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PROSECUTION BY APPOINTMENT ONLY:
THE DISCOVERY, INVESTIGATION, AND
PROSECUTION OF ECONOMIC CRIME

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By

Joan Neff Gurney, B.A., M.A.

* * * * *

The Ohio State University
1980

Reading Committee:
Richard J. Lundman
Simon Dinitz
Kent P. Schwirian

Approved By

Richard J. Lundman
Adviser
Department of Sociology
ACKNOWLEDGMENTS

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VITA

May 4, 1952. . . . . . . Born - Claymont, Delaware
1974 . . . . . . . . . . . . B.A., University of Delaware
                  Newark, Delaware
1974-1977. . . . . . National Science Foundation Fellow
                  The Ohio State University, Columbus, Ohio
1974-1977. . . . . . Research Associate, Disaster Research Center
                  The Ohio State University, Columbus, Ohio
1976 . . . . . . . . . . M.A., The Ohio State University
                  Columbus, Ohio
1977 . . . . . . . . . . Teaching Associate, Department of Sociology
                  The Ohio State University, Columbus, Ohio
1978-1980. . . . . . Administrative Associate, Department of
                  Sociology, The Ohio State University,
                  Columbus, Ohio

PUBLICATIONS

"It's a Matter of Myths: An Empirical Examination of Individual Insight
into Disaster Response," with Dennis E. Wenger, James D. Dykes, and

"Responsibility for the Delivery of Emergency Medical Services in a
Mass Casualty Situation: The Problem of Overlapping Jurisdictions,"

FIELDS OF STUDY

Major Field: Sociology

Studies in Deviance and Criminology. Professor Richard J. Lundman

Studies in Collective Behavior and Social Movements. Professor
E. L. Quarantelli
FIELDS OF STUDY (continued)

Studies in Social Psychology. Professor Clyde W. Franklin, II
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CHAPTER 1. INTRODUCTION

This dissertation is a study of the discovery, investigation, and prosecution of economic crime. It specifically focuses on a county-level agency whose express task is economic crime prosecution. The purpose of the dissertation is to describe and analyze the manner in which cases are processed by this Economic Crime Unit.

As a study of law enforcement efforts to control economic crime, this dissertation embraces and seeks to enrich the sociological literature in three areas: economic crime, prosecutors and criminal prosecution, and economic crime investigation and prosecution. Review of existing research in each of these areas will help outline the boundaries of analysis in succeeding chapters.

ECONOMIC CRIME

The term economic crime covers a broad range of offenses, including business opportunity schemes, passing bad checks, insurance frauds, bribery, public corruption, embezzlement, welfare and medicaid fraud, deceptive trade practices, home improvement fraud, and automotive repair fraud. As defined by the National District Attorneys Association (NDAA), economic crime is a "non-violent illegal act(s) to obtain money/property for personal use or to avoid paying money." The NDAA also considers economic crime to involve some form of trickery, guile, or
deception.

Sociologists have not addressed "economic crime" per se, but have focused attention on white-collar crime, a more general area which encompasses economic crime. It thus is appropriate to review the major sociological literature on white-collar crime in preparing for later discussions of the offenses encountered by the Economic Crime Unit.

Origins of the Concept

The initiation of sociological interest in white-collar crime is generally attributed to Edwin H. Sutherland who introduced the term in his 1939 presidential address to the American Sociological Society. In that address, Sutherland attempted to direct sociological attention to crimes committed by business and professional persons. He argued that white-collar crime is just as criminal as so-called "lower-class crime." In fact, according to Sutherland, "the financial cost of white-collar crime is probably several times as great as the financial cost of all the crimes which are customarily regarded as the 'crime problem.'" The only difference between white-collar and common crimes, he argued, is that the law is administered more leniently with respect to white-collar criminals because of their greater status, power, and respectability within the community.

Examination of over 40 years of debate and research stimulated by Sutherland's initial efforts reveals a number of issues or concerns in the area. Two of these issues will be reviewed briefly, beginning with the notion that white-collar crime is both a frequent and serious phenomenon.
Frequency and Seriousness of White-Collar Crime

Sutherland's own research on 7C U.S. corporations supported his contentions and arguments with respect to the frequency and seriousness of the white-collar crime problem. An analysis of judicial and regulatory decisions revealed that the corporations averaged 14 adverse decisions each. Sixty percent had been convicted in criminal courts with an average of four convictions each. In Sutherland's view, this supported his contention that "persons of the upper socio-economic class engage in much criminal behavior." The types of offenses committed by the corporations included false advertising, infringement of patents and copyrights, restraint of trade, unfair labor practices, and fraudulent financial manipulations. According to Sutherland, such offenses were serious enough to receive the label "crime" because they were both socially harmful and legally sanctionable.

Two studies of World War II pricing and rationing violations lend further support to the notion that illegal activities are frequent and serious among "respectable" businesspeople. In one study Hartung concluded that violations of price ceilings in the wholesale meat industry in Detroit were criminal acts because they met the criteria of being legally proscribed and sanctionable. In the other study Clinard documented the frequency of black market activities with government and business estimates, as well as enforcement statistics. The Office of Price Administration investigated over one million cases of price and ration violations between 1942 and 1947. More than 250,000 of these cases resulted in some type of enforcement action. Clinard con-
cluded "there can be no question that the black market extended throughout the entire nation, among all classes of society, from the thief and counterfeiter to the businessman, at all levels of our economic structure, from consumer to large manufacturer, and in numerous commodities."^8

In a more recent study of Illegal Corporate Behavior, Clinard and his associates argue that "the extensive nature of law violations by corporations is unquestioned today; it has been widely revealed by many government investigative committees, both state and federal."^9 In addition, the authors assert that economic costs of corporate crime are in the billions of dollars, while human and environmental damages are incalculable. Approximately 64% of the 582 parent corporations in the study had at least one enforcement action initiated against them during 1975 and 1976. The total sample averaged 2.7 federal actions each. This study supports the notion that illegal corporate behavior is still quite prevalent 30 years after Sutherland's original study.

