminal Prosecution Program has not changed my philosophy of sentencing. If there are differences, they are attributable to SB 42 and not the Career Criminal Prosecution Program." The judges stated that they were not pressured into meting out longer sentences to career criminal defendants. However, there was a feeling in the Probation Offices and in the statistical results collected and analyzed by MetaMetrics that there have been substantial differences in the range of sentences given to the career criminal defenants.

The issue of proportionality or disparity in sentence length were factors mentioned by many of the judges regarding determination of a sentence. In many cases, the defendant convicted as a career criminal was not given the absolute legal maximum sentence. Because the career criminal defendant was typically convicted on multiple charges and counts, the potential existed for extremely long sentences. This posed a problem for many of the judges because sentences given in those cases would be disproportionate to sentences given to those convicted of more violent or assaultive types of offenses. For example, the disparity in potential sentences between a robber, convicted on multiple charges and a rapist, did present itself as a dilemma for many of the judges.

The only reported impact on sentencing practices for some of the judges has occurred with career criminal defendants that have drug problems. In these cases, the judges tend not to give the CRC sentence, but instead give the defendant a straight prison term. In addition, judges increasingly used consecutive sentencing for the convicted career criminal defendants. This was a departure from normal practices and is the result of both career criminal prosecution and their increasing familiarity with SB 42 penalty sanctions.

#### 4.1.4 Overall Impressions

In summary, the Superior and Municipal Court Judges interviewed by MetaMetrics staff felt the program to be important and needed. Generally, the deputy attorney handling career criminal defendants were praised by the judges for their case preparation, prosecutorial toughness, and overall trial ability. Judges at the Superior Court level were particularly concerned with the program insofar as it affected their discretionary control in the settling of a case. Finally, although all judges generally agreed with the appropriateness of the defendants selected to be part of the CCP Program, many felt that the deputies were very unreasonable in adhering to a no plea bargaining policy in all cases.

#### 4.2 LAW ENFORCEMENT AGENCIES

Representatives from various law enforcement agencies were contacted and interviewed in all twelve counties. Law enforcement officials were both responsive and encouraged by the introduction of a Career Criminal Prosecution Unit into the District Attorney's Office. With one notable exception, the program has had minimal impact on changing police techniques and/or investigations. The introduction of the CCAP Program (California Criminal Apprehension Program) in late 1979, should result in a greater effect on law enforcement practices and procedures. Specifically, towards the recidivist offender.

In several counties, law enforcement officials indicated that the introduction of a CCP Unit, particularly its qualifying criteria of three or more transactions, has had some impact on their conduct. Rather than make an arrest for the sale of narcotics and/or stolen property, undercover agents were more inclined to get a third illicit buy in order to insure that the defendant would be handled by the CCP Unit. However, it is important to stress that this has occurred on few occasions and that it will probably not become a common practice primarily due to the financial constraints with which

undercover teams typically operate. However, the potential for abuse through the over-zealous use of this criteria by law enforcement officials remains and should be closely monitored.

#### 4.2.1 Morale Booster

By all accounts, the Career Criminal Prosecution Program has served as a morale booster for law enforcement officers. The relationship between the police and the District Attorney's Office often assumes adversarial qualities. Law enforcement officers tend to become discouraged when they see their cases either dismissed or greatly reduced while prosecutors are dismayed by the quality of the investigations conducted by the officers. The program has considerably minimized these criticisms. In the majority of the counties visited, law enforcement officials gave examples of additional investigative work for the Career Criminal Unit specifically to insure that the career criminal defendant gets maximum state prison commitment. The fact that the Unit would not negotiate with the defendant or reduce charges encouraged the officers to work harder and with a greater sense of purpose than is normally found.

#### 4.2.2 Allocation of Resources

The adoption of a policy of vertical representation in career criminal prosecution has also facilitated law enforcement activities. It results in an efficient allocation of resources alleviating the need for a detective to repeat the particulars of a case several times to each new deputy attorney assigned to the case.

#### 4.2.3 Development of a Team Approach

A by-product of vertical representation has been the development of a team concept in preparing the case between the District Attorney's Office and the law enforcement officers

involved in the case. Vertical representation and the reduction of the prosecutor's caseload have made it possible for detectives and the Deputy District Attorneys to formulate case strategy and identify additional investigation needs at an early date. This practice tends to result in stronger cases.

#### 4.2.4 Overall Reactions

The overall reactions of law enforcement to the Career Criminal Prosecution Program has been an extremely positive and receptive one. The sentiment "we wish we could bring all our cases through this office," was repeated at many of the sites. It has fostered good working relationships with the District Attorney's Office, improved morale, and has given a greater sense of purpose and job satisfaction for those officers involved in career criminal cases.

### 4.3 THE DISTRICT ATTORNEY'S OFFICE

In addition to interviewing deputies involved with career criminal prosecution, prosecutors assigned to felony trial units with the District Attorney's Office were also interviewed.

#### 4.3.1 Elitism

A strong and often critical reaction to the program emerged through discussions with non-career criminal attorneys. The problem of elitism associated with the Career Criminal Prosecution Unit has been noted in previous studies conducted by MetaMetrics. Criticism of the Unit tends to take one of these forms.

- Highly selected screening of career criminal cases. Many prosecutors not associated with the Unit felt that the career criminal deputies were highly selective in their case selection process. In their opinion, the career criminal deputies only selected cases possessing little or no evidentiary weaknesses.

- Reduced caseload. A major complaint was the reduced caseload assigned to deputies involved in career criminal prosecution. Because most District Attorney's Offices are typically understaffed, deputies often carry a large number of cases. Consequently, they were somewhat resentful of the much reduced caseloads handled by the career criminal deputies. Given the elitist nature of the Career Criminal Prosecution Program, it is understandable that it has engendered a certain amount of professional jealousy on the part of deputies not assigned to the Unit.

#### 4.3.2 Changes in Office Management

The establishment of a Career Criminal Unit within the District Attorney's Office has resulted in some modifications of case management procedures. Specifically, in the case of one county where all felony cases processed by the District Attorney's Office were shifted over to vertical representation. Additionally, several other counties have been sufficiently encouraged by the results of the no plea bargaining posture taken by the Career Criminal Prosecution Unit to initiate or at least encourage deputies not associated with this program to follow this procedure. Several District Attorneys are taking careful note of the aspects of Career Criminal Prosecution Program operation that have the potential to be transferred or replicated within the overall District Attorney's Office. In this sense, the Career Criminal Prosecution Program is functioning as a pilot project for the testing of new and innovative case management procedures.

#### 4.3.3 Victim/Witness Relationship

The Career Criminal Prosecution Program has been a positive factor in improving victim/witness relations with the District Attorney's Office. Vertical representation has resulted in a more efficient use of the victim/witness's

time and it is responsible for minimizing much of the trauma associated with the preparation of felony cases.

Reduced caseload and the early entry of deputies into cases not only benefit the victim/witnesses, but have also made the trying of a case stronger. The early entry of a trial deputy into the case enables the development of a close working relationship between the potential victim/witnesses at later court proceedings. It enables the deputy to have more time to prepare the victim/witnesses and make them feel more at ease.

Several victim/witnesses were interviewed during the course of conducting on-site visits to the programs. In all instances, they spoke very favorably of their treatment and experience with the Career Criminal Prosecution Unit. In Orange County, the Career Criminal Unit Chief developed a follow-up form that was mailed to all victim/witnesses involved in career criminal prosecution. The form solicited their reactions to their treatment and informed their outcome of the case. In summary, some of the comments made on the form concerning the Career Criminal Prosecution Unit and case disposition included the following statements.

#### On Satisfaction with the way the case was handled:

- "Very courteous - helpful by explaining procedures and what to expect on witness stand."
- "I felt more at ease after talking with them before I testified because he told me what to expect during my examination on the witness stand."

#### On sentence outcome:

- "Being a victim is a humiliating situation. I was very happy to hear the outcome and feel that someone bothered."
- "I was satisfied with the way I was kept notified by the deputy DA but was not very satisfied when I read the letter about the outcome of the case. It hurt my feelings to think that a judge decided what was

a great value and what was not when it came to \_\_\_\_\_ stealing things from my home that could never never again be replaced. To quote the letter, 'the total loss was relatively small.' Compared to what? Loss of life? Does it concern anyone that I don't sleep at night because of this crime? I can see why so many people say 'I don't want to be involved' when a crime is committed. Those people can probably sleep at night."

On taxes:

- "Satisfaction in knowing that some of our tax dollars are being well spent."
- "On the above question, the continuing of the program (the Career Criminal Unit) it is difficult to make a response. The goals were explained by one of the deputies and we were in agreement with the action against the career criminals, however, as a taxpayer, I would like to hear the pros and cons on the impact this program has on the tax dollars. But on the other hand, as a citizen of this county, the statistics of the crime level might outweigh the cost."

On sentencing:

- "I felt that the case was well prepared and presented. The only objection is not against you, the DA or the police, but the judicial department. It needs some overhauling and stiffer sentences passed out."

On restitution:

- "...I was not that thrilled to see this donkey go to jail. I believe he should be forced to work and pay back every loss he caused his victims. P.S. I know this is not really what you wanted to hear, and if I sound bitter - you're right."

Concerned with the relative leniency that some judges have exhibited in sentencing of career criminal cases, at least several counties resorted to "packing the court" during the sentencing of a career criminal case. One county, before an

important career criminal sentencing, will send out a letter informing the victim/witnesses of the sentencing date. An excerpt from one of these letters includes the following passage:

"Mr. \_\_\_\_\_'s sentencing is set for Thursday, July 12, 1979, at 2:00 p.m. in Department 19 of the \_\_\_\_\_ County Superior Court. Perhaps the presence of some of the victims of these robberies would remind the judge who they are trying to protect and would give impetus to the District Attorney's quest for an appropriate sentence. It is important that the judge be made aware that the public is concerned about how convicted felons are sentenced."

Thank you for your cooperation in the prosecution of the trial. I hope to see you at the sentencing."

The prosecutor indicated that this tactic is infrequently used. Interviews with the judges in that county indicated they were unaware of court packing in career criminal sentencing and that in any case, it would have little or no impact on their decision-making.

4.4 PRIVATE COUNSEL AND PUBLIC DEFENDER'S OFFICE

With the exception of San Mateo County, the remaining counties utilize the public defender system to provide counsel for indigent defendants. This makes a difference. From the defense attorney's point of view, the private court-appointed counsel has an advantage over public defender systems because private attorneys have greater financial resources which enable them to provide more intensive investigations and more complicated defense strategies. Also, the caseload tends to be smaller for privately retained counsel than for the Public Defender's Office. However, both the private counsels and the Public Defender's Offices that were interviewed in all counties were very emphatic in their denunciations of the Career Criminal Prosecution Program, and they identified several key issues.

#### 4.4.1 Settlement Practices

The principle impact associated with career criminal defense from the perspective of the Public Defender's Office has been the policy of no plea bargaining. The Public Defender felt that the no plea bargaining posture locks the prosecutor into a position in which a realistic re-evaluation of the case becomes impossible. This unwillingness to negotiate with the Public Defender's Office has proven to be counter-productive in some instances.

In most counties visited by the MetaMetrics staff, the public defenders and/or private counsels retained in the defense of career criminal cases gave examples of a defendant either being freed, or of receiving a substantial reduction in charges resulting in a conviction, because of the District Attorney's unwillingness to consider a negotiated settlement. In several instances, a defendant was cleared of all charges even though the initial proposed settlement offered by the Public Defender's Office would have resulted in a plea to one of the counts. In one instance, the District Attorney's Office was unwilling to consider a plea to one count of armed robbery with a five-year term. The case went to trial twice, both resulting in hung juries. The ultimate outcome was the same as that initially proposed by the private counsel in the case. For that one case, a private attorney received approximately \$25,000 for services rendered. These costs, in addition to the cost borne by the State for two lengthy jury trials. In this instance, the program's inflexibility on plea bargaining was detrimental and costly to the taxpayers. (The career criminal deputies in charge of this case presented a somewhat different story. They stated that the client was a career criminal, a dangerous individual, and they were intent on insuring that this defendant would receive maximum exposure to a State institution. They did not feel that their position was unreasonable given the danger or threat that the defendant posed to society.)

