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THE MITRE CORPORATION'S NATIONAL EVALUATION OF THE CAREER CRIMINAL PROGRAM: A DISCUSSION OF THE FINDINGS

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The federal career criminal program sponsored by the Law Enforcement Assistance Administration (LEAA) is designed to improve the administration of criminal justice by focusing prosecutorial resources on the serious repeat offender. The program was announced in 1974. By mid-1975, ten programs had been funded and were in operation, and in April 1976, the MITRE Corp. received a grant to conduct a national evaluation of the program.¹ The evaluation was to define and examine the effects of targeted prosecution of career criminals. This was accomplished through an intensive analysis of program processes and effects in four jurisdictions.

A number of factors contributed to the shape of the evaluation plan. The first factor was the state of knowledge concerning anticipated program effects at the time the program was developed and the evaluation was designed. Career criminal program planning was influenced by local initiatives in career criminal prosecution and by research findings that suggested a large potential payoff for such initiatives. The bulk of the available empirical research suggested the existence of a pool of recidivist offenders who were assumed to be responsible for a disproportionately large share of crime. LEAA's analysis of available data concerning the

performance of the Bronx District Attorney's Office with selected major offense cases demonstrated that cases accorded special prosecutorial attention were treated more severely than were cases handled in a routine manner. However, career criminal cases and routine cases differed in a number of respects in addition to the way in which they were prosecuted. What was lacking in the Bronx analysis was an adequate basis for comparison from which one could determine whether, and to what extent, prosecutorial performance with career criminal cases represented an improvement over what would have happened with such cases in the absence of any special program. The key evaluation or knowledge need was that of a baseline for evaluation.

Secondly, certain program characteristics were central to the approach taken in the evaluation plan. Because of the single, unifying concept of the program—the focusing of prosecutorial resources on the serious repeat offender—and because of agreement between federal and local officials and agreement between researcher and practitioner actors about this concept, general goals for the program could be proposed. However, the substantial differences that existed among localities in the routine processing of criminal cases and the high degree of local involvement in defining critical features of individual career criminal programs posed difficulties for any attempt to aggregate data across sites. Individual jurisdictions had different target population definitions, different program activities (or “treatments”), and different baseline performance levels. Given this jurisdictional variability, it was necessary to examine and account for individual differences in conducting the national evaluation.

Finally, the program was already operational in a number of jurisdictions at the time the evaluation was planned. Consequently, it was understood that the evaluation approach would have to be adapted to meet program constraints.

These three factors—the lack of an adequate baseline for comparison, the inability to aggregate data meaningfully across sites, and the timing of the evaluation—influenced the decision to base the research design for the evaluation on an intensive

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¹ Among the documents produced for this evaluation were: E. CHELIMSKY & J. DAHMANN, FINAL REPORT: NATIONAL EVALUATION OF THE CAREER CRIMINAL PROGRAM (MITRE Corp. Publication No. MTR-80W000555, 1979); E. CHELIMSKY, J. DAHMANN & J. SASFY, THE NATIONAL-LEVEL EVALUATION OF THE CAREER CRIMINAL PROGRAM: CONCEPT AND PLAN (MITRE Corp. Publication No. MTR-7355, 1976); J. DAHMANN, E. ALBRIGHT, L. HARDACRE & L. RUSSELL, SITE SELECTION FOR THE NATIONAL-LEVEL EVALUATION OF THE CAREER CRIMINAL PROGRAM (MITRE Corp. Publication No. MTR-7346, 1976); J. DAHMANN & J. LACY, CRIMINAL PROSECUTION IN FOUR JURISDICTIONS: DEPARTURES FROM ROUTINE PROCESSING IN THE CAREER CRIMINAL PROGRAM (MITRE Corp. Publication No. MTR-7550, 1977).

analysis of four jurisdictions. A single methodology was developed and, with some adaptation, applied to the analysis of the four programs. This repeated case-study approach was selected because it allowed for a close and sensitive analysis of the realities of targeted prosecution as implemented in different criminal justice contexts while, at the same time, providing some comparability among the locally based analyses through the similarity maintained in the structure of these analyses. The evaluation attempted to ask similar evaluation questions, formulated in the same way, of the four programs, in an effort to identify the range of likely program inputs and effects across the four.