There is little controversy in the literature over the frequency of white-collar crime, but there is some disagreement over the seriousness of the problem. In a comment on Hartung's study of World War II pricing violations, Burgess rejected the notion that such violations were crimes except in "the technical, legal sense of the word."^10 He argued that white-collar offenders do not view themselves as criminals. In addition, they are not viewed as criminals by the public or the judiciary who generally impose light sentences on them. Thus, white-collar offenses do not merit the label "crime" in a sociological sense because a social determination of seriousness is not present. Geis and
Meier also question the extent to which serious social consequences can be attributed to white-collar crime. They contend it is difficult to determine the monetary costs of white-collar crime. Furthermore, it is almost impossible, they argue, to establish causal linkages between white-collar crime and less tangible effects, such as "lowered social, moral, and interpersonal trust . . . . Thus, statements about the heinousness of white-collar crime most fundamentally represent tactics to call dramatic attention to forms of behavior that the writers believe (but cannot really demonstrate) have serious consequences for important aspects of social life; as, indeed, they may."  

Thus, while some sociologists view white-collar crime as a serious social and economic problem, others disagree with or question this assumption. Lack of agreement over the seriousness of white-collar crime is partially confounded by a fundamental definitional ambiguity within the concept.

**Defining White-Collar Crime**

Sutherland originally defined white-collar crime as illegal activities committed by middle- and upper-class individuals in carrying out their occupational responsibilities. Other early writers in the field, such as Hartung and Clinard, adopted Sutherland's general definition in their work. It soon became apparent, however, that such a definition contains within it at least two analytically distinct connotations. In one connotation white-collar crime refers to illegal actions committed by high status individuals on their own behalf, as with Cressey's embezzlers and some of Clinard's black marketeers. 12 In the other con-
notation white-collar crimes are illegal actions committed by high status persons for the benefit of organizational employers, as with Sutherland's study of corporate crime and Geis' study of electrical equipment price-fixing.\textsuperscript{13}

The wide variety of behaviors included in standard readers on white-collar crime further attests to the breadth of traditional conceptualizations. In addition to embezzlement, black market operations, and price-fixing, current edited texts contain articles on illegal auto repair practices, rent control violations, prescription violations, income tax evasion, public corruption, police homicide, prison riots, foreign bribery, employee theft, land frauds, securities frauds, and medical quackery.\textsuperscript{14} The label "white-collar crime" has been applied to illegal and unethical behaviors committed by individuals as individuals and by individuals as organizational representatives.

There have been several attempts to clarify the concept of white-collar crime or to restrict its meaning in order to increase its utility. Geis (with Bloch), for example, has suggested establishing separate categories for white-collar crimes committed by (1) individuals as individuals, (2) employees against their organizational employers, and (3) employees acting on behalf of their organizations.\textsuperscript{15} Quinney has urged applying the term "occupational crime/deviation" to any illegal activities committed in the course of one's occupational duties, whether the occupational status is white-collar or blue-collar.\textsuperscript{16} More recently, several authors have proposed establishing organizational crime/deviance as a separate area distinct from individual forms of white-collar crime.\textsuperscript{17} Underlying this proposal is a social realist position that an organiza-
tion's behavior is more than the sum total of its individual members' actions. Since basic sociological assumptions about the origins and patterns of individual versus organizational behavior differ, concepts and theories dealing with organizational deviance require a significant departure from those currently employed in the white-collar crime literature. Notions of nonshareable problems and differential association, for example, are likely to be replaced by structurally oriented macro perspectives which take economic and political as well as social and psychological factors into account.

This trend of distinguishing between individual and organizational actors raises questions about the future of the white-collar crime concept. Sociologists may continue to use it to refer to illegal occupational activities committed by individuals for their own benefit. Or, they may desire to replace the concept totally by one which more accurately describes the types of behaviors being discussed. As Geis and Meier have suggested, the conceptual waters are so muddied, it may be "wiser to move upstream than attempt a purification project."

As an increasing number of scholars call for a separate analysis of organizational crime, the term "economic crime" may be a viable alternative label for some of the remaining individually perpetrated white-collar crimes. The term "white-collar crime" lacks descriptive utility because not all so-called white-collar crimes are committed only by white-collar persons. Embezzlement is committed by managers and corporate executives, but it also is committed by hospital cashiers and service station attendants. The concept of white-collar crime may have been a useful heuristic device in Sutherland's 1939 presidential
address, but it is fraught with difficulties given current views on
the wide assortment of phenomena encompassed by the term.

Economic crime, which has been in the vocabularies of law enforce-
ment officials for nearly a decade, thus deserves consideration as a
heuristic device or conceptual tool within the sociology of white-
collar crime. In order to assess its utility, one must explore its
present usage. One way of approaching this task is by examining the
types of offenses to which the label is being applied. In this dis-
sertation the types of offenses labeled "economic crime" by the Economic
Crime Unit will be analyzed. By examining the concept's application
within this social control setting, we can begin to explore its poten-
tial utility as a sociological concept. With some refinement, the
term "economic crime" could perhaps provide greater conceptual clarity
within the field of white-collar crime.

PROSECUTORS AND CRIMINAL PROSECUTION

Prior to the 1960's, the sociological literature on crime and
deviance was primarily concerned with examining "criminals" and "de-
viant." The major thrust of theory and research was toward discovering
how and why certain individuals committed acts which were in violation
of laws or norms. Along with the advent of labeling theory in the 1960's
and radical criminology in the 1970's, greater sociological interest in
social control agencies began to emerge. Over the past two decades, the
body of research on these organizations has grown considerably, particu-
larly with respect to certain types of agencies, such as the police.19

The agency studied in this dissertation is a prosecutorial unit.
Hence, the ensuing discussion of relevant literature focuses on works dealing with the prosecutor's role in criminal justice administration. Three key issues will be addressed: 1) the general consensus that the prosecutor occupies a central position in the criminal justice system; 2) the relative lack of information about the prosecutor's role; and 3) the types of information which are currently available regarding the functions and activities of prosecutors.