A no plea bargaining policy seriously disrupts the functioning of a Public Defender's Office. The fact that nearly 80 - 85% of all felony cases are disposed of without going to trial suggests the critical role plea bargaining has assumed in the adjudication of felony cases. The Public Defender's function is a critical element in that process. Their concern with the Career Criminal Prosecution Program is that this very vital service which they normally conduct for their clients is no longer possible.

#### 4.4.2 Case Selection Procedures

A recurring criticism of the Career Criminal Prosecution Program by the Public Defender's Office was the case selection procedures used to identify the career criminal case. The reaction of the Public Defender's Office was that these cases were largely "dead-bang loser cases" and had such evidentiary strength that they did not require intensive prosecutorial efforts. As one Public Defender put it, the defendants handled by the Career Criminal Unit were not career criminals; in his estimation, they were not even "slightly heavy."

The most troublesome aspect of the career criminal legislation according to all of the defense attorneys interviewed was the multiple transaction criteria for admission into the program. They felt that the potential for abuse in using this selection criteria was great (i.e., encouraging entrapment practices by the local undercover officers), but more importantly, they felt that many defendants were misclassified as career criminals as a result of this selection criteria provision. Although many conceptually supported a Career Criminal Prosecution Program, it was their overall consensus that the Career Criminal Units needed to be more stringent and selective in their case identification process.

#### 4.4.3 The Equal Protection Issue

The principle concern of the defense attorneys has focused on the fact that the career criminal defendants have not

received due process or equal protection of their constitutional guarantees. The additional resources, staffing, and funding available to prosecutors have resulted in an imbalance in the adjudication process. The active early involvement of the District Attorney's Office in a career criminal case has not been matched by an equal involvement of defense attorneys in these cases. The lack of commensurate resources for the defense has, according to those interviewed, resulted with inadequate and insufficient preparations for the career criminal cases.

A related equal protection issue identified by several of the public defenders was the inclusion of non-career criminal co-defendants in the prosecution of career criminal cases. In most instances, the non-career criminal co-defendant is not separated from the career criminal cases. Consequently, the stringent prosecution measures intended for career criminal defendants are being applied to the non-career criminal defendant. The District Attorney's Office has not been willing to negotiate or enter into bargaining with these individuals. Inevitably, according to those interviewed, these co-defendants when prosecuted with a career criminal, generally received a stiffer sentence than they would have received had they been treated in the normal fashion.<sup>1</sup>

#### 4.4.4 Inadequate Fiscal Resources

The solution proposed by the Public Defender's Office in the various counties was an increased staff or the designation of a career criminal defense unit within the Public Defender's Office to counter the intensive prosecutorial

<sup>1</sup>MetaMetrics analyzed the results of the 168 non-career criminal co-defendants handled by the CCP Unit and found the following: Conviction Rate--85.7%, less than the reported 93% for the career criminal defendant; Incarceration Rate (all forms of confinement)--67.4%, compared with a 90% rate for the convicted career criminal defendant; State Prison Incarceration Rate--was 52.8% to 80.9% and lastly, the average prison term was 3 years, 8 months for the non-career criminal compared with 5 years, 5 months for his career criminal co-defendant. This data would tend to counter the Public Defender's position and support the notion that the system has made allowances for the fact that these are non-career criminals.

activities associated with this type of case. A key factor here is the apparent fact that Public Defender's Offices have to date been affected more seriously by Proposition 13 cutbacks than the District Attorney's Offices.

The California Career Criminal Prosecution Program has provided fiscal resources to the District Attorney's Office that are currently unavailable to the Public Defender's or Defense Attorney's Office. Although the grants have not in most counties resulted in an augmentation of District Attorney Staff, they did come at a time when most counties faced a staff cutback due to Proposition 13.<sup>2</sup> The funds enabled the District Attorney's Offices to maintain their same staffing levels or in some instances increase staff size by one or two deputies. This has not been the case with the Public Defender's Offices. Not only do they feel that the Career Criminal Prosecution Program has placed an additional burden on their staff, but with Proposition 13 cutbacks, this exacerbated an already difficult and trying situation. This infusion of the State's monies into prosecution without provisions made for funding the Public Defender's Office has given the prosecution an unfair advantage over the defense function. It was suggested that the career criminal legislation should include provisions for funding public defenders commensurate with the funding of the prosecution office. (Note: according to B.C.S. data the Public Defender's Offices statewide receive approximately one-half the funding level given to the District Attorney's Offices.) The consensus of the Public Defender's Offices was that the defense cannot prepare a case to match the State's case in either depth or quality of the investigation, and are thus unable to provide their clients an adequate defense.

<sup>2</sup>This information on the impact of Proposition 13 was provided by those interviewed. The OCJP report on Proposition 13 impact indicates that Proposition 13 has not resulted in an overall reduction of Prosecutor funds, rather it reports a 5% increase in State fund allocations. However, the Public Defender's Office has suffered fiscal cutbacks due to Proposition 13.

#### 4.4.5 The Defense Response

In establishing Career Criminal Prosecution Units within the District Attorney's Office, it was initially anticipated that a higher incidence of cases going to trial would occur. This was due to the policies associated with career criminal prosecution, i.e., no plea bargaining, and to the seriousness and complexity associated with career criminal prosecution. Consequently, the District Attorney Offices generally assigned the more experienced trial deputies to these units. However, the program to date has resulted in only a minimal or slight increase in the overall trial rate. No one explanation accounts for this finding. Interviews with the various public defenders located throughout the State suggest several possible explanations, including:

- Experienced defendants. The very label of "career criminals" infers that this defendant population has had in most cases several contacts with the criminal justice system. They tend to be knowledgeable about the adjudication process. Consequently, they tend to have a more realistic appraisal of criminals, being arrested and serving time is considered the "overhead" of their chosen profession. With the introduction of SB 42 in the summer of 1977, many of the criminal defendants have become more knowledgeable about potential sentences in their individual cases than either the prosecutor or the sentencing judge. This understanding of their legal situation together with the realistic evaluation of their potential sentence generally result in a willingness on their part to plea out their case.
- Local Jail Time. In several of the counties visited, local jail time was considered "hard" time. That is, the amenities and services available at the local jail facility were of a generally poor quality particularly when compared with the services and facilities available at most of the State institutions. Consequently, rather than becoming involved in a protracted adjudication process which would require a longer stay at the local detention center, many of the more experienced career criminals opted for an early conviction in order to enhance their period of confinement.

- Professional Integrity. Since the majority of the career criminal cases involved multiple counts, generally involved multiple victim/witnesses, and had little or no evidentiary weaknesses, many of the public defenders felt that there was little or nothing to be gained by going to trial.

The recourse of the Public Defender's Office has been, at least during the first year of career criminal prosecution activities, to plead the case out. To the extent possible, they have attempted to negotiate with the prosecutor's office. Because of the no plea bargaining policy of the Career Criminal Units, they have not been very successful in these efforts. However, all public defenders at all sites were able to give examples which indicated that some negotiations on some of the cases has occurred. Generally though, if negotiations did occur, they did not involve the significant charges or counts.

In an effort to provide some service for their clients, many public defenders have attempted to negotiate a sentence with a judge that would be based on their defendant pleading guilty to all charges. In many cases, they could get no assurances from the sentencing judge as to the ultimate sentence disposition. This has further frustrated the public defenders involved in these cases. Frustrated by the feeling that they are able to provide little or no services for their clients, public defenders have considered the possibility of taking all career criminal cases to trial. This extreme measure would serve several purposes: (1) it would tie up the District Attorney's Career Criminal Prosecution Staff's time and resources; (2) it would draw attention to the need for additional resources, staff, and financing to the Public Defender's Office; and (3) increase public defender's morale.

This obstructionist policy should be anticipated and monitored closely during the second year of program operation.

#### 4.4.3 Trier of the Facts

The California Career Criminal Statute specifically instructs that the trier of the fact (judge or jury) are not to know that the case involves a career criminal defendant. It was the general consensus of all public defenders interviewed that the judiciary at a minimum were aware that cases involved career criminals. This knowledge was due to the fact that they know which prosecutors were involved in prosecuting career criminal cases. (Judges that were interviewed in the various counties also tended to support this conclusion.) However, as most cases were tried by juries and not by the judge, and there seems to be minimal community knowledge concerning the Career Criminal Prosecution Program, it is MetaMetrics' conclusion that the trier of the fact as specified were not knowledgeable that the case involved a career criminal defendant.

#### 4.7 Summary

In summary, the Public Defender's position concerning the Career Criminal Prosecution Program was that the career criminal prosecutors do not have enough to do, are bright and competent but are dealing by and large with "dead-bang loser cases," that don't require much prosecutorial effort, and they would anticipate seeing considerable staff turnover in the CCP Unit due to the lack of interesting cases that are prosecuted by these Units.

#### 4.5 COMMUNITY IMPACT

The observation of most of the individuals interviewed in the twelve counties is that there has been little or no public awareness of the Career Criminal Prosecution Program. Only in one county has the District Attorney's Office attempted to publicize the existence of a CCP Unit through the use of bumper stickers and media related activities. Generally though, it has been the policy of the Unit Chiefs to maintain a low profile.

## SECTION 5

### CAREER CRIMINAL PROGRAM ISSUES

In the course of the first eighteen months of program operation, several issues have arisen concerning the implementation of the program and interpretation of the legislation. These issues fall into one of two categories:

- Items needing a response that were raised in the preliminary report (dated January, 1979) to the Legislature which dealt with the program's first six months of operation; or
- Issues which have emerged subsequent to the issuance of the preliminary report.

#### 5.1 RESPONSE TO ISSUES RAISED IN THE PRELIMINARY REPORT TO THE LEGISLATURE

##### 5.1.1 Non-Career Criminal Co-Defendants Prosecuted With Career Criminals

Rough estimates indicated that as much as 15-20 percent of the workload in the Career Criminal Unit may be comprised of the prosecution of non-career criminal co-defendants. These are persons who are charged along with career criminal defendants in the same case, but who do not qualify as career criminals. In all of the CCU's that prosecute non-career criminals along with career criminals, it was found that this practice is advocated by prosecutors for cost and time efficiency. Penal Code 1098 provides that jointly charged defendants shall be tried jointly. There is no reason to deviate from this standard because to do so would impose an undue burden on the criminal justice system, waste taxpayers' dollars,

and significantly hamper the effective prosecution of both the career and non-career criminals.

Since the Career Criminal legislation neither prohibits nor authorizes the prosecution of non-career criminal co-defendants, and because this appears to be a more practical approach to prosecution, it was suggested by District Attorneys' offices that CCU's should continue to prosecute non-career criminal co-defendants if it appears that the career criminal attorney stands a greater chance of successfully prosecuting a career criminal whose case is linked to that of his or her co-defendant.

In order to deal with this matter, OCJP issued a written policy to participating District Attorneys:

Policy on Co-Defendants

Where, under Penal Code Section 1098, relating to joint prosecution of defendants who are jointly charged, it is appropriate that one or more individuals meeting the career criminal selection criteria set forth in Penal Code Section 999e be jointly prosecuted with one or more defendants not meeting such career criminal criteria, the career criminal unit may prosecute all such cases which are properly joined. Moreover, in the event charges against the career criminal defendant are dismissed prior to or during trial, the career criminal unit may continue to prosecute each non-career criminal defendant, if to do otherwise would jeopardize its effective prosecution.

Before formally issuing this policy, OCJP asked the California Attorney General, as part of a request for an opinion dealing with several CCP Program issues if this policy represented an appropriate exercise of administrative powers by OCJP under SB 683. The Attorney General's Opinion (see Appendix C) concludes that OCJP could appropriately issue such a policy.