The evaluation was completed in November 1979, and the findings can be summarized best by presenting them as four basic sets of assumptions underlying the program: first, the existence, the identifiability, and the criminal justice contact with a subpopulation of serious, repeat offenders who commit a disproportionate amount of crime; second, the ability of the prosecutor to provide specialized, intensified attention to a select subgroup of criminal defendants; third, the impact that specialized prosecutorial attention might have on the performance of the criminal justice system; and fourth, the impact on crime of the incapacitation effect achieved through increasing the conviction rate and the length of incarceration of this active subpopulation of criminal defendants.

THE CAREER CRIMINAL TARGET POPULATION

The first set of assumptions concerned the career criminal target population itself: that such a subgroup existed, came into contact with the criminal justice system, and could be isolated for special handling. While this evaluation did not address directly the major questions relevant to the issue of who career criminals are and how they may be identified, the results of the evaluation nonetheless shed some light on what happens when these assumptions are accepted and local agencies are given the opportunity to define and identify for themselves their local career criminal populations.

The prosecutors in the four jurisdictions endorsed the concept of isolating the most serious subpopulation of their criminal defendants for specialized attention. However, there was considerable diversity among the four offices in how they defined their career criminal population. None of the four were concerned specifically with any quantitative prediction of the likely future criminality of the population they had identified, a key element in translating targeted prosecution into crime ef-

fects. Rather, the offices either directed their attention solely toward past repeaters or toward the most "serious" portion of their criminal defendant population, "serious" being defined by a complex of factors identified by the prosecutorial staff, based on their experience with case prosecutions. None of the offices utilized information derived from research in other jurisdictions; indeed, at the time these programs were beginning, little research in this area was available. Even had it been available, however, it is not clear that it would have been used. Most jurisdictions appeared to appreciate the opportunity to define for themselves the characteristics of those defendants to receive special attention.²

Allowing for local autonomy in defining the target population appears to have aided in program acceptance, implementation, diffusion, and institutionalization. At the same time, however, it has fostered diversity among the career criminal populations selected for special handling, none of which were defined on the basis of predictions of recidivism. Thus, there was some tension between the program's crime reduction objective and the desire for the program to be institutionalized successfully. While local autonomy ensured the program's popularity, it also contributed to a somewhat lower likelihood of crime-level effects.

TARGETED PROSECUTION

A second major assumption underlying the program was that the prosecutor would be able to provide specialized prosecutorial attention to a selected target population of defendants. In all four jurisdictions, special career criminal units were created, and career criminal cases were prosecuted by these units well within the timetables anticipated within their grant applications. To some extent, these four may represent a select subgroup of the programs since they were selected for inclusion in the national evaluation because they were fully operational. Nonetheless, general observation of the program in other jurisdictions suggests that they are more typical than not and that implementation quality in the program has been very good.

There are a number of factors that have contributed to this implementation success. First, the majority of the program activities are within the jurisdiction of a single agency—the prosecution—and can be administered through changes in internal

² It has been suggested by local personnel that it was this flexibility in target population definition that made the career criminal program of interest to them in the first place.

office operations. The importance of this factor appears in its true perspective only when one considers the minimal progress made in improving coordination between the police and the prosecutor except in those situations in which police investigators were attached to the prosecutor's office.

Another important consideration here is the autonomy given the local prosecutors in designing the program's activities. To a large degree, individual prosecutors were given a free hand to develop a program of activities that would promote the identification and special handling of their targeted caseload. Each office was encouraged to examine its routine operations and identify those areas where special attention could benefit case prosecution. In effect, prosecutors were given additional support to prosecute a high priority subgroup of cases in a manner that they felt appropriate, a manner that—were it not for heavy caseloads, limited resources, and other system constraints (*e.g.*, court organization)—they might choose for their total caseload.