Centrality of the Prosecutor's Position

There is general consensus among those who have studied prosecutors and their activities that the prosecutor's position is central to the administration of American criminal justice. The prosecutor's decisions and actions influence the direction of criminal cases from shortly after arrest through indictment, arraignment, plea negotiations, trial, and sentencing. The following comments from the literature on prosecutors indicate widespread acknowledgment of the importance of this role:

"There is little question that the prosecuting attorney is the most powerful public officer with direct effect upon the individual."20

"The prosecutorial stage is in many respects the linchpin of the criminal justice system. Policies and practices in the prosecutor's office create, expand, limit, and foreclose the options of other criminal justice agencies."21

"The most important official in the criminal justice system is the prosecutor. The importance of the prosecutor flows directly from his central position, for his duties encompass the entire range of criminal justice."22
"The prosecutor rather than the judge or the defense attorney plays the key role in administering criminal justice."\(^{23}\)

"Although the criminal justice system is frequently divided into three subsystems--police, courts, and corrections--the separation fails to take note of the most powerful figure in the administration of justice: the prosecuting attorney."\(^{24}\)

The power and importance attributed to the prosecutor's position derives largely from wide-ranging discretion to determine the direction of criminal cases. In most jurisdictions, the prosecuting or district attorney is given primary responsibility for enforcing the criminal statutes of the state. In practice, this means that the prosecutor decides which cases should be prosecuted and which should be dismissed. The police may have discretion over the arrest decision, but it is the prosecutor who determines whether or not charges are filed, what types of charges are filed, and how many counts are listed. Even beyond the charging decision, the prosecutor still exerts a great deal of control over the outcome of the case. It is estimated that approximately 90% of all criminal convictions are the result of guilty pleas rather than court trials.\(^{25}\) The prosecutor, along with the defense attorney, is a key figure in the plea bargaining process, having the power to initiate or respond to guilty plea offers which avoid the lengthy and costly criminal trial process. After a case has been resolved by a guilty plea or verdict, the prosecutor also participates in its disposition by making sentencing recommendations to the judge. Thus, the prosecutor is a central figure in the administration of criminal justice throughout the processing of a case.
In spite of the acknowledged centrality of the prosecutor's role, there are few sociological studies of prosecutors and their activities. This gap in the sociological literature on the criminal justice system will be addressed below.

Lack of Attention to Prosecutors and Criminal Prosecution

The existing sociological literature on prosecutors and prosecutorial agencies is extremely limited. The lack of both legal and social scientific attention to prosecutors and their activities is mentioned as a serious shortcoming of the literature by those few scholars who have done research on the topic. An article on prosecutorial discretion in the Southern California Law Review notes, "paradoxically, of all the individuals and agencies exercising discretion in the criminal process, the prosecutor has received the least attention in the literature." A 1970 study of a prosecutor's office in Washington was largely exploratory because, "lack of social scientific knowledge about the prosecutor dictated the choice of this approach." And, as recently as 1979, William McDonald introduced a collection of original essays on The Prosecutor by stating that next to crime victims, the prosecutor was the most underresearched topic in the criminal justice field.

Much of the existing literature on prosecutors has employed a legalistic rather than social scientific perspective. Articles in law journals and legal publications frequently focus on the general absence of legal controls over prosecutorial discretion. The usual aim of such articles is to assess various informal proposals or guidelines
to constrain or structure the "unbridled" exercise of prosecutorial discretion. Attempts to study existing patterns of activity in actual prosecutors' offices are few in number, with the same small collection of empirical works repeatedly cited in the legal literature.  

**Existing Data**

The social science literature on the role of prosecutors is extremely broad and general in orientation. A number of authors attempt to understand and describe what prosecutors do and how their activities fit within the overall criminal justice system, but they fail to explore the various aspects of this role in any depth. The legal literature moves in the opposite direction. Authors writing in a legalistic framework examine particular aspects of the prosecutor's role in some detail but fail to place them within the larger criminal justice system. It thus is necessary to examine both sets of literature to obtain a complete picture of the prosecutor's role in criminal prosecution.

**Social Science Literature.** Cole conducted an "exploratory" study of the Office of Prosecuting Attorney in King County (Seattle), Washington. His data consists of observations and interviews with past and present deputy prosecutors and other law enforcement officials. Cole's major thesis is that the prosecutor's position is part of a "network of exchange relationships" involving the police, courts, defense attorneys, and community influentials.

Two other social science treatments of the prosecutor's role are contained within larger works on the criminal justice system as a whole.
Neubauer's research on criminal justice administration in Prairie City led him to conclude that the prosecutor dominates the charging decision and maintains an advantaged position during the plea bargaining process. Rosett and Cressey see the prosecutor as someone who disposes of the majority of cases by dropping or reducing charges. In their view prosecutors operate in a context of the "subculture of justice within the courthouse," which involves "shared conceptions of what are acceptable, right and just ways of dealing with specific kinds of offenses, suspects and defendants."

Finally, Reiss has compared the broad outlines of the public prosecutor's role in the United States to that in Scotland. He pays particular attention to the notion of discretion in charging and plea bargaining. In addition, he considers what effects the election process has on the functioning of the U. S. public prosecutor. According to Reiss, the five most prominent effects of electing public prosecutors are 1) an emphasis on winning cases or achieving high conviction rates; 2) a tendency to enforce laws according to the perceived wishes of the electorate; 3) creation and maintenance of an image of the prosecutor as a defender of public morals; 4) preoccupation with punishment; and 5) primary concern with processing cases rather than doing justice.

Legal Literature. The primary concern of much of the legal literature on prosecutors is the freedom prosecutors have to select what course of action to follow in processing a criminal case. According to the legal literature, prosecutors have extensive discretion in a number of areas, including charging a suspect with a crime, dismissing
a case after charges have been filed, altering charges during plea bargaining, recommending certain types of bail and sentences, and diverting defendants from the criminal justice system to some alternative form of treatment.

Discussions of prosecutorial discretion in the legal literature frequently focus on the potential for its abuse. The aim is to suggest ways of minimizing this potential by structuring or limiting the prosecutor's freedom to make unreviewed decisions. Some of these discussions include statements on the statutory causes of extensive prosecutorial discretion. Others contain lists of factors found to be influential in prosecutors' decision-making processes.