5.1.2 Non-Career Criminal Co-Defendants Prosecuted Alone

Occasionally after prosecution of a case has begun in which there is a career criminal and a non-career criminal co-defendant, charges against the career criminal will be dropped leaving only the non-career criminal defendant(s). This happens either when the career criminal pleads guilty or when further research shows that the defendant did not actually qualify as a career criminal. Understanding that the CCU's have been established to prosecute only career criminals, the issue of how to proceed on these cases needs to be resolved. It was suggested by those responsible for administering the CCU's, again on the basis of time and cost efficiency, that the District Attorney's offices use their discretion to determine which action would least jeopardize the successful prosecution of the non-career criminal defendants, yet not conflict with the state's career criminal statutes. The main consideration in this use of local discretion is the point to which the case has progressed. Obviously, if the case has been through the preliminary hearings and is involved in a superior court action, it would be advantageous for the career criminal unit to continue the prosecution of the non-career criminal defendant. It was noted in the preliminary report that an opinion from the Attorney General, dealing with Career Criminal Units prosecuting non-career criminal defendants, was being sought.

As part of OCJP's request for opinion, the Attorney General was asked to review a proposed policy dealing with this issue:

Policy on Prosecuting Defendants Erroneously Assigned to Career Criminal Units

If after substantial resources have been invested by a career criminal unit, it is determined that a defendant does not meet career criminal criteria, the prosecutor may, in the exercise of reasonable prosecutorial discretion, continue the prosecution of the case if its relinquishment to another unit would jeopardize its effective prosecution.

As noted in the Attorney General's Opinion (see Appendix C), the OCJP establishment of the policy was appropriate.

5.1.3 "Personal" vs. "Unit" Vertical Prosecution

Senate Bill 683 clearly requires vertical prosecution of career criminal cases. Section 999d states, in part, that "Enhanced prosecution efforts and resources shall include, but not be limited to: a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a career criminal case will perform all subsequent court appearances on that particular case through its conclusion including the sentencing phase." In practice, however, there are difficulties in many of the CCU's with maintaining "personal" vertical prosecutions in which the same prosecutor would follow the case through every process. It was the consensus of CCU project directors that personal vertical prosecution in every case (i.e., the handling of a case from start to finish by one prosecutor) is impossible. Calendaring conflicts, vacations, and the like make it literally impossible for a single deputy to handle every case to completion.

In these cases, the CCU's almost always ensure that they provide "unit" vertical prosecution. Because the CCU staff work so closely together, it is felt that very little effectiveness is lost when one of the CCU colleagues steps in under extraordinary circumstances and carries another CCU prosecutor's case. CCU staff emphasize that the concept of vertical prosecution really is not jeopardized in these situations because of the close working relationship of the CCU prosecutors. Since the legislation so clearly stipulates that personal vertical prosecution shall be used, concern has been voiced over use of unit vertical prosecution. Most, if not all of the prosecutors, however, are convinced of the value of vertical prosecution and, therefore, they are positively biased toward using personal vertical prosecution whenever possible. Unfortunately, they argue, to guarantee personal vertical prosecution in all cases would require more deputies than are presently in the CCU's.

In response to this item, like the two discussed above, OCJP prepared a written policy on the matter and incorporated it in a request for opinion directed to the Attorney General:

Policy on Vertical Prosecution

Although the overall goal shall be that the same attorney prosecute a case from beginning to end, it shall be permissible where necessary because of extraordinary circumstances such as illness or scheduling constraints, for more than one attorney within the career criminal unit to prosecute a case providing the unit has developed an effective system of coordination and information exchange so that subsequent counsel is briefed on all significant aspects of a case prior to handling that case.

As noted in the Attorney General's Opinion (see Appendix C), OCJP properly issued such a policy administratively.

#### 5.1.4 Offender Criminal Histories

Many of the CCU's were concerned that they are unable to get timely background record sheets on the offenders they are screening for the career criminal program. Basically, there appear to be four sources from which they can obtain background information on offenders. The first source is their own records which may be kept according to their own past involvement with an offender, but these do not necessarily contain any information on prosecutions by other jurisdictions. These records, then, may be insufficient to show that a particular offender has the past record to qualify for the career criminal program. The second source is from contacts with other criminal justice agencies in other jurisdictions. This is generally not thorough or reliable enough to be a practical means of gathering all needed background information. The third source is from the California State Department of Justice. Most CCU investigative staff have reported that they sometimes have difficulty obtaining timely returns on requests they make for "rap sheets". In order to assess whether or not an offender should be included in the career criminal unit, CCU's need a response time of approximately 24 hours. Beyond that, the CCU's run the risk of not recognizing a career criminal in time to participate in the early stages of investigation and prosecution. This helps to create the problem described above in which vertical prosecution is jeopardized because of insufficient background

information. The fourth source of criminal history information is the FBI. Here again, the units report significant time delays in receiving responses to their request for information.

Since this matter was raised in the first report, two things have happened which were aimed at assisting CCU's to obtain criminal history data on a more timely basis. First, OCJP convened a meeting of representatives from the Department of Justice, Career Criminal Prosecution Units and other interested state and local justice agencies. As a result of this meeting several suggestions, as an interim solution, were made on how to accomplish the exchange of criminal history information on a more timely basis.

Second, and more recently, the California Council on Criminal Justice approved a grant request from the Department of Justice for \$590,000 in LEAA funds to begin an "Automated Name Index" project. The focus of this new program is to make criminal history information available to authorized state and local law enforcement agencies in a more accurate and timely fashion.

#### 5.1.5 Prosecution of Juvenile Offenders

The issue has been raised as to whether or not juvenile offenders may be prosecuted by CCU's. According to Section 999e(a), "An individual shall be subject of Career Criminal Prosecution efforts who...". The statutory language does not limit the application of the Act to adult offenders only. Therefore, a juvenile who is "being prosecuted for three or

These separate offenses not arising out of the same transaction and involving one or more of the target offenses", may arguably be prosecuted in a CCU. However, in qualifying a juvenile offender for prosecution by the CCU, any past juvenile records could not be utilized since juvenile petitions are "sustained" or "admitted" and such actions are not recognized as convictions.

To further clarify this issue, OCJP sought and received an opinion from the Attorney General. As noted in the Opinion (see Appendix C), an OCJP policy authorizing CCU's to prosecute juveniles who meet the career criminal criteria set forth in Penal Code Section 999e would not constitute an appropriate exercise of administrative power and should more appropriately be dealt with by the Legislature.

Research studies continue to identify the mid to late teens and early twenties as a particularly active period of criminality for career criminals. For example, a study by the Rand Corporation revealed that the most active offenders tend to be younger (ages 16 to 22) and have records of prior felony convictions. In addition, they tend to begin to commit serious crimes at an earlier age and to engage in serious juvenile crime at a higher rate than less active offenders. The study also found that the greatest punishment from the criminal justice system came at considerably later ages.

Although most CCP programs do not get the younger, more active defendant due to the use of selection criteria that emphasize an established pattern of criminality through

multiple felony convictions this issue continues to be one of major concern to CCP Programs in California and across the nation. In Los Angeles, a program funded by a grant from LEAA was established to deal with youthful gang members. "Operation Hardcore" is designed to identify hardcore youthful gang offenders and, using prosecutorial methods similar to those of the CCP Program, intensify prosecutive efforts in processing such cases through the criminal justice system. The San Diego County District Attorney established, on an experimental basis, a policy and criteria by which a juvenile would be subject to referral for adult prosecution units in that Office's Juvenile Division. It is evident that as long as emphasis is placed on past adult felony convictions, the CCP Program will primarily deal with the older (28-30 year old) former felon and multiple repeat offender. In order to get at the more active youthful offender, it would be necessary to "pierce the eighteen-year-old veil". The use of prior juvenile petitions as a means to qualify a defendant into the CCP Program may be a change that the California Legislature will want to consider.

#### 5.1.6 Grand Theft - Auto

Grand Theft - Auto is one of the seven target offenses. Several CCU's posed the question as to whether the Legislature, in referring to Grand Theft-Auto, meant to include 10851 Vehicle Code as well as 487 Penal Code. The Grand Theft-Auto referred to in the legislation is often interpreted to refer only to Section 487

of the Penal Code requiring that the owner is "permanently" deprived of the vehicle, as distinguished from Section 10851 of the California Vehicle Code which specifies that the owner need only be "temporarily" deprived of the use of the vehicle. While this issue was not dealt with in OCJP's earlier request to the Attorney General for an opinion dealing with several CCP-related items, clarification will be sought and the response included in next year's report to the Legislature.

#### 1.1.7 Possible Conflict with County Justice Subvention Program AB 90

A specific issue related to local funding pressures is what many prosecutors see as a conflict between the purposes of Senate Bill 683 and those of the County Justice System Subvention Program (AB 90, 1978). Under AB 90, an important form of state assistance to county criminal justice agencies may be jeopardized if a county exceeds a specified rate of commitments, calculated under Section 1812 of the Welfare and Institutions Code, to the Department of Corrections and the California Youth Authority.

As noted in the preliminary report dated January, 1979, to the Legislature, OCJP reported that it was meeting with the Department of the Youth Authority to determine the best means of avoiding conflict between one funding system, designed to serve as an incentive to local efforts to send repeat offenders to prison, and another funding system, designed to support local alternatives to state-level incarceration. As the Youth Authority continues to refine its policies and procedures

governing the subvention program, OCJP and representatives of District Attorneys and county government are maintaining close contact with the Department in an effort to deal with this issue administratively. A followup report on this item will be included in the next report to the Legislature.

#### 5.2 DISCUSSION OF OTHER CCP PROGRAM ISSUES

To date, Career Criminal Prosecution has consisted of a set of case management procedures used by a specifically created unit, focusing on a designated population of multiple, repeat offenders. California is in the unique position to experiment with the program. This subsection examines some of these program related issues.

##### 5.2.1 Selective Use of CCP Management Practices

A factor that may result in the enhancement or refinement of the CCP Program is the introduction of selected CCP-related case management procedures to other units of the District Attorney's Office. The introduction of no plea bargaining policies and vertical prosecution are, for example, in line with stated CCP Program goals. In some ways the CCP Program has served as an experimental design enabling District Attorneys to experiment with certain procedures and depending on the results, to incorporate them into overall office policies. By way of example, the Los Angeles County District Attorney has decided to implement vertical prosecution in the Office's Central Operations Bureau, which handles about 33 percent of the Office's prosecutions.

5.2.2 California Career Criminal Apprehension Program (C-CAP)

The C-CAP Program, established by SB 2019 (Holmdahl) (Chapter 1167 of 1978 Statutes) is the law enforcement component of California's Career Criminal Program. The major focus of C-CAP is to apply enhanced law enforcement service delivery concepts. The end product of the program is increased effectiveness of all law enforcement services with primary emphasis on increasing quality arrests, case clearances and successful prosecution of multiple, repeat offenders. With a special award of about \$2 million in reverted LEAA funds, the OCSJ and OCJP are implementing C-CAP units in eight California law enforcement agencies. These new programs are in addition to eight already in existence that are directly funded by the LEAA in Washington, D. C.

It should be noted that only law enforcement agencies from counties with Career Criminal Prosecution Programs were considered for funding. OCJP, with the assistance of an Advisory Committee consisting of persons representing prosecution, law enforcement, legislative and general local government, has developed and will soon be implementing a program evaluation of C-CAP. The impact that CCP and C-CAP have on each other will be dealt with in future reports to the Legislature.

5.2.3 Public Defender's Office

Other than the District Attorney's Office itself, the CCP Program to date appears to have had substantial impact on the Department of Corrections and the Public Defender's Office.

Although there may be a need to conduct a detailed study of the CCP impact on the Public Defender's Office, insufficient information is available to determine the effect that the CCP Unit has had on their operations.

Burdened by Proposition 13 cutbacks which, on a statewide basis, appear more severe than those encountered by District Attorney Offices, and by the no plea bargaining posture of the CCP Units, several of the Public Defender's Offices are contemplating policies and procedural changes to confront the CCP prosecution efforts. Such tactics as the use of motions and other delay, and insistence on jury trials for all career criminal cases have been considered. The extent to which these actions are carried out may have an impact on the adjudication process. While additional state funding for the Public Defender's Offices to counter the balance impact that the CCP Units has been suggested, this issue will be monitored and discussed further in next year's report to the Legislature.