In this context, each prosecutor's office implemented a set of activities which, in varying degrees, differentiated the prosecutorial handling of target career criminal cases from the office's routine caseload. The activities typically implemented in the four programs were continuous case handling by a single attorney or team of attorneys, reduced caseloads, increased investigative support, more stringent plea bargaining policies, efforts to increase incarceration and to reduce processing time. All the activities focused on improving case prosecution once an arrest had been made and a decision to pursue the case had been reached. This set of activities reflects the range of alternative strategies that were available to prosecutors in the four jurisdictions. To a large extent, all represent an intensification of effort or organization rather than any radical departure from the kinds of activities normally undertaken for routine prosecutions. This factor may explain the limited changes observed in selected measures of criminal justice system performance as a result of the program.

CRIMINAL JUSTICE SYSTEM PERFORMANCE

Inherent in the program design, and crucial to its logic, is the assumption that making changes in the method and management of the prosecution of a subgroup of criminal cases will result in changes in the performance of the criminal justice system with respect to these cases. In this evaluation, four areas of potential program effects on criminal justice system performance—mode and type of dis-

position, strength of conviction, severity of sentence, and length of processing time—were examined for the four evaluation sites.

The analysis results showed that few changes in disposition mode and type, (*i.e.*, conviction rates, plea rates, trial rates, and dismissal rates) of career criminal defendants were associated with the career criminal programs analyzed. Improvement in the strength³ of career criminal convictions was observed in two jurisdictions, an improvement accompanied by the imposition of longer sentences for career criminals in one site. No increases in incapacitation rates were observed in any of the four sites; three of the four places were incapacitating career criminals at a high rate (90%) before the program. Processing time showed an improvement in one jurisdiction with notable delay problems.

These specific findings suggest that increasing prosecutorial attention on a high priority subset of the criminal caseload may not increase the conviction and incapacitation rates for those high priority cases. On the other hand, there is some evidence that the program can increase the strength of the convictions obtained and that it can result in longer sentences being imposed where sentences are tied to the conviction charge.

Expectations for system-performance effects in the career criminal program were based on a number of assumptions concerning the current status and potential of prosecutorial efforts. First, the program concept presumed that, because of resource constraints, the prosecutor was not doing all that could be done to pursue career criminal cases and that there was room for improvement in the way the criminal justice system responded to these career criminal prosecutions.

Regarding system outcomes, the analysis results suggest, however, that this was not the case in several specific instances in the four evaluation sites. Most notable was the case of incarceration rates. A review of baseline incarceration rates for career criminals⁴ indicated that these criminal justice systems already may have been acting in as vigorous a manner as possible to respond to the seriousness of the defendants convicted in career criminal cases. In places such as these, little program impact is likely, thus, some preprogram analysis may be called for to suggest more appropriate

³ Strength of conviction refers to the degree of the convicted offense. For example, conviction of assault with a deadly weapon is a more stringent conviction than conviction of simple assault.

⁴ Three of the four sites reported a baseline incarceration rate for convicted career criminals of 90% or more.

target populations, *i.e.*, offenders with a low probability of conviction or incarceration without the program treatment. Several other instances of high baseline performance were also observed. For other jurisdictions, while the baseline levels of performance may not have been notably high on an absolute scale, it is possible that these levels represented close to the maximum level of performance that reasonably could have been expected from the criminal justice system in that place, and that prosecutor initiative may have had little effect on these levels due to the context and constraints that bound his actions.

This raises questions regarding the second major assumption underlying the expected program impact on criminal justice system performance—that the prosecutor is in a position to effect the kinds of changes envisioned for the program. As the process-analysis component of the evaluation demonstrated in all four sites, and as is the case generally, the prosecutor is embedded in a system bound by legislative and administrative regulation, a system to which he must react to the extent of his ability. In this sense, the career criminal program has provided prosecutors with resources to improve their ability to react to the demands of the system in terms of selected priority cases. What is in question is whether improving their ability to manage target caseloads can be expected to influence certain criminal justice system outcomes.