An article on prosecutorial discretion in the Southern California Law Review divides factors influencing the decision to file charges into two groups: legal and extra-legal factors. Legal factors include whether or not a crime has been committed, whether the evidence connects the suspect with the crime, and whether there are any legal problems with the method used to obtain the evidence. Extra-legal factors include the nature of the offense (assaults involving family members are frequently not prosecuted), the type of offender (whether a prior criminal record exists), the social status of the victim, and anticipated public reaction to the decision to prosecute or release.

Other discussions of prosecutorial discretion, including some contained in the social science literature, have concurred in the conclusion that evidentiary considerations are an important legal factor in the decision to charge a suspect with a crime. However, most discussions also have noted that a wide variety of extra-legal factors,
beyond considerations of evidentiary sufficiency, enter into the decision to prosecute. A partial list of such factors includes the prosecutor's current caseload in relation to available resources, broader law enforcement goals (granting immunity in exchange for information), lack of victim desire or cooperation to prosecute, excessive costs of extraditing suspects or gathering witnesses, potential excessive harm to the defendant by prosecuting, existence of available alternatives (restitution or diversion), and the desire to gain convictions or win cases. 38

Many of these same factors are also viewed as influential during plea bargaining. For example, the need to manage heavy caseloads with limited resources and the desire to obtain convictions are regarded as significant factors inducing prosecutors to accept guilty pleas rather than take cases to trial. Securing convictions, according to Neubauer, is a measure of the prosecutor's successful job performance. In a similar vein Alschuler writes, "conviction statistics seem to most prosecutors a tangible measure of their success." 39

The emphasis on securing convictions can be related to an earlier statement by Reiss that electing prosecutors encourages an emphasis on securing convictions or winning cases in order to attain reelection. This statement suggests that the nature of the prosecutor's position within the criminal justice system has a direct bearing on the manner in which justice is administered. Thus, sociological concepts and perspectives should be very useful in understanding the role of the prosecutor and criminal prosecution in general. What is needed is more data with which to assess the applicability of sociological frameworks.
The existing legal literature provides some indirect types of data. However, the underlying relevancies and assumptions are different than those a sociologist would use. Therefore, sociologists should make greater efforts to gather their own first-hand data in this area.

As an observational study of a prosecutorial agency, this dissertation provides an inside look at some of the processes involved in investigating and prosecuting criminal cases. Unlike previous sociological studies in which prosecutors have been part of the focus, this research takes the activities of prosecutors as its primary focus. The operations of other law enforcement agencies are mentioned, but only insofar as they relate to the ECU's task performance. Unlike previous legalistic studies, no one aspect of prosecutorial discretion or activity will be concentrated upon to the exclusion of any other aspects. The dissertation follows the progression of criminal prosecution from initial case screening and intake to final disposition. Such an approach contributes to an understanding of the limits or boundaries of prosecutorial discretion.

INVESTIGATION AND PROSECUTION OF ECONOMIC CRIME

The existing literature on the social control of economic crime is typically directed toward one of two audiences. One audience consists of those persons or agencies charged with controlling this type of crime. The literature oriented toward this group generally takes the form of instructions or information about how to establish and operate economic crime law enforcement agencies. In addition, it consists of reports describing the organization, structure, and func-
ioning of existing enforcement operations. In the following discussion, we will refer to the social control oriented literature as "how-to" manuals and reports.

The other audience consists of social scientists and researchers. The literature directed toward this group attempts to apply social science concepts to the activities of economic crime investigation and prosecution in order to describe and analyze these processes as social phenomena. This literature will be referred to as analytical treatments.

"How-To" Manuals and Reports

"How-to" manuals advise law enforcement agencies on ways to establish and operate economic or white-collar crime units. The two most commonly cited manuals are Edelhertz' *The Investigation of White-Collar Crime: A Manual for Law Enforcement Agencies* and the National District Attorneys Association's (NDAA) *Prosecutor's Manual on Economic Crime*. Edelhertz' manual covers basic organizational dilemmas encountered by white-collar crime units, including selection of specific enforcement goals (criminal versus civil cases, emphasis on deterrence through prosecution versus restitution), maintenance of unit autonomy within larger law enforcement organizations, establishment of working relationships with other agencies, and development of a public reputation as a viable enforcement operation. Edelhertz also suggests how to organize a record keeping and filing system, how to select personnel with needed skills and knowledge, and how to design a white-collar crime intelligence system. In addition, he discusses basic investigative strategies and
techniques, a format for preparing cases for prosecutorial review, and the use of computers in both committing and investigating white-collar crime.

While Edelhertz' manual is oriented primarily toward investigators, the NDAA's manual is written specifically for prosecutors of economic crime. The NDAA manual covers the basis statutory laws which can be applied to economic crime, defines 21 different types of economic crime schemes, and provides a set of guidelines for organizing and operating an economic crime unit. In addition, the text outlines fundamental procedures and options in trying economic crime cases, offers strategies and tactics for prosecutors attempting to obtain stiff sentences for convicted economic criminals, contains a set of model economic crime statutes for those interested in promoting legislative changes, and provides a directory of agencies which investigate and prosecute economic crime.

In addition to his manual, Edelhertz has authored a brief monograph on The Nature, Impact and Prosecution of White-Collar Crime. This work is based upon his experiences as former Chief of the Justice Department's Criminal Fraud Section. However, no data are presented to support his statements about the nature and impact of white-collar crime. As a result, they appear to be expressions of Edelhertz' own legal philosophy rather than empirically based observations.

A more empirically oriented study of economic crime enforcement operations focuses on the activities of two economic crime units: San Diego, California and Seattle, Washington. The monograph provides data on the structure and organization of the units and the numbers and
types of cases handled by them.\textsuperscript{43} The document reads more like an annual report than a study of how economic crime investigation and prosecution is carried out. In addition, the concluding portion of the work is a "how-to" manual which suggests ways to establish and operate other ECU's based upon the San Diego and Seattle models.