5.2.4 Department of Corrections

The impact of career criminal prosecution will no doubt be felt by the California Department of Corrections. As ever increasing number of defendants are prosecuted and convicted by the CCP Units for longer sentences, the need for more prison facilities will probably increase. Future analysis concerning the Career Criminal Program in the State of California will attempt to identify correctional costs that are predictably associated with improved prosecution. This analysis will be part of next year's report to the Legislature.

### 5.1.3 Sentencing Constraints

The convicted career criminal defendant in California is likely to spend less prison time here than in many other states having Career Criminal Prosecution Programs. Although the program demonstrated a significant increase in the amount of state prison time given to the convicted career criminal defendant (five years five months vs. four years five months for the control population) it is considerably lower than the nearly nine year average per defendant reported by the Portland, Oregon, Career Criminal Unit.

### 5.3 CONCLUSION

While this section of the report discussed several issues which have been identified during the Program's first eighteen months of experience, there will no doubt be others just as deserving of further study. It is the intent of the OCJP to continue to monitor and study the programs of the CCP Programs supported with state and federal funds. The next report to the Legislature will incorporate further information about these issues and any other significant items that may surface during the Program's next year of operation.

APPENDIX A

## APPENDIX A

### EVALUATION METHODOLOGY

The Office of Criminal Justice Planning, in conjunction with the Evaluation/legislative Subcommittee of the California Career Criminal Program Steering Committee, devoted considerable time and resources to develop a comprehensive evaluation approach to accurately determine the degree of success and the impact of the CCP Units in the State of California. The purpose of the evaluation of this program is to determine the effectiveness of case management practices in relation to the stated objectives identified in the Career Criminal Legislation in all funded jurisdictions. Each unit determined the level of criminal activities that constitutes career criminal behavior based on the provisions set forth in SB 683 legislation. The Office of Criminal Justice Planning was given the mandate to document the effects of each individually funded CCP Unit, and to report the results on an annual basis to the State Legislature.

#### A.1 EVALUATION OBJECTIVE

Based on the provisions set forth in the Request for Proposals issued by the Office of Criminal Justice Planning and the legislative mandate of SB 683, the evaluation framework was intended to determine if, and to what extent, the following objectives were accomplished:

- Objective 1: To demonstrate that all reasonable prosecutorial efforts have been made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.
- Objective 2: To demonstrate an increased use of enhancements.
- Objective 3: To eliminate or reduce the use of plea bargainings.
- Objective 4: To demonstrate an increase in conviction rates for career criminal offenders prosecuted by CCP Units.

- Objective 5: To demonstrate a higher rate of conviction on the most serious charges.
- Objective 6: To demonstrate an increase in the length of sentence and the ratio of maximum sentences in career criminal cases.
- Objective 7: To demonstrate a reduction in the amount of time required to prosecute a case.
- Objective 8: To demonstrate a reduction in the prosecutor's caseload.
- Objective 9: To determine whether vertical prosecution, i.e., the use of one prosecutor per case from arraignment to sentencing, occurred with career criminal cases.

In addition to the quantifiable performance measures, there were several other key objectives that were stressed in the state legislation that do not require a pre-post statistical or quantitative analysis. These include:

- Objective 10: To determine if improved "quality" prosecutorial efforts have occurred with CCP programming activities.
- Objective 11: To determine the cost factors associated with CCP Prosecution Offices and conduct a cost-effectiveness analysis of the program.
- Objective 12: To determine the impact that the program has had on other components of the criminal justice system, specifically corrections, courts, law enforcement and Public Defender's Offices.

#### A.2 EVALUATION DESIGN

The primary responsibility for conducting the evaluation was assumed by (MetaMetrics, Inc.). It was the intent of OCJP that MetaMetrics conduct the evaluation placing the highest priority on the four-cell model discussed in the Request for Proposals issued by the OCJP.

The evaluation was based on the concepts of both process and impact in order to define the relationship of realized changes to causal factors within the funded projects.

##### A.2.1 Process Evaluation

The process evaluation provided essential information and

analysis to determine what project activities, procedures and issues effected the achievement of the program objectives. The result of the process evaluation is described in Section 2 and 4 of this report. The following table outlines major process components and indicators/measures.

TABLE 1

#### PROCESS COMPONENTS AND INDICATORS/MEASURES

<u>COMPONENTS</u>	<u>INDICATORS/MEASURES</u>
<u>1. Activities</u>	
• Identification of career criminals	Stated selection criteria, case records, screening procedures
• Coordination	Relations with court staff, police and other agencies; special pre-sentencing investigation
• Case Flows	Disposition times, times of decision points, size of caseload
• Court Information	Use of computerized and manual records to identify career criminals
• Prosecutor Functions	Case preparation, investigation sentence advocacy
• Program Development	Procedures for and linkages with key court officials for program changes and enhancement
<u>2. Resources</u>	
• Staff	Available support to specialized prosecutors
• Facilities	Office space, layout and proximity to major court functions
<u>3. External Factors</u>	
• Constraints	Existing administrative procedures that affect the project, additional required staff resources, transfer of needed information, impact of Proposition 13 on staff and other resources

A.2.2 Impact Evaluation

The Career Criminal Prosecution Program will affect the criminal justice system from apprehension through case disposition, as well as the defendants. Again, the case flow information will provide consistent and relevant data for cross sectional comparisons and overall impact. Additional information (i.e., results of data analysis of non-career criminal defendants) will be required to shed light on program impact. The following table outlines impact components and indicators/measures.

TABLE 2

IMPACT COMPONENTS AND INDICATORS/MEASURES

<u>COMPONENTS</u>	<u>INDICATORS/MEASURES</u>
1. <u>Criminal Justice System</u>	
• Police	Cooperation for investigative purposes, court appearance time, boost in morale
• Corrections	Probation caseload changes, incarceration levels, sentence changes, PSI reports
• Public Defender	Increased workload
2. <u>Court Structure</u>	
• Organization and Procedures	Changes in prosecution staffing and procedures, required time for case preparation
• Caseloads	Changes in resource allocation, differences in costs for regular and career criminal prosecution
3. <u>Defendants/Convicted Offenders</u>	
• Awaiting Trial	Changes in size of load, utilization of release to community, use of plea bargaining
• Convicted Offenders	Length of sentence, use of incarceration vs. probation

A.3 THE FOUR-CELL EVALUATION MODEL

The evaluation methodology proposed by the Office of Criminal Justice Planning, and subsequently followed by the evaluators, consisted of a four-cell analysis of defendant data. Measurement of the stated objectives was determined by a pre/post comparison of current career criminal defendants with the selected baseline career criminal group. In addition, information was also collected on a pre/post basis for non-career criminal defendants from each major site involved in the evaluation. This analysis of the non-career criminal population provided a basis by which to compare and contrast the difference observed in analysis of the career criminal groups. This study represents the first statewide evaluation of Career Criminal Prosecution Programming to utilize a four-cell evaluation model. Generally, this type of evaluation involves only pre/post analysis of a control or baseline group matched with the current group of defendants.

A.3.1 The Four Cells

This method utilized the approach of comparing pre-program data (baseline) with post-program data (current) for the following two sets of defendants:

- Career Criminal Defendants. These are defendants who would have qualified as career criminals in the past had there been a program, and those persons now being prosecuted by the CCP Units (Cells A and B).
- Non-Career Criminal Defendants. These are defendants prosecuted by the District Attorney's Office that do not, or would not have, qualified as career criminals (Cells C and D).

FIGURE 1

FOUR-CELL MODEL

	CONTROL (Pre)	CURRENT (Post)
Career	A Career Criminal Type Defendants	B All CCP Unit Defendants Prosecuted
Non-Career	C Non-Career Criminal Defendants	D Concurrently Prosecuted non-career criminal types

Cells A, C and D will include a randomly selected sample of cases for each target crime identified in the District Attorney's grant award as a "crime specific of their unit", i.e., burglary, robbery or all seven target offenses. Each participating District Attorney's Office has had the responsibility for collecting the data on the career criminal defendants.

The four-cells of data illustrated in Figure 1 allows for comparisons and correlations between Cells A and B and between Cells C and D. (Note: Comparison of the data will always be made on a pre/post basis comparing baseline career criminals with current career criminals or comparing baseline non-career criminals with current non-career defendants). These comparisons demonstrate changes in the prosecution and disposition of career criminals and non-career criminal defendants on a pre- and post-basis. The advantage of using a non-career criminal data base is that it provides an opportunity to determine the extent that dispositions were effected over the course of time and the results of those effects. It provides a context to better understand and interpret the results of the pre and post analysis of the career criminal cases.

#### A.3.2 Four-Cell Analysis

The comparison of baseline and current data for CCP Unit cases with parallel data for non-CCP Unit cases allows strong conclusions regarding the impacts of the CCP Program. Assume, for example, that the four-cell comparison for a given performance indicator yields the following result:

- A statistically significant improvement in performance indicators between baseline and current CCP Unit data.
- No statistically significant improvement (or an actual decline) between baseline and current indicator levels for non-CCP Unit cases.

In these instances, the interpretation would be straightforward. The factors which produced significant improvement in performance indicators with respect to cases which meet CCP Unit definitional criteria haven't produced significant improvement for non-career

criminal cases. Thus, we have strong grounds to infer that the reasons for improvement in CCP Unit eligible cases are program specific, i.e., the program has made a difference.

On the other hand, if the four-cell comparison revealed a significant improvement in non-CCP Unit performance indicators and no significant improvement in CCP Unit indicators -- or if there were no significant improvement for either set of data -- there would be strong evidence that the program has not made a difference.

Unfortunately, not all results are this clear. A difficult problem of interpretation is encountered when both CCP Unit and non-CCP Unit data indicate statistically significant improvement between baseline and current periods, but the magnitude of the improvement is greater for CCP Unit cases. The question for analysis is no longer whether the program makes a significant difference when compared to the baseline period. Rather, the question becomes whether the improvement for CCP Unit cases is significantly greater than the improvement for non-CCP Unit cases.

In fact, the above situation pertains for several important indicators in the present study. For these select indicators, conviction rate, conviction to top charge, incarceration rate, and state prison commitment rate, a "four-cell improvement analysis" was applied to directly test the statistical significance of differences in the amount of improvement for CCP Unit as compared to non-CCP Unit data.

To accomplish this test, a comparison was made between the portion of the potential performance improvement which has been realized in each comparison group (i.e., CCP and non-CCP). Measuring improvement as proportion of potential improvement provided a standard basis of comparison and allowed direct statistical testing of differences in those proportions. The procedure is fully explained in the four-cell analysis of conviction rates presented in Section 3 of this report.

#### A.4 SAMPLING PROCEDURES

MetaMetrics, Inc. assumed responsibility in collecting defendant information for Cells A, C and D. The individual CCP Units were responsible for providing to MetaMetrics information on the current career criminals prosecuted by the Units. The data instrument used in collecting defendant data for all four cells was the same. The Evaluation Data Form (EDF), developed by the OCJP, tracks defendant information from arrests to final case disposition.

##### A.4.1 Sample Size

Cells A, C and D include selected closed sample cases from each of the twelve jurisdictions. The size of the sample population was initially based on number of target offenses selected by a county. (See OCJP Request for Proposals, June 2, 1978). Based on OCJP projections, sample size for the baseline of career criminal population consisted of the following:

- One target crime - 50 sample cases.
- Two target crimes - 100 sample cases.
- Three target crimes - 150 sample cases.
- Four or more target crimes - 200 sample cases.

However, as no one county prosecuted 200 current career criminals, the projected sample data base was modified to reflect more accurately the current data base sample. The resultant data base (840 cases) represented nearly 75% of the actual number of career criminals (1133) prosecuted by the Units during the review period.

##### A.4.2 Case Selection Procedures

The sampling procedure used to determine both sets of baseline data, and the current non-career criminal population group (Cell D), varied according to the organization of the felony records at each of the Units. Basically, four steps were involved with sample selection of the career criminal population. They were:

1. Determining the time period to be used in selecting the sample population.
2. Identifying defendants meeting the target offense criteria established by the individual CCP Units. (This was accomplished through the use of the central indexing or register system used by the various District Attorney's Offices. In some instances, this involved computer printouts, in others it required a manual search of index cards, and in some counties it was listed in a register).
3. Using the lists of potential career criminals identified in the previous step, criminal case files were then physically examined to determine whether the defendant met the necessary qualifying criteria, e.g., three or more separate transactions, or the existence of a qualifying prior as specified in SB 683 legislation.
4. Cases that did not qualify for the career criminal sample population, became part of the non-career criminal sample group.