Given the highly structured environment in which the prosecutor operates, it is understandable that the majority of the career criminal program activities have involved changes in the internal operations of the prosecutor's office, operations over which the prosecutor can exercise control, rather than involving the prosecutor's relationship with other agencies of the criminal justice system. The jurisdiction of the prosecutor, along with his current policies and management practices, defined the arena for program initiatives. In the four evaluation sites, the program treatment was applied only to cases that would have been prosecuted by the local office regardless of whether the program had been undertaken. Further, in most circumstances in these four sites, program attention began at the point at which the prosecutor routinely would have taken cognizance of the criminal matter. Within this framework, the programs attempted, by providing more time and support to the prosecutorial staff and by allowing for more continuity in staff involvement with individual cases, to improve the quality of career criminal case preparation. In some cases, the program also

attempted to exercise control over dispositional practices through policies limiting plea bargaining. In this context, the evaluation examined the impact of these changes on criminal justice system performance.

Across the four sites the greatest prosecutorial leverage was in affecting the strength of convictions. By providing the prosecutorial staff with time, resources, and the opportunity to follow a case from intake to disposition, it became possible for the prosecution to uphold a policy of no plea bargaining. Other impact measures, such as conviction rates, may be determined by factors outside the control of the prosecutor (*e.g.*, availability of witnesses, strength of evidence). Therefore, if the goal is to increase conviction rates, enhancing the prosecutor's ability to prepare and prosecute cases in a career criminal program may not be an appropriate method of effecting changes in this measure.

Program effects on sentencing, among the four site results, appeared most clearly in that jurisdiction in which the strength of convictions was increased and sentence lengths were tied by law to the charges of conviction. In San Diego, which had an indeterminate sentencing system, increases in the strength of convictions were accompanied by longer sentence lengths as would be expected. But in the other sites, where an independent judicial determination of minimum sentences was made, program effects were not clearly obtained, even in the site where increases in strength of conviction were observed. In some cases, slightly longer sentence lengths for career criminals appeared to be due largely to factors other than the program. The absence of a clear program effect on sentence lengths may be due to the possibility, suggested by other research,⁵ that judges impose sentences based less upon the conviction charge than upon information pertaining to defendant characteristics and to the criminal act itself, information that is largely unaffected by prosecutorial efforts.

It is unclear to what extent these specific programs and the limited system performance results associated with them represent a realistic approximation of the kind of impact other prosecutorial efforts might have on alternative target populations in these sites. Whether more effort, a different configuration of project activities, or a different target population would lead to different results cannot be determined from this research. It is clear,

⁵ See L. WILKINS, J. KRESS, D. GOTTFREDSON, J. CALPIN & A. GELMAN, *SENTENCING GUIDELINES: STRUCTURING JUDICIAL DISCRETION* (1978).

however, that the belief that simply providing the prosecution with added resources will produce direct effects on criminal justice system performance measures does not fully consider the complexities of that system and the limited role that the prosecution plays in its operations.

CRIME LEVEL EFFECTS

The last assumption underlying the career criminal program linked anticipated changes in criminal justice system performance to crime-level effects through the increased incapacitation of serious repeat offenders. As the above discussion has shown, no increases in the incapacitation of career criminals were observed in the four sites analyzed. In the absence of the critical linking element of criminal justice system performance changes, crime-level effects due to incapacitation cannot be demonstrated in these four jurisdictions. The significantly longer sentence lengths observed in one jurisdiction may, if sentenced offenders do in fact serve longer sentences, translate into crime-level

effects. Such effects would not be observed until the release time of these offenders, a time removed from the period covered by this evaluation.

The expectation of measurable crime-level effects of a program that is internal to the criminal justice system may not be reasonable given the scope and context of program activities. Even if improvements in system performance (*e.g.*, increased incapacitation) had been observed, linking such changes to crime levels would have been difficult given the marginality of program treatment,⁶ the potential countervailing actions of the corrections subsystem, and the possible recruitment of new career criminals as the older serious offenders were removed from circulation. These problems of assessing the crime impact of a program with a limited thrust implemented in a complex environment were further compounded by analytical problems in measurement of crimes "saved."

⁶ Program attention was provided to a relatively small group of criminal defendants who would have been subjected to routine criminal prosecution without the program.