In addition to providing detailed information on the San Diego and Seattle ECU's, the NDAA periodically has published reports, brochures, and articles on the national Economic Crime Project of which these two ECU's are a part.\textsuperscript{44} The publications contain statements of Project purposes and goals, as well as individual economic crime units' enforcement efforts and accomplishments. According to this literature, the primary goal of the NDAA's national project has been to "increase the capability of the prosecutor to investigate and prosecute the full spectrum of economic offenses."\textsuperscript{45}

During the first year of the Project (1973-74), a set of priorities for economic crime prosecution was established. The high priority offenses were 1) repair swindles, including automobile and appliance repair schemes and 2) merchandising swindles, including false and deceptive advertising, fraudulent installment sales contracts, pyramid and ponzi schemes,\textsuperscript{46} debt consolidation cases, and weights and measures. Optional national priorities were 1) the energy crisis; 2) health, medical, and welfare frauds; and 3) housing, real estate, construction, and land frauds.\textsuperscript{47} However, the NDAA also suggested that inexperienced units select one type of crime for intensive effort and achieve success rather than attempt a wide ranging effort and fail. The NDAA urged "District Attorneys to do the 'doable' and to seek redress for the
most flagrant and pervasive local economic crime offenses no matter how modest those offenses might be."

General guidelines regarding the types of cases local units should handle were as follows:

"1. Go for felony prosecution wherever possible . . .

2. Go for the major impact prosecution--i.e., those which will affect the largest number of principal offenders and protect the largest possible segment of the public.

3. Go for easy cases to get quick project results--i.e. prosecute first those cases which require the least painstaking and time consuming investigation and preparation.

4. In all prosecution make a conscious effort to favor the disadvantaged victim--that is, "target" for prosecution those offenders whose schemes are aimed at defrauding disadvantaged citizens (those citizens least capable of protecting themselves and most likely to be injured by economic criminals)."

For researchers of economic crime investigation and prosecution, annual reports, brochures, and "how-to" manuals are helpful orientation materials. They indicate general issues and areas of concern in economic crime law enforcement and provide background knowledge on the origins and purposes of local economic crime units. Such information may be used as a basis for comparing actual enforcement operations, such as this ECU, with stated goals of the national Economic Crime Project. In doing so one must remember, however, that stated goals are ideals which local units are encouraged to achieve. The unique circumstances in which each unit functions determine, to some extent, the degree to which such goals can be accomplished.
Analytical Treatments

One of the analytical treatments of economic crime investigation and prosecution is oriented toward legal policy making. Two additional treatments are more sociological in nature.

The legal policy oriented work is an article by Bernstine on state consumer protection activities. Bernstine's article is derived from her law master's thesis comparing selected aspects of the decision-making process in four state attorney generals' consumer protection offices. One of Bernstine's major conclusions is that these offices are inadequately staffed. She proposes several alternative enforcement options to be used until increased funding permits hiring more legal staff. These alternatives include employing non-legal staff to process consumer complaints, encouraging greater reliance on private consumer litigation, referring cases to regulatory agencies for administrative sanctions, and referring cases to local prosecutors where concurrent enforcement authority exists.

The two sociological treatments of economic crime investigation and prosecution differ from each other in focus and perspective. Vaughan's study examines the development of inter-organizational efforts to discover, investigate, and prosecute a major corporate crime case. She employs the concept of a "focused network" to describe the combined efforts of multiple social control organizations in this case. The network response emerged as a result of an extreme imbalance between limited law enforcement resources versus extensive corporate resources. The temporary formation of a focused network of social control agencies
counterbalanced the corporation's power in this instance.

The other sociological treatment of economic crime enforcement is Katz' study of a U. S. Attorney's Office. In an article containing some preliminary findings, Katz contends that investigative and prosecutive functions, which are generally separate in common crime cases, tend to be merged in white-collar cases. U. S. Attorneys actively participate in the investigation of white-collar crimes, even during the initial stages of case development. Katz argues that within a phenomenological perspective, this means that attorneys' decisions not to prosecute white-collar cases are often not decisions in an articulated or reflexive sense. Rather, they occur early in the investigative stages of case screening, often before any record exists that a case is in the making. Katz concludes that greater scrutiny of the plea bargaining process would have little effect on white-collar cases because prosecutorial discretion has very low visibility in this context.

As the preceding review of literature on economic crime prosecution demonstrates, the sociological literature on this topic is almost non-existent. "How-to" manuals, reports, and brochures provide background information as a starting point for sociological research but do not constitute an adequate body of knowledge in this area. Further research is needed in order to move beyond the present stage of exploration and description which characterizes the bulk of the work on the topic.

The present study is an important contribution to the limited body of sociological knowledge on economic crime investigation and prosecu-
tion. The dissertation moves beyond the existing literature on the topic. It extends the work of Katz by examining the full spectrum of activities from discovery through investigation to prosecution. It also goes beyond the work of Vaughan by examining these activities across a large number of cases.

PLAN OF THE WORK

This chapter has provided some of the outlines and boundaries for the analysis which follows. Chapter 2 continues this discussion with a presentation of the methodology employed in conducting the research.

In Chapters 3, 4, and 5, the data is presented and analyzed. These three chapters follow the process of discovering, investigating, and prosecuting economic crime cases from beginning to end. Topics to be addressed include the sources of ECU cases, the unit's screening and intake procedures, the investigation process, and the criteria used in determining the prosecutability of cases. In addition, the ECU's relationships with other social control agencies, its treatment of individual versus organizational economic crime suspects, and the influence of politics on the ECU's day-to-day operations will be discussed.

The dissertation concludes in Chapter 6 with a statement of implication in terms of the existing literature, future studies, and policy and planning.
NOTES ON CHAPTER 1.


2. The National District Attorneys Association uses the term, "white-collar crime," interchangeably with economic crime. However, the conception of white-collar crime implied in the Association's usage is more narrow than the usual sociological conception. Sociologists use white-collar crime to refer both to offenses committed by individuals against organizations and to offenses committed by organizations against individuals, the public-at-large, or other organizations. The NDAA's conception of economic crime coincides more readily with crimes committed by individual actors.


5. Additional issues in the white-collar crime literature include the
sporadic and discontinuous nature of research in the area and the lack of adequate theoretical frameworks to explain the phenomenon. These issues are not discussed because they are not directly relevant to the topic of the dissertation.

6. Sutherland, White-Collar Crime, p. 9. (emphasis added)


17. See, for example, Laura Shill Schrager and James F. Short, Jr., "Toward a Sociology of Organizational Crime," Social Problems, 25 (April, 1978), pp. 407-419; and Ermann and Lundman, Corporate and Governmental Deviance.