The most limiting factor in selecting baseline career criminal cases, was the fact that the evaluator could only select cases from approximately July or August of 1977 to March of 1978, when the CCP Units became operational. Because several of the programs were locally operational for one to three years prior to the establishment of a statewide Career Criminal Program, the control data base includes cases that preceded the operational date for those programs. Consequently, those defendants identified for that baseline group will be cases that are old, and secondly, that involve the indeterminate sentencing structure that existed prior to SB 42.

##### A.4.3 Baseline Cases

Baseline cases consisted of both career and non-career criminal defendants. These cases were selected on a systematic basis from closed felony files. Generally, the time period involved for the majority of the twelve jurisdictions was from July 1, 1977 through February 28, 1978. The sampling procedure previously discussed generally consisted of a random selection of case files. However, this varied from jurisdiction to jurisdiction.

tion, depending on the total felony files disposed of during a calendar year. In some counties, every third file or card or name on a register was initially identified and then subsequently screened in order to determine whether that individual qualified as either a career criminal or non-career criminal offender. In other counties, nearly all closed felony files were screened in order to insure that the projected sample population was achieved. A total of 950 non-career criminals and 840 career criminal defendants constitute the baseline data population.

#### A.4.4 Current Case

The identification and selection process for the career criminal unit cases was the responsibility of the individual CCP Units. All cases handled and completed by the Unit during the first sixteen months of program operations became part of this defendant population. (This data base consisted of 1133 defendants). It was the responsibility of the individual CCP Units to complete an EDF on each completed case. Defendant information was tracked by both case and defendant. Consequently, it is possible to have fewer defendants than cases handled by a given Unit. However, when defendants were involved in multiple offenses, the cases were consolidated by the Career Criminal Unit deputies, and reflected only one, not many cases. While the individual CCP Units assumed the responsibility for accurately reflecting case disposition and sentencing information from the EDFs provided to them by OCJP, MetaMetrics assumed full responsibility of the tabulation, manipulation and analysis of the data base. The results of their county-by-county analysis is provided in Appendix B of this report, and was forwarded for review to all the individual CCP Units.

The current case selection of the non-career criminal data base was assumed by MetaMetrics staff. The selection process followed the sampling procedures previously discussed. A total of 950 cases were identified. The time period coincided with

with the operational period of the CCP Units; generally this was from March 1978 through July 1979. Only closed adjudicated felony cases were included, and they also reflected the target crimes that were the focus of the individual CCP Units.

#### A.5 INTERPRETING THE RESULTS

A data base as detailed and extensive as the one generated in this evaluation project presents the researcher and the reader with some potential problems in interpreting the results. Some of the methodological considerations that should be taken into account in interpreting the results of the analysis, include the following:

##### A.5.1 Emphasis on Superior Court Closed Cases

In drawing the sample population of non-career and career criminal population, most cases selected tended to be closed superior court filings. This is a critical factor to consider when conducting the analysis of case dispositions. An examination of State OBTS Data suggests that anywhere from 75-80% of the cases in the majority of the targeted crime areas utilized by the individual CCP Units do not make it to superior court. The cases are disposed of in municipal court. Consequently, in order to designate a data base that would accurately reflect the overall system, a certain proportion of the cases surveyed should have been disposed of at the municipal court level. To the extent that it was feasible, given the time and financial constraints, MetaMetrics tried to get a mix of municipal and superior court cases. However, given the criminal case structure in most of the counties, it was extremely difficult or impossible to utilize municipal court records. Certainly a conclusion was that few cases disposed of at the municipal court level would have qualified for career criminal treatment. It is important to remember that the processing of a criminal case starts at arraignment. Consequently, it can be anticipated that some career criminal cases will drop out of the system at the municipal

court level. (In some counties, this was as high as 10% of the caseload during the first year of program operations.) To the extent that it was possible, MetaMetrics attempted to compare the drop-out rate in control groups with those in the Career Criminal Unit. Also it is important to note that they were rarely successful in identifying municipal control cases with municipal court final dispositions.

#### A.5.2 Charge Analysis

State and federal criminal justice statistics for courts, law enforcement, and district attorneys offices, are generally reported on a charge basis, i.e., law enforcement apprehended so many robbers which resulted in so many robbery convictions at the court level. In reality, and it certainly has been true with the career criminal cases in California, defendants are typically charged with a multitude of offenses. It was the rare exception that the career criminal defendant was identified or charged with only one of the target offenses and no others. This has bearing on the ultimate tabulation and presentation of the data analysis. Because the majority of defendants were involved in either multiple cases and/or multiple charges, this complicated data presentations. Consequently, in producing tables in which sentencing information, incarceration related information, MetaMetrics has, in those cases involving multiple charges and multiple convictions, identified the most serious charge in that grouping and utilized that charge for data analysis purposes. It was felt that the ability of the analysis to determine what percentage of individuals went to prison on convictions of robbery or burglary charges, etc. and the length of sentences awarded, overrode the objection that the analysis did not accurately reflect the total charge picture involving those defendants: i.e., that they may have very well been convicted of a robbery, and a burglary, and receiving stolen property, etc. The attempt to account for all possible permutations of charging information has resulted in tables twenty

to thirty pages long. Note: In the analysis, MetaMetrics differentiated between individuals sentenced with enhancements and those without enhancements, particularly pertaining to the length of the sentences.

#### A.5.3 Discretionary Control

Given the possible defendant population of career criminals for the majority of counties involved in this study, it is reasonable to assume that many Units exercise some discretionary control in the selection of cases that are ultimately handled by the Career Criminal Unit. MetaMetrics, however, in selecting control cases for the three cells, was not able to exercise a similar discretionary control. If a case qualified, based on the information provided in a case file information record, that case became part of the one of the three sample populations. Furthermore, particularly those cases selected for career criminal control groups, MetaMetrics was unable, for obvious reasons, to verify the prior felony convictions reported on the defendants rap sheet, probation report, or charging information sheet.

#### A.5.4 Unavailable Information

The evaluation data instruments (EDF) utilized in all four cells of data require a considerable amount of information concerning the disposition of the case. To the extent that information was available, the data collectors involved in this project reported the information on the EDFs. In many instances, this was impossible. Consequently, in certain areas of the EDF, the data elements will not be as completely filled out as those found on current cases completed by the individual CCP Units. However, even with cases completed by the individual CCP Units, there was often a case of missing data elements. In these instances, an effort was made by MetaMetrics, to contact all of the counties and indicate problem areas concerning their data base. Where possible, the missing data elements were corrected or provided.

APPENDIX B

APPENDIX B

COUNTY BY COUNTY PERFORMANCE AND FACTORS  
AFFECTING CCP PROGRAM RESULTS

This section examines performance statistics from each of the twelve counties submitting Evaluation Data Forms (EDFs) to the Office of Criminal Justice Planning. The analysis of the career criminal defendant data base was conducted by MetaMetrics, and was reviewed with each individual CCP Unit. Factors affecting program success are identified and presented.

B.1 FACTORS AFFECTING PROGRAM SUCCESS

An examination of county by county performance statistics indicates some variances in achieving the stated objectives of the CCP Program. Such factors as number of cases handled, conviction rate, case age, and other related performance measures differ substantially from county to county. The purpose of this evaluation report has been to collectively assess the success the Units have had in achieving the stated objectives of the Career Criminal Legislation. The subsequent report, to be issued in 1980, will examine in detail on a county by county basis the achievements of the individual Units. Based on the monitoring site visits conducted by both MetaMetrics and OCJP personnel, a number of factors were identified and account for some of the reported differences in performance measures achieved by the various Units.

B.1.1 Implementation of the Units

A key variable in accounting for some of the reported differences in the twelve Units is attributable to the different start-up dates for the Units. Not only did several counties start several months after the March 1977 date, but three counties already had ongoing Career Criminal Programs. The fact that some programs had one or more years of experience in

... a Career Criminal Unit within the District Attorney's Office greatly minimized problems typically associated with the establishment of a new program.

#### B.1.2 Target Selection

Although the Career Criminal Legislation identified seven target categories as the major focus for the CCP Units, it allowed local discretion in selecting which crime categories the Units were to concentrate on. This factor alone contributes in part to some of the differences noted in the individual county statistics. Obviously, those counties selecting all seven target crime categories had the potential to draw from a larger population group than did some of the other counties specializing in one or two of the target categories.

#### B.1.3 County Size

There are currently twenty-one Career Criminal Units operating throughout the State of California, including the most populous and geographically largest, as well as, some of the smaller counties. The population size of a county has direct bearing on the complexity and size of the local criminal justice system. For example, the Los Angeles County District Attorney's Office has over 600 deputy attorneys, making it larger than those found in many states. The potential for problems affecting a speedy adjudication process are directly related to the size of the criminal justice system. Consequently, those programs located in counties that have a complex judicial system tended to negatively impact several of the key performance measures examined in this study (i.e., case age, disposition, sentencing, et cetera).

The geographic size of a county also had some bearing on the ultimate results achieved by the CCP Units. Operating a CCP Unit in a large county usually resulted in the decentralization of the Unit into two or more components. This made management of a program more difficult.

#### B.1.4 Program Management

Management ability and support staff capability were both factors that were instrumental in the overall success of the CCP Units. The management of a Career Criminal Unit tended to reflect the organizational structure and efficiency of the District Attorney's Office of which it was a part. Efficient and well-managed District Attorney Offices tended to also have well-managed Career Criminal Units.

The selection of the deputy to administer the program had a significant effect on the ultimate success and achievement of the CCP Unit. Based on interviews with those prosecutors associated with the Units, and those not part of the Unit, stressed that the role of the administrator of the CCP Unit was a dual one, in that, they had to be both able administrators and knowledgeable trial attorneys to be successful in this effort. To the extent then that the administrator of the Career Criminal Unit combined organizational and administrative abilities with a tough-minded prosecutorial approach and trial skills, generally resulted in a better program performance.

Equally important in the selection of an administrator was the selection of the associate deputies assigned to the Unit. In selecting deputies to be part of the Career Criminal Unit, the District Attorney and administrator of the Unit generally sought out individuals with a hard-line prosecutorial approach, a proven trial record, a desire for engaging in trial activities, and enthusiasm for prosecuting a case.

A key factor that enhanced program administration and management was the selection of administrative assistants. Given the reporting requirements associated with operating this type of program, it became important to select an individual to oversee the detailed paperwork required for grant purposes.

Both the decision to utilize a full-time investigator by a Unit, and the selection of that individual, were also important factors contributing to the overall success of the individ-

ual CCP Units.

On the negative side, staff turnover, particularly attorneys, was disruptive and resulted in some difficulties in program management in the counties where this occurred. Continuity of program operations was affected which in turn had an impact on several of the performance measures used in the evaluation of the program's accomplishments, particularly vertical representation.

#### B.1.5 Career Criminal Unit Operation

Built into the Career Criminal Legislation were a series of management practices that had a direct bearing on the ultimate success achieved by the individual CCP Units. Specifically, the following prosecutorial activities largely contributed to the success of the program:

- Vertical Case Processing. Vertical case representation is a luxury not typically found in a District Attorney's Office. Although many programs experience difficulty in maintaining a strict individual vertical representation on all career criminal cases due to court conflicts, vacations, illnesses, et cetera, an attempt was made to achieve this objective. The fact that a deputy handles a case from a point of arraignment through final adjudication has had a significant impact on the final disposition. This conclusion is supported both by the statistics and the interviews conducted with Unit attorneys.
- Reduced Caseload. Concomitant with the policy of trying a case vertically, the decision to have a reduced caseload per deputy was also a significant factor in the success the Units demonstrated. With early involvement in a case and a reduced caseload, the prosecutor had the luxury of building a solid case.
- No Plea Bargaining Policy. Having a firm no plea bargaining policy also facilitated prosecutorial activities in the CCP Unit. Given the fact that 80-85% of felony cases in California are negotiated prior to a trial, a significant portion of district attorney deputies' time is spent in working out a negotiated settlement of a case. The assumption of a no plea bargaining policy eliminates this burden from a prosecutor's workload.

#### B.1.6 Cooperation with Other Components in the Criminal Justice System

The success achieved by the individual CCP Units greatly depended on the cooperation of other components of the criminal justice system, specifically, law enforcement agencies and the courts. The CCP Units depended upon good police work and law enforcement assistance in the screening and identification process, and in preparing and conducting the necessary investigations. They were equally dependent upon judges and courts to expedite the processing of the cases.

This dependency upon the cooperation and assistance of other components of the criminal justice system is critical in understanding some of the built-in limiting factors associated with some of the performance measures used in this evaluation. The CCP Units were being evaluated in several key areas that they had limited or no control over, i.e., such stated objectives as lower case age and longer sentences were beyond the direct control of the individual CCP Units. These were areas in which the prosecutor was dependent upon the efficient operation and management of other components within the criminal justice system to assure his success. Consequently, counties that demonstrated a reduced case age reflect not only the efforts of the CCP Unit Chief to speed up the process but, also reflects on court management practices within that county's court system. The extent that the Public Defender's Office actively sought to disrupt the system through the use of motions and other delaying tactics, negatively extended the case age, these tactics were also beyond the direct control of the prosecutor.

#### B.2 INDIVIDUAL COUNTY STATISTICS

The following are statistics, by county, of the CCP. These data are divided into baseline and current data. The current data are cumulative totals of the data received by the evaluator from the CCU's from March, 1978 through July, 1979.

ALAMEDA

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	74		88	
Avg. Age of Def.:	29.4		28.4	
<b>CONVICTION</b>				
Plead Guilty	58	78.4	65	73.9
Jury	3	4.0	11	12.5
Court	1	1.4	1	1.1
Unknown/Blank	-	-	-	-
Subtotal	(62)	(83.8)	(77)	(87.5)
<b>ACQUITTAL</b>				
Subtotal	(2)	(2.7)	(1)	(1.1)
<b>DISMISSAL</b>				
Prosecution Court	3	4.0	7	8.0
Subtotal	(7)	(9.5)	(3)	(3.4)
Subtotal	(10)	(13.5)	(10)	(11.4)
TOTAL	74	100.0	88	100.0
Trial Rate:	8.1%		14.7%	
Def. Convic. Rate:	83.3%		87.5%	
Charge Convic. Rate:	47.1%		62.0%	
<b>DISPOSITION</b>				
CYA	3	4.8	-	-
CRC	-	-	3	3.9
Probation	7	11.3	1	1.3
Probation/Jail	11	17.7	1	1.3
Prison	38	61.3	70	90.9
Other	-	-	1	1.3
Jail	3	4.8	-	-
Unknown	-	-	1	1.3
Subtotal	62	99.9	77	100.0
Incarceration Rate:	70.9%		94.8%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A	-	-	-
Prison Incarceration (avg.):	3/0	38	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	N/A		76.0	
Arrest to Dismiss:	N/A		10.0	
Days in CCU:	N/A		87.0	

CONTRA COSTA

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	52		73	
Avg. Age of Def.:	28.3		29.9	
<b>CONVICTION</b>				
Plead Guilty	41	78.8	54	74.0
Jury	5	9.6	13	17.8
Court	-	-	-	-
Unknown/Blank	1	1.9	-	-
Subtotal	(47)	(90.3)	(67)	(91.8)
<b>ACQUITTAL</b>				
Subtotal	(1)	(1.9)	(-)	(-)
<b>DISMISSAL</b>				
Prosecution Court	2	3.8	3	4.1
Subtotal	(2)	(3.8)	(3)	(4.1)
Subtotal	(4)	(7.6)	(6)	(8.2)
TOTAL	52	99.8	73	100.0
Trial Rate:	11.5%		17.8%	
Def. Convic. Rate:	90.3%		91.8%	
Charge Convic. Rate:	59.8%		71.8%	
<b>DISPOSITION</b>				
CYA	-	-	4	6.0
CRC	3	6.4	4	6.0
Probation	2	4.3	-	-
Probation/Jail	9	19.1	3	4.5
Prison	32	68.1	55	82.1
Other	-	-	-	-
Jail	1	2.1	1	1.4
Unknown	-	-	-	-
Subtotal	47	100.0	67	100.0
Incarceration Rate:	76.6%		95.5%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A	-	-	-
Prison Incarceration (avg.):	3/3	32	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	103.1		159.3	
Arrest to Dismiss:	142.8		139.0	
Days in CCU:			151.5	

FRESNO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	63		50	
Avg. Age of Def.:	28.4		29.0	
<b>CONVICTION</b>				
Plead Guilty	45	71.4	25	50.0
Jury	10	15.9	17	34.0
Court	2	3.2	-	-
Unknown/Blank	-	-	-	-
Subtotal	(57)	(90.5)	(42)	(84.0)
<b>ACQUITTAL</b>				
Subtotal	(-)	(-.)	(-)	(-.)
<b>DISMISSAL</b>				
Prosecution Court	5	7.9	4	8.0
Subtotal	(6)	(9.5)	(8)	(16.0)
TOTAL	63	100.0	50	100.0
Trial Rate:	19.1%		34.0%	
Def. Convic. Rate:	90.5%		84.0%	
Charge Convic. Rate:	57.3%		56.6%	
<b>DISPOSITION</b>				
CYA	1	1.8	1	2.4
CRC	4	7.0	3	7.1
Probation	1	1.8	-	-
Probation/Jail	9	15.8	1	2.4
Prison	38	66.6	35	81.3
Other	-	-	-	-
Jail	4	7.0	2	4.8
Unknown	-	-	-	-
TOTAL	57	100.0	42	100.0
Incarceration Rate:	82.5%		97.6%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A			
Prison Incarceration (avg.):	4/5	38	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:		74.5		
Arrest to Dismiss:		79.0		
Days in CCU:		-----		
		122.1		
		37.0		
		89.9		

LOS ANGELES

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	84		130	
Avg. Age of Def.:	25.4		28.1	
<b>CONVICTION</b>				
Plead Guilty	56	66.7	89	68.5
Jury	6	7.1	18	13.8
Court	4	4.8	4	3.1
Unknown/Blank	-	-	-	-
Subtotal	(66)	(78.6)	(111)	(85.4)
<b>ACQUITTAL</b>				
Subtotal	(3)	(3.6)	(1)	(0.8)
<b>DISMISSAL</b>				
Prosecution Court	5	6.0	5	3.8
Subtotal	(15)	(17.9)	(18)	(13.8)
TOTAL	84	100.0	130	100.0
Trial Rate:	15.5%		17.7%	
Def. Convic. Rate:	78.6%		85.4%	
Charge Convic. Rate:	32.3%		53.5%	
<b>DISPOSITION</b>				
CYA	9	14.1	12	10.8
CRC	-	-	1	0.9
Probation	3	4.7	-	-
Probation/Jail	8	12.5	6	5.4
Prison	39	60.9	87	78.4
Other	1	1.6	1	0.9
Jail	4	6.2	4	3.6
Unknown	-	-	-	-
TOTAL	64	100.0	111	100.0
Incarceration Rate:	81.2%		93.7%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	5/4	3	-	-
Prison Incarceration (avg.):	4/2	39	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:		-----		191.4
Arrest to Dismiss:		-----		115.6
Days in CCU:		-----		152.7

ORANGE

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	63		111	
Avg. Age of Def.:	28.6		27.2	
<u>CONVICTION</u>				
Plead Guilty	56	88.9	84	75.7
Jury	6	9.5	22	19.8
Court	-	-	3	2.7
Unknown/Blank	-	-	-	-
Subtotal	(62)	(98.4)	(109)	(98.2)
<u>ACQUITTAL</u>				
Subtotal	(-)	(--)	(-)	(--)
<u>DISMISSAL</u>				
Prosecution Court	1	1.6	2	1.8
Subtotal	(1)	(1.6)	(2)	(1.8)
TOTAL	63	100.0	111	100.0
Trial Rate:	9.5%		22.5%	
Def. Convic. Rate:	98.4%		98.2%	
Charge Convic. Rate:	41.2%		68.1%	
<u>DISPOSITION</u>				
CYA	-	-	1	0.9
CRC	7	11.3	-	-
Probation	11	17.7	1	0.9
Probation/Jail	-	-	4	3.7
Prison	44	71.0	102	93.6
Other	-	-	-	-
Jail	-	-	1	0.9
Unknown	-	-	-	-
TOTAL	62	100.0	109	100.0
Incarceration Rate:	82.3%		95.4%	
Prosecution Recommendation (avg.):	N/A		7/10	101 3 -
Prison Incarceration (avg.):	3/8	44 - -	7/1	101 1 -
<u>AVERAGE CASE AGE (average days)</u>				
Arrest to Convic:	111.7		110.0	
Arrest to Dismiss:	N/A		-	
Days in CCU:	-		87.0	

RIVERSIDE

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	55		77	
Avg. Age of Def.:	26.5		27.1	
<u>CONVICTION</u>				
Plead Guilty	37	67.3	58	75.3
Jury	8	14.5	12	15.6
Court	-	-	2	2.6
Unknown/Blank	2	3.6	-	-
Subtotal	(47)	(85.4)	(72)	(93.5)
<u>ACQUITTAL</u>				
Subtotal	(1)	(1.8)	(1)	(1.3)
<u>DISMISSAL</u>				
Prosecution Court	6	10.9	1	1.3
Subtotal	(7)	(12.7)	(4)	(5.2)
TOTAL	55	99.9	77	100.0
Trial Rate:	16.3%		19.5%	
Def. Convic. Rate:	85.4%		93.5%	
Charge Convic. Rate:	30.4%		61.7%	
<u>DISPOSITION</u>				
CYA	2	4.3	1	1.4
CRC	1	2.1	4	5.6
Probation	1	2.1	-	-
Probation/Jail	9	19.1	6	8.3
Prison	33	70.2	61	84.7
Other	-	-	-	-
Jail	-	-	-	-
Unknown	1	2.1	-	-
TOTAL	47	99.9	72	100.0
Incarceration Rate:	76.6%		91.7%	
Prosecution Recommendation (avg.):	N/A		5/4	69 1 2
Prison Incarceration (avg.):	4/8	33 - -	4/10	58 3 -
<u>AVERAGE CASE AGE (average days)</u>				
Arrest to Convic:	105.8		109.5	
Arrest to Dismiss:	126.5		80.0	
Days in CCU:	-		102.4	

SACRAMENTO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	<u>86</u>		<u>97</u>	
Avg. Age of Def.:	<u>28.6</u>		<u>27.8</u>	
<b>CONVICTION</b>				
Plead Guilty	68	79.1	69	71.1
Jury	9	10.5	18	18.6
Court	-	-	-	-
Unknown/Blank	-	-	1	1.0
Subtotal	<u>(77)</u>	<u>(89.6)</u>	<u>(88)</u>	<u>(90.7)</u>
<b>ACQUITTAL</b>				
Subtotal	(1)	(1.2)	(-)	(-.)
<b>DISMISSAL</b>				
Prosecution Court	7	8.1	9	9.3
Subtotal	<u>(8)</u>	<u>(9.3)</u>	<u>(9)</u>	<u>(9.3)</u>
TOTAL	86	100.1	97	100.0
Trial Rate:	11.7%		18.6%	
Def. Convic. Rate:	89.5%		90.7%	
Charge Convic. Rate:	<u>26.5%</u>		<u>50.6%</u>	
<b>DISPOSITION</b>				
CYA	3	3.9	5	5.7
CRJ	3	3.9	4	4.5
Probation	1	1.3	9	10.2
Probation/Jail	12	15.6	7	8.0
Prison	45	58.4	59	67.1
Other	1	1.3	-	-
Jail	11	14.3	4	4.5
Unknown	<u>1</u>	<u>1.3</u>	<u>-</u>	<u>-</u>
TOTAL	77	100.0	88	100.0
Incarceration Rate:	80.5%		81.8%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A	6/3	72	2
Prison Incarceration (avg.):	N/A	6/4	57	2
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	<u>81.0</u>		<u>124.7</u>	
Arrest to Dismiss:	<u>41.4</u>		<u>32.2</u>	
Days in CCU:			<u>122.6</u>	