31. See Cole, "Decision to Prosecute," _American System of Criminal Justice_; and George F. Cole, _Politics and the Administration of Justice_, Beverly Hills: Sage, 1973. In his 1973 and 1979 works, Cole also discusses the structure and organization of the prosecutor's office and some aspects of the decision to prosecute and plea bargaining, but the notion of exchange relations still appears to be his primary contribution to the literature.

32. Neubauer, _Criminal Justice in Middle America_.

33. Arthur Rosett and Donald R. Cressey, _Justice by Consent: Plea Bargains in the American Courthouse_, Philadelphia: J. B. Lippincott Co., 1976, p. 90. Unlike the works of Cole and Neubauer, Rosett and Cressey's book is not based upon research in a specific criminal justice jurisdiction. Instead, it is a combination of literature review and personal experiences presented in a narrative format with fictional characters in the principle roles. It is entertaining, but not very informative.

35. The cause of prosecutorial discretion is not directly relevant to the dissertation topic, but for those who are interested, see, for example, Southern California Law Review, "Prosecutorial Discretion"; Cox, "Prosecutorial Discretion"; Thomas and Fitch, "Prosecutorial Decision Making"; LaFave, "Prosecutor's Discretion"; and especially, Kenneth Culp Davis, Discretionary Justice: A Preliminary Inquiry, Baton Rouge: Louisiana State University Press, 1969.


38. Cole, "Decision to Prosecute"; Politics and Administration of Justice; Cox, "Prosecutorial Discretion"; Thomas and Fitch, "Prosecutorial Decision Making"; and LaFave, "Prosecutor's Discretion."


43. In 1974, the Seattle ECU's case distribution was as follows:

1) frauds in the product marketplace—odometer rollbacks, false advertising, unnecessary auto repairs, and other consumer frauds (30%);

2) frauds committed in the guise of legitimate business transaction, securities fraud, real estate and land sales schemes (30%);

3) frauds against businesses (embezzlement, insurance frauds) (30%);

4) frauds against government (bribery, embezzlement, obstruction of justice (10%).

Also in 1974, the San Diego ECU processed over 16,000 complaints, most of which were related to one of five areas: automobile and appliance purchase and repair problems, landlord-tenant disputes, contractual problems, complaints against home improvement and furnishing companies, and misleading advertisements. See Finn and Hoffman, Exemplary Projects.


45. The Prosecutor, 13: 2, p. 121.

46. A pyramid scheme is similar to a chain letter in which victims are induced to part with money based on the representation that they will make more money by inducing others to participate. A ponzi
scheme is an investment caper in which the operator uses the money of later investors to pay dividends to early investors.


50. Nancy T. Berstine, "Prosecutorial Discretion in Consumer Protection Divisions of Selected State Attorney General Offices," *Howard Law Journal* 20 (1977), pp. 247-345. In this published portion of her thesis, Berstine reports on only two of the four offices she studied because of objections raised by the other two offices to the findings reported in her thesis.


CHAPTER 2. METHODOLOGY

In order to gather data descriptive of the discovery, investigation, and prosecution of economic crime, the work of an Economic Crime Unit (ECU), one of 72 throughout the United States, was observed. Research access was gained and maintained across a six-month period ending in December of 1979. Data collection procedures included detailed examination and coding of case folders, collection of 1979 monthly report figures, observation of day-to-day ECU operations, and interviews with key ECU personnel.

THE RESEARCH SETTING

The ECU is one of 72 such units throughout the United States established under a national program, the Economic Crime Project. Locally, the ECU is a division within a county prosecutor's office. Three full-time prosecutors, one full-time investigator, and a part-time legal intern comprise the staff of the ECU.

Economic Crime Project

The Economic Crime Project (ECP) was established in 1973 by the National District Attorneys Association in cooperation with the Battelle Human Affairs Research Center. An initial LEAA grant of $532,175 was used to set up an ECP coordinating office in Washington,
D.C. Fifteen prosecutors' offices were selected as pilot projects. The primary goal of the national program has been to "increase the capability of the prosecutor to investigate and prosecute the full spectrum of economic offenses." The ECP's sponsors believe that the public is being swindled out of billions of dollars each year by repair frauds, housing, real estate, and construction frauds, and other types of economic offenses. The goal of the ECP is to help recover some of these losses and prevent others from occurring through vigorous local prosecution of fraudulent operations. A second aim is to increase the responsiveness of local criminal justice agencies to local community needs, thereby building renewed public respect for the criminal justice system as a whole.

Since its inception in 1973, the Project has expanded from 15 to 72 participating offices throughout the country. The Project has been refunded each year by LEAA. To date, over $5 million in LEAA funds has been spent, with most used to staff and maintain a national coordinating headquarters, first in Washington, D.C. and presently in Chicago.

The Project's headquarters continually has emphasized the need to develop strong communications links among the local units. Quarterly conferences are held at which local ECU staff gather to exchange information on current economic crime schemes and to discuss solutions to various investigative and prosecutorial problems. The ECP coordinators believe that limited resources of local prosecutors are put to optimum use through cooperative efforts bridging jurisdictional boundaries. The NDAA's professional journal, The Prosecutor, has reported a number of cases in which two or more ECU's cooperated in successfully prosecuting
an economic crime scheme which overlapped their jurisdictions. The ECP also coordinates production of manuals and handbooks for both prosecutors and the public. These publications identify various types of economic crimes and suggest methods for handling them.\(^3\)

Recently, the Project initiated a National Strategy Program designed to promote cooperative relations between local, state, and federal economic crime enforcement agencies. The ECP is establishing liaisons with the U.S. Postal Inspection Service, FBI, Federal Trade Commission, Securities and Exchange Commission, Department of Transportation, National Highway Traffic Safety Administration, Offices of Inspector General in the Departments of Agriculture, Housing and Urban Development, Energy, and Small Business Administration, U.S. Environmental Protection Agency, Department of Justice, and the National Association of Attorneys General. The goal of the National Strategy Program is to "minimize duplication of agency efforts and develop procedures to avoid cases 'falling between cracks' due to unclear allocation of responsibility."\(^4\)

In order to summarize the ECP's accomplishments over a five year period, the NDAA recently published a set of cumulative statistics.\(^5\) These figures appear in Table 2.1 below.