SAN BERNARDINO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	<u>78</u>		<u>57</u>	
Avg. Age of Def.:	<u>27.5</u>		<u>28.2</u>	
<b>CONVICTION</b>				
Plead Guilty	66	84.6	41	71.9
Jury	9	11.5	12	21.0
Court	-	-	-	-
Unknown/Blank	-	-	-	-
Subtotal	<u>(75)</u>	<u>(96.1)</u>	<u>(53)</u>	<u>(92.9)</u>
<b>ACQUITTAL</b>				
Subtotal	(1)	(1.3)	(3)	(5.3)
<b>DISMISSAL</b>				
Prosecution Court	2	2.6	1	1.8
Subtotal	<u>(2)</u>	<u>(2.6)</u>	<u>(1)</u>	<u>(1.8)</u>
TOTAL	78	100.0	57	100.0
Trial Rate:	12.8%		26.3%	
Def. Convic. Rate:	96.1%		92.9%	
Charge Convic. Rate:	<u>51.6%</u>		<u>66.7%</u>	
<b>DISPOSITION</b>				
CYA	7	9.3	4	7.5
CRJ	3	4.0	-	-
Probation	7	9.3	2	3.8
Probation/Jail	15	20.0	-	-
Prison	38	50.7	40	80.6
Other	1	1.3	-	-
Jail	4	5.3	1	1.9
Unknown	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
TOTAL	75	99.9	53	100.0
Incarceration Rate:	69.3%		96.2%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A	4/10	48	-
Prison Incarceration (avg.):	4/3	38	-	2
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	<u>76.9</u>		<u>47.6</u>	
Arrest to Dismiss:	<u>18.5</u>		<u>153.0</u>	
Days in CCU:			<u>128.1</u>	

SAN DIEGO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	73		114	
Avg. Age of Def.:	23.9		27.1	
<b>CONVICTION</b>				
Plead Guilty	66	90.4	96	84.2
Jury	4	5.5	16	14.0
Court	1	1.4	1	0.9
Unknown/Blank	-	-	-	-
Subtotal	(71)	(97.3)	(113)	(99.1)
<b>ACQUITTAL</b>				
Subtotal	(-)	(-.-)	(1)	(0.9)
<b>DISMISSAL</b>				
Prosecution Court	-	-	-	-
Subtotal	(2)	(2.7)	(-)	(-)
TOTAL	73	100.0	114	(100.0)
Trial Rate:	6.9%		15.8%	
Def. Convic. Rate:	97.3%		99.1%	
Charge Convic. Rate:	34.8%		44.7%	
<b>DISPOSITION</b>				
CYA	1	1.4	3	2.7
CRC	2	2.8	2	1.8
Probation	2	2.8	-	-
Probation/Jail	25	35.2	4	3.5
Prison	40	56.3	103	91.1
Other	-	-	1	0.9
Jail	1	1.4	-	-
Unknown	71	99.9	113	100.0
TOTAL				
Incarceration Rate:	61.9%		95.6%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A			
Prison Incarceration (avg.):	N/A	6/2	103	-
		5/10	103	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	97.6		83.3	
Arrest to Dismis:	28.0		91.0	
Days in CCU:			79.2	

SAN FRANCISCO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	92		107	
Avg. Age of Def.:	30.0		32.5	
<b>CONVICTION</b>				
Plead Guilty	62	67.4	71	66.4
Jury	12	13.0	24	22.4
Court	-	-	-	-
Unknown/Blank	-	-	-	-
Subtotal	(74)	(80.4)	(95)	(88.8)
<b>ACQUITTAL</b>				
Subtotal	(2)	(2.2)	(6)	(5.6)
<b>DISMISSAL</b>				
Prosecution Court	13	14.1	6	5.6
Subtotal	(16)	(17.4)	(6)	(5.6)
TOTAL	92	100.0	107	100.0
Trial Rate:	15.2%		28.0%	
Def. Convic. Rate:	80.4%		88.8%	
Charge Convic. Rate:	53.2%		71.3%	
<b>DISPOSITION</b>				
CYA	-	-	1	1.0
CRC	7	9.5	1	1.0
Probation	-	-	1	1.0
Probation/Jail	30	40.5	8	8.4
Prison	34	45.9	81	85.3
Other	-	-	3	3.2
Jail	1	1.4	-	-
Unknown	2	2.7	-	-
TOTAL	74	100.0	95	99.9
Incarceration Rate:	56.8%		87.1%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A	6/10	91	-
Prison Incarceration (avg.):	N/A	5/7	82	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	93.9		90.2	
Arrest to Dismis:	53.1		65.6	
Days in CCU:			115.2	

**CONTINUED**

**2 OF 3**

SAN MATEO

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	48		132	
Avg. Age of Def.:	28.1		27.2	
<b>CONVICTION</b>				
Plead Guilty	40	83.3	111	84.1
Jury	7	14.6	16	12.1
Court	-	-	-	-
Unknown/Blank	-	-	3	2.3
Subtotal	(47)	(97.9)	(130)	(98.5)
<b>ACQUITTAL</b>				
Subtotal	(-)	(-.)	(1)	(0.8)
<b>DISMISSAL</b>				
Prosecution Court	-	-	1	0.8
Subtotal	(-)	(-.)	(1)	(0.8)
TOTAL	48	100.0	132	100.0
Trial Rate:	14.6%		12.9%	
Def. Convic. Rate:	97.9%		98.5%	
Charge Convic. Rate:	40.5%		58.4%	
<b>DISPOSITION</b>				
CYA	1	2.1	5	3.8
CRC	4	8.5	13	10.0
Probation	4	8.5	14	10.6
Probation/Jail	11	23.4	24	18.5
Prison	24	51.1	70	53.8
Other	-	-	2	1.5
Jail	3	6.4	2	1.5
Unknown	-	-	-	-
TOTAL	47	100.0	130	99.9
Incarceration Rate:	68.1%		69.2%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	N/A			
Prison Incarceration (avg.):	3/6	36	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	90.1		101.1	
Arrest to Dismiss:	130.0		150.0	
Days in CCU:			94.5	

B.16

SANTA CLARA

	Baseline		Current	
	Number of Defendants	Relative Frequency (%)	Number of Defendants	Relative Frequency (%)
# of Cases:	72		97	
Avg. Age of Def.:	26.6		27.5	
<b>CONVICTION</b>				
Plead Guilty	58	80.6	78	80.4
Jury	9	12.5	18	18.6
Court	-	-	-	-
Unknown/Blank	-	-	-	-
Subtotal	(67)	(93.1)	(96)	(99.0)
<b>ACQUITTAL</b>				
Subtotal	(-)	(-.)	(-)	(-.)
<b>DISMISSAL</b>				
Prosecution Court	5	6.9	1	1.0
Subtotal	(5)	(6.9)	(1)	(1.0)
TOTAL	72	100.0	97	100.0
Trial Rate:	12.5%		18.6%	
Def. Convic. Rate:	93.1%		99.0%	
Charge Convic. Rate:	54.1%		73.4%	
<b>DISPOSITION</b>				
CYA	6	9.0	7	7.3
CRC	2	3.0	3	3.1
Probation	1	1.5	-	-
Probation/Jail	25	37.3	3	3.1
Prison	32	47.7	83	86.5
Other	-	-	-	-
Jail	1	1.5	-	-
Unknown	-	-	-	-
TOTAL	67	100.0	96	100.0
Incarceration Rate:	61.3%		96.9%	
	Yrs/Mos	# of Def.	# of Life	# of Death
Prosecution Recommendation (avg.):	5/11	11	-	-
Prison Incarceration (avg.):	3/11	32	-	-
<b>AVERAGE CASE AGE (average days)</b>				
Arrest to Convic:	110.4		127.0	
Arrest to Dismiss:	90.4		-	
Days in CCU:			113.9	

E.17

APPENDIX C



GEORGE DEUKMEJIAN  
(Pronounced Duk-may-yan)  
ATTORNEY GENERAL

STATE OF CALIFORNIA



OFFICE OF THE ATTORNEY GENERAL

**Department of Justice**

110 WEST A STREET, SUITE 600  
SAN DIEGO, CALIFORNIA 92101  
(714) 236-7351

March 6, 1979

OPINION NO. CR 79/7 I.L.

Douglas R. Cunningham, Executive Director  
Office of Criminal Justice Planning  
7171 Bowling Drive  
Sacramento, California 95823

Dear Mr. Cunningham:

You have requested the opinion of this office on the following question:

Do several proposed policies with respect to the California Career Criminal Prosecution Program represent an appropriate exercise of the administrative powers of the executive director of the Office of Criminal Justice Planning?

The following policies are proposed for the program:

1. Policy on Vertical Prosecution

Although the overall goal shall be that the same attorney prosecute a case from beginning to end, it shall be permissible where necessary because of extraordinary circumstances such as illness or scheduling constraints, for more than one attorney within the career criminal unit to prosecute a case providing the unit has developed an effective system of coordination and information exchange so that subsequent counsel is briefed on all significant aspects of a case prior to handling that case.

2. Policy on Prosecuting Defendants Who Fall Outside the Letter of Chapter 1151

Under extraordinary circumstances, career criminal prosecutors may, through the exercise

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of reasonable prosecutorial discretion, prosecute habitual perpetrators of serious crime. This policy shall be valid, notwithstanding the fact that some defendants may not meet the criteria of Penal Code Section 999e, when their prosecution by the career criminal unit would further the intent of Chapter 1151. For purposes of this policy, "habitual perpetrators" shall refer to defendants who have been convicted at least three times of serious felonies.

### 3. Policy on Co-Defendants

Where, under Penal Code Section 1098, relating to joint prosecution of defendants who are jointly charged, it is appropriate that one or more individuals meeting the career criminal selection criteria set forth in Penal Code Section 999e be jointly prosecuted with one or more defendants not meeting such career criminal criteria, the career criminal unit may prosecute all such cases which are properly joined. Moreover, in the event charges against the career criminal defendant are dismissed prior to or during trial, the career criminal unit may continue to prosecute each noncareer criminal defendant, if to do otherwise would jeopardize its effective prosecution.

### 4. Policy on Prosecuting Defendants Erroneously Assigned to Career Criminal Units

If after substantial resources have been invested by a career criminal unit, it is determined that a defendant does not meet career criminal criteria, the prosecutor may, in the exercise of reasonable prosecutorial discretion, continue the prosecution of the case if its relinquishment to another unit would jeopardize its effective prosecution.

### 5. Policy on Prosecuting Juvenile Offenders

Juveniles who meet the career criminal selection criteria set forth in Penal Code Section 999e may be prosecuted by career criminal units.

The conclusion is:

The proposed policies 1, 3 and 4 represent an appropriate exercise of administrative power.

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Proposed policies 2 and 5 are not valid, however, because each conflicts with the statutes governing the Career Criminal Prosecution Program.

### ANALYSIS

As a general rule, a policy adopted by a state agency is valid if it is consistent and not in conflict with the statute it is designed to carry out and it is reasonably necessary to accomplish the purpose of the statute. (Gov. Code, § 11374.)

Chapter 2.3 of title 6 of the Penal Code (Pen. Code, §§ 999b-999h) establishes the California Career Criminal Prosecution Program (hereinafter CCP) and provides the basic structure for its operation. Penal Code section 999b states the legislative intent in establishing the program:

"In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute career criminals through organizational and operational techniques that have been proven effective in selected counties in this and other states."

The CCP is intended to provide financial and technical assistance for district attorney's offices. (Pen. Code, § 999c, subd. (a).) Funds appropriated for the CCP are to be allocated by the Office of Criminal Justice Planning to Career Criminal Prosecution units established in substantial compliance with the policies and criteria set forth in sections 999d, 999e, 999f and 999g. (Pen. Code, § 999c, subd. (b).)