As the data in Table 2.1 indicate, ECU's are relatively successful in winning cases. Seventy-five percent (7022 out of 9357) of the closed felony and misdemeanor cases resulted in convictions. Over $45 million in fines, restitutions, and settlements were collected. These favorable statistics may largely reflect judicious case selection by ECU prosecutors. Felony, misdemeanor, and civil cases combined represent only one percent of the total number of inquiries, complaints, and special investigations.
### TABLE 2.1
CUMULATIVE STATISTICS FOR THE ECONOMIC CRIME PROJECT
(September 1, 1973 - August 31, 1978)

#### Number of Complaints, Inquiries, and Investigations

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inquiries</td>
<td>850,304</td>
</tr>
<tr>
<td>Complaints</td>
<td>231,393</td>
</tr>
<tr>
<td>Special Investigations</td>
<td>27,971</td>
</tr>
</tbody>
</table>

#### Criminal Cases Filed

<table>
<thead>
<tr>
<th>Category</th>
<th>Felonies</th>
<th>Misdemeanors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number Filed</td>
<td>8,150</td>
<td>4,190</td>
</tr>
<tr>
<td>Guilty by Plea</td>
<td>3,588</td>
<td>2,035</td>
</tr>
<tr>
<td>Guilty by Trial</td>
<td>1,041</td>
<td>358</td>
</tr>
<tr>
<td>Acquittals</td>
<td>122</td>
<td>81</td>
</tr>
<tr>
<td>Dismissals</td>
<td>886</td>
<td>367</td>
</tr>
<tr>
<td>Pending (avg. per month)</td>
<td>1,272</td>
<td>552</td>
</tr>
<tr>
<td>Other</td>
<td>664</td>
<td>215</td>
</tr>
</tbody>
</table>

#### Civil Cases Filed

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number Filed</td>
<td>904</td>
</tr>
<tr>
<td>Judgments for State</td>
<td>354</td>
</tr>
<tr>
<td>Judgments for Defendant</td>
<td>15</td>
</tr>
<tr>
<td>Settled</td>
<td>569</td>
</tr>
<tr>
<td>Pending (avg. per month)</td>
<td>233</td>
</tr>
<tr>
<td>No statutory civil authority</td>
<td>28</td>
</tr>
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</table>

#### Fines and Restitution

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Ordered</td>
<td>$12,824,860.09</td>
</tr>
<tr>
<td>Voluntary</td>
<td>$32,225,573.33</td>
</tr>
</tbody>
</table>
during the five years. This finding suggests that particular attention should be paid to this ECU's case selection criteria.

The Prosecutor's Office

The Economic Crime Unit studied is a division within a county prosecutor's office. The County served by the office is located in a Great Lakes State. The County covers over 500 square miles. In 1970 its population was nearly 850,000.6 The median education of the population was 12.3 years and 61% had high school diplomas. Nearly 67% of the population was employed in one of three occupational categories: manufacturing (25.2%), government (20.8%), and wholesale and retail trade (20.3%). The median family income for 1970 was $10,582.7

The Prosecutor's Office is staffed by 45 attorneys, 9 investigators, 43 secretarial, clerical, and administrative personnel and 6 legal interns. The Chief Prosecutor is an elected official who prosecutes all felony cases occurring within the County. In addition, the Prosecutor serves as chief legal counsel for all County offices, boards, and agencies. The Chief Prosecutor at the time of the study was appointed to that office in 1971 to complete the term of his predecessor who was appointed to a judgeship. The Prosecutor was elected in 1972 and re-elected in 1976. Two months after this research was concluded, the Chief Prosecutor unexpectedly resigned from office and was later appointed to a judgeship.8

The Prosecutor's Office is organized into several divisions. The major divisions are criminal, civil, juvenile, and appellate. The ECU is a subdivision of the criminal unit. Therefore, the ECU prosecutes
cases of economic crime under the criminal statutes and does not con-
duct civil suits.

**The Economic Crime Unit**

The Economic Crime Unit is staffed by three full-time prosecutors, one full-time investigator, and one part-time legal intern. Secretarial tasks are handled by a full-time secretary who also serves as secretary for the Welfare Fraud Unit and assists several other units with clerical and typing tasks.

The ECU director is an assistant prosecutor in his early thirties who had been with the unit four and one-half years (six months as director) at the time of the study. The ECU has been his only source of experience in prosecuting economic crime.

A second ECU prosecutor is also in his early thirties and had been with the unit approximately two and one-half years. Prior to joining the ECU, he was a State Division of Securities staff attorney, a position to which he referred as "a glorified investigator of securities fraud." Because of this previous experience, he is the ECU's securities fraud expert.

The occupant of the remaining full-time prosecutor's position changed during the research period. The attorney who occupied the position when the research began was transferred to another unit midway through the data collection period. Very little was said about his transfer except that he did not seem to have a "philosophical dedication to the prosecution of white-collar crime." He was transferred to a unit which primarily prosecuted pornography and prostitution.
cases. The timing of his transfer was significant because it occurred within several weeks after he lost an ECU case in court. Although the loss was never mentioned explicitly as the reason for the transfer, the ECU's defeat was attributed to a serious error in judgment on the part of this prosecutor. His position within the ECU was filled one month later by a recent law school graduate who had previously worked as a legal intern with the unit.

The ECU's investigative staff consists of one part-time legal intern and one full-time investigator. The intern is an advanced law student who does legal research, processes defendants' requests for "discoveries,"12 and generally assists full-time personnel. The principal full-time investigator for the ECU is an ex-university police officer who had been on staff for 18 months. His prior experience with economic crime law enforcement was as a fraud investigator for the university police force.

The ECU was one of the 15 original pilot programs started under the NDAA's Economic Crime Project in 1973. The unit has investigated over 1000 cases in its six-year history, two-thirds of which have been closed without prosecution and one-third of which were filed as criminal cases. The types of offenses prosecuted by the unit include embezzlement, business opportunity frauds, public corruption, insurance fraud, securities fraud, and welfare fraud.