The validity of each proposed policy in light of the CCP statutes will be discussed separately.

### 1. Policy on Vertical Prosecution

Penal Code section 999d provides that CCP units shall use enhanced prosecution efforts and resources, including "vertical prosecutorial representation," upon those specified as career criminals in section 999e. Section 999d, subdivision (a), defines vertical representation as representation "whereby the prosecutor who makes the initial filing or appearance . . . will perform all subsequent court appearances on that particular case through its conclusion, . . ." This requirement of personal vertical representation is mandatory and reflects the Legislature's intent to assure effective and aggressive prosecution of career criminal cases.

As proposed policy 1 recognizes, however, there will be circumstances making personal vertical representation impossible. If such representation were mandatory at all costs, effective prosecution of a case might be jeopardized. Section 999g permits limited deviation from the selection criteria of 999e and the policies of 999f if "extraordinary circumstances require the departure from such policies in order to promote the general purpose and intent of the chapter." (Pen. Code, § 999g, subd. (d).) Although section 999g does not expressly apply to the personal vertical representation requirement in section 999d, it does reflect the Legislature's intent that the goal of the chapter is to provide the most effective prosecution which may, on limited occasion, require a departure from the strict letter of the rules. Furthermore, section 999c, subdivision (b), permits the allocation of funds to a unit so long as it substantially complies with the chapter's requirements, thus recognizing there may be some deviation from the strict letter of the CCP statutes.

Proposed policy 1, permitting deviation from personal vertical representation only when extraordinary circumstances arise and unit vertical representation can be provided, and only if the unit has a system to inform the other prosecutors about the significant aspects of the case, is consistent with the chapter. Since it is also reasonably necessary to carry out the legislative intent, it is a valid exercise of administrative power.

#### 1. Policy on Prosecuting Defendants Who Fall Outside the Letter of Chapter 1151

Section 999e sets forth the selection criteria to be followed to determine if a defendant is a career criminal within the meaning of the chapter. The section specifies the particular criminal offenses and offenders which will be prosecuted by the CCP units. Section 999g provides for deviation from the selection criteria only where extraordinary circumstances require it in order to promote the general purpose and intent of the chapter.

In section 999b the Legislature states the CCP will focus upon "a relatively small number of multiple and repeat felony offenders, commonly known as career criminals." Sections 999b and 999c show the Legislature intends the CCP to be a program of limited scope intended to determine if increased prosecutorial efforts can have a significantly increased deterrent effect upon the criminal population. In choosing the crimes to be prosecuted the Legislature obviously recognized there

had to be a limit on the number of crimes covered in order to maintain significantly reduced caseloads and permit the effective implementation of the prosecutorial techniques to be used. It also recognized that for proper evaluation of the program, statewide uniformity is necessary. It will be noted section 999e, subdivision (d), specifically provides a district attorney may choose to limit career criminal prosecution efforts to one or more of the listed felonies if those crimes present a particularly serious problem to the county. It does not, however, permit a unit to choose offenses other than the enumerated felonies.

Proposed policy 2 would permit prosecution by CCP units of "habitual perpetrators of serious crime" who do not meet the selection criteria in section 999e. Although the proposed policy states this should only occur under "extraordinary circumstances," none are specified and the proposed policy would have the effect of permitting units wide latitude to go beyond the selection criteria of section 999e. Such a policy would conflict with the Legislature's intent, and would result in non-uniform operations making evaluation more difficult. Since section 999g already permits deviation from the selection criteria in extraordinary circumstances, proposed policy 2 is also not reasonably necessary to accomplish the purpose of the CCP statutes. Thus proposed policy 2 does not represent an appropriate exercise of administrative power, but raises questions more properly addressed to the Legislature.

#### 3. Policy on Co-Defendants

Penal Code section 1098 expresses a general legislative intent favoring joint trials. In appropriate cases, a joint trial is an efficient and effective mode of prosecution. Penal Code section 999d expresses the Legislature's intent that the most efficient and effective methods be used to prosecute career criminal cases. Although the question of joint trials is not specifically addressed by the CCP statutes, it is reasonable to presume the Legislature in enacting the CCP statutes was cognizant of other provisions of the Penal Code which might aid or affect career criminal prosecutions and intended the CCP statutes be construed in harmony with other Penal Code sections.

To permit, as in proposed policy 3, joint trials in appropriate career criminal cases is consistent with the CCP provisions and is reasonably necessary to accomplish the Legislature's purposes.

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The second part of proposed policy 3 would permit a CCP unit to continue to handle the prosecution of a case in which a career criminal is joined with a non career criminal when the case against the career criminal is dismissed before or during trial and to do otherwise would jeopardize the prosecution of the case against the non career criminal. While the Legislature's intent is to limit prosecution by CCP units to career criminal cases, it is reasonable to conclude it did not intend the limits to jeopardize the prosecution of a case which was properly in the unit at its origin. Section 999g subdivision (d), provides for the departure from the selection criteria of section 999e where an exercise of reasonable prosecutorial discretion indicates extraordinary circumstances require it in order to promote the general intent of the CCP statutes. The second part of proposed policy 3 presents a situation falling within the ambit of section 999g, subdivision (d). Thus it is consistent with the CCP statutes and is a proper exercise of administrative power.

4. Policy on Prosecuting Defendants Erroneously Assigned to Career Criminal Units

Proposed policy 4 would permit a CCP unit to continue prosecution of a case originally but erroneously determined to be a career criminal case if substantial resources of the unit have been invested and, in an exercise of reasonable prosecutorial discretion, it is determined that relinquishing the case would jeopardize its effective prosecution.

This policy, like the second part of proposed policy 3, is consistent with section 999g, subdivision (d), permitting departure from the selection criteria in extraordinary circumstances. Effective and efficient prosecution of serious offenders is the primary goal of the CCP statutes and it is reasonable to conclude the Legislature did not intend for the limits on the CCP to jeopardize the prosecution of a case originally determined to fall within its jurisdiction. Proposed policy 4 is consistent with the goal of the CCP statutes and is reasonably necessary to accomplish the unit's purposes.

5. Policy on Prosecuting Juvenile Offenders

Proposed policy 5 would authorize a CCP unit to prosecute juvenile offenders who meet the selection criteria of section 999e. From the discussion of this proposal in the CCP Preliminary Report to the Legislature, dated January 1979, we understand the intent of this proposed policy to be to permit prosecution of juvenile offenders in the juvenile courts.

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While prosecution by CCP units in the adult criminal courts of juveniles found unfit to be handled in the juvenile court system (Welf. & Inst. Code, §§ 707, 707.1) might raise some interesting issues under the CCP statutes, we will limit our discussion in this letter to the propriety of CCP units prosecuting juvenile offenders in the juvenile courts.

The CCP statutes are aimed at the "small number of multiple and repeat felony offenders, commonly known as career criminals." (Pen. Code, § 999b.) By using this designation the Legislature has expressed its intent that the CCP units prosecute serious felony offenders who have made crime their lifework and who can best be dealt with through increased efforts to obtain strong punishment.

The juvenile court system, however, has the goal of rehabilitating juvenile offenders in an attempt to reverse delinquent behavior before it becomes a career. (In re Mitchell P. (1979) 22 Cal.3d 946, 952.) In addition, the juvenile process is governed by provisions of the Welfare and Institutions Code and involves different time limits, procedures and proceedings than are present in the adult criminal process.

Penal Code section 999f, which sets forth the policies to be followed in CCP unit cases, addresses itself only to the adult criminal process. In addition, one of the goals of the units is to significantly reduce caseloads in order to provide more time for proper case preparation. To add juvenile offenders to the group subject to the unit's jurisdiction would conflict with the goals of the CCP. Consequently, proposed policy 4 conflicts with the intent of the Legislature to focus on a limited group of career felons prosecuted in the adult criminal courts and does not constitute an appropriate exercise of administrative power. Like proposed policy 2, this policy reaches questions which should more properly be addressed by the Legislature.

We hope this review of the proposed policies will be helpful to you.

Very truly yours,

George Deukmejian  
Attorney General

Cecilia H. Johnson  
Deputy Attorney General

CHJ:cn

APPENDIX D

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offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery by a person armed with a deadly or dangerous weapon, burglary of the first degree, arson as defined in Section 447a or 418a, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant, and (2) the number and the seriousness of the offenses currently charged against the defendant.

999f Subject to reasonable prosecutorial discretion, each district attorney's office establishing a career criminal prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for career criminal cases:

(a) A plea of guilty or a trial conviction will be sought on the most serious offense charged in the accusatory pleading against an individual meeting career criminal selection criteria.

(b) All reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

(c) All reasonable prosecutorial efforts will be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a career criminal.

(d) All reasonable prosecutorial efforts will be made to reduce the time between arrest and disposition of charge against an individual meeting career criminal selection criteria.

(e) The prosecution shall not negotiate an agreement with a career criminal:

(1) That permits the defendant to plead guilty or nolo contendere to an offense lesser in degree or in kind than the most serious offense charged in the information or indictment;

(2) That the prosecution shall not oppose the defendant's request for a particular sentence if below the maximum; or

(3) That a specific sentence is the appropriate disposition of the case if below the maximum.

999g The selection criteria set forth in Section 999e and the policies of Section 999f shall be adhered to for each career criminal case unless, in the reasonable exercise of prosecutor's discretion, one or more of the following circumstances are found to apply to a particular case:

(a) The facts or available evidence do not warrant prosecution on the most serious offense charged.

(b) Prosecution of the most serious offense charged, if successful, would not add to the severity of the maximum sentence otherwise applicable to the case.

(c) Departure from such policies with respect to a particular career criminal defendant would substantially improve the likelihood of successful prosecution of one or more other felony cases.

(d) Extraordinary circumstances require the departure from such policies in order to promote the general purposes and intent of this chapter.

999h The characterization of a defendant as a "career criminal" as defined by this chapter may not be communicated to the trier of fact.

SEC. 2. The sum of one million five hundred thousand dollars (\$1,500,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning without regard to fiscal years for costs of administration of this act and for allocation by the Office of Criminal Justice Planning to district attorneys' offices and the Attorney General for the purposes of this act. It is the intent of the Legislature that any additional funding shall be requested in the annual Budget Act.

SEC. 3. This act shall remain operative only until January 1, 1982, and on such date is repealed.

Senate Bill No. 683

CHAPTER 1151

An act to add and repeal Chapter 2.3 (commencing with Section 999b) to Title 6 of Part 2 of the Penal Code, relating to career criminals, and making an appropriation therefor.

[Approved by Governor September 29, 1977. Filed with Secretary of State September 29, 1977.]

LEGISLATIVE COUNSEL'S DIGEST

SB 683, Deukmejian. Career criminals.  
Existing law contains various provisions relating to the prosecution and sentencing of persons with prior felony convictions. This bill would add provisions permitting prosecutors in each county to establish Career Criminal Prosecution Programs whereby enhanced prosecution procedures would apply to persons under arrest who have suffered previous convictions or are charged with multiple offenses, as specified. The bill would appropriate \$1,500,000 for such purposes. The provisions of the bill would remain operative only until January 1, 1982, and on such date would be repealed. Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 2.3 (commencing with Section 999b) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.3. CAREER CRIMINALS

999b. The Legislature hereby finds a substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute career criminals through organizational and operational techniques that have been proven effective in selected counties in this and other states.

999c. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Career Criminal Prosecution Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated

with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria set forth below in Sections 999d, 999e, 999f, and 999g.

(c) Such allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Prosecution Program, be made available to support the prosecution of felony cases.

(d) On or before April 1, 1978, and in consultation with the Attorney General, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Career Criminal Prosecution Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft of them shall be submitted on or before March 1, 1978, to the chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) Annually, commencing October 1, 1978, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained of career criminal prosecution units of district attorneys' offices receiving funds under this chapter and under comparable federally-financed awards.

999d. Career criminal prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999e. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a career criminal case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase;

(b) Assignment of highly qualified investigators and prosecutors to career criminal cases; and

(c) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is either being prosecuted for three or more separate

**END**