GAINING AND MAINTAINING RESEARCH ACCESS

In conducting research within a group or organization, the process of gaining access to the setting is a crucial, yet easily forgotten,
aspect of the research process. It is crucial because intensive re-
search is not possible unless one gains access to the setting. It is
easily forgotten because, once achieved, data collection becomes the
primary concern. Everything up to that point is relegated to the status
of a preliminary consideration.

Maintaining access to the research setting is an equally important
consideration. Working relationships between the researcher and setting
participants affect the accuracy, candidness, and richness of the data
collected. In addition, such relationships influence future research
access to the setting for others.

Gaining Research Access

Gaining access to the ECU was a simple and straightforward pro-
cess. A colleague provided a telephone introduction to the ECU director
through an acquaintance network. This call was followed by a meeting
with the director in which he offered complete access to all ECU files
and promised full cooperation for the duration of the project.13

During this initial conversation, only two requests were made.
The Prosecutor's Office asked that names of parties in ECU cases not
be disclosed under any circumstances. The administrators also did not
want a stranger to the filing system rummaging through the drawers and
offered secretarial personnel to pull files as they were needed. Both
requests were honored.

After the project was approved by the ECU director and the Prose-
cutor's Office, the next goal was to be treated as much like an insider
as possible without actually becoming one. Such acceptance would allow
open access to the research setting without being announced by the receptionist each time. It also would allow observation of day-to-day ECU operations and activities to occur less obtrusively. It was felt that regular interaction with the staff would gradually reduce their self-consciousness about the presence of an outsider in the unit. Therefore, 15 to 20 hours per week was spent at the Prosecutor's Office over a period of six months. Part of this time was spent collecting data from ECU case folders, but much of it was spent observing ECU operations and conversing with the staff.

Maintaining Research Access

Maintaining a welcomed position in the ECU was not difficult. After a week of daily visits to the Prosecutor's Office, I felt comfortable enough to walk past the receptionist without stopping to have my arrival announced. After several weeks, I felt secure enough to ask the director if I could observe some ECU staff meetings. I also began to feel less self-conscious about asking questions or responding to questions about the progress of the research.

In spite of the apparent ease with which a positive research atmosphere developed, two small barriers had to be overcome during the course of the study. One was a communications gap between legal and sociological terminology. The other was the staff's tendency to "forget" my presence in the office.

The communications gap became apparent during my first trips to the ECU. Many of the prosecutors' terms and phrases were unknown to me. Rather than display complete ignorance at the outset of the study,
I solicited a few definitions at a time until I had achieved a working legal vocabulary. Equally important was the ECU staff's belief that sociologists shrouded obvious facts in complex terms or "bafflegab." Sociological jargon was often the object of joking comments. Midway through the study, the ECU director and I began to address the issue more seriously. I suggested that sociological terms were similar to legal terms in that both were short-hand notations or abbreviations for more complex ideas. I compared "ethnocentrism" and "epistemology" to "habeus corpus and "nolle prosequi." The director acknowledged his taken-for-granted legal language could also be seen as "bafflegab" by those outside the legal profession. He still insisted, however, that sociological language could be clearer and less complex.

The problem of being forgotten was never fully overcome during the course of data collection. Most often it was unintentional, a simple function of the physical separation of the ECU staff from each other and from me. Two of the ECU offices were adjacent to each other, but the third was several corridors away. The investigator's and intern's offices were also in different locations. It required a significant coordinative effort just to gather the ECU staff together for a meeting. Attempting to find a researcher who was constantly moving from one vacant office to another only complicated matters. In spite of my efforts to keep the staff informed of my presence in the office at any given time, I missed several court sessions and meetings because someone forgot to inform me or did not realize I was in the office that day.
Although most of this "forgetfulness" appeared unintentional, I may have been intentionally excluded from a few meetings on sensitive topics. In particular, I believe I was excluded from several meetings surrounding a major case of public corruption. A full report of the ECU's activities in this case was given to me only after it had been concluded.

Overall, gaining and maintaining research access to the ECU were not difficult. No insurmountable problems were encountered during the data collection phase of the research.

DATA COLLECTION PROCEDURES

Four types of data were collected: case folder material, copies of 1979 monthly reports, observations of ECU procedures and activities, and interviews with key ECU personnel.

Case Folder Data

The ECU maintains case folders on two general types of cases: indicted (case filed) and nonindicted (no case filed). The indicted or filed cases are those which are deemed prosecutable by the ECU and either indicted by the grand jury or processed through a bill of information. The nonindicted or unfiled cases are those which are not deemed prosecutable by the ECU or are refused for indictment by the grand jury.

The two types of cases are assigned different numbers and stored in different locations. Nonindicted cases are assigned ECU case numbers which contain the letters "FR" and are kept in file cabinets in
ECU staff offices. Indicted cases are assigned criminal court numbers which contain the letters "CR" in addition to their ECU numbers and are stored in a central filing system with all other cases indicted by the Prosecutor's Office. A list of the ECU cases is kept in a loose leaf notebook by the unit's secretary. As cases are taken in by the unit for investigation, they are assigned an ECU number and recorded in the book. If prosecuted, they also are assigned a criminal court number. When a case is closed, its final disposition is recorded in the notebook.

In order to construct a coding form, the folders of several indicted cases were examined during one of the initial ECU visits. Each folder contained a general core of information about the case, including the name, address, date of birth, race and sex of the defendant, the arrest data, charge, indictment, judge, whether the case was settled by a plea or went to trial, the outcome or verdict, and final disposition. In addition, two files contained handwriting specimens, one contained an FBI "rap" sheet, and one contained a series of defense attorney motions and responses by the prosecutor. Spaces for these items were incorporated into the coding sheet. (A sample case folder jacket and the coding form are reproduced in Appendix A.)

Once the coding form was constructed and a list of all ECU cases obtained, collection of case folder data was begun. The original plan called for examining and coding every case folder in the ECU's files. However, it soon was apparent that time constraints prohibited coding all 1000 folders. A stratified random sample, based upon the indicted/nonindicted case grouping was constructed and a sample of 100 indicted
and 178 nonindicted cases was selected.\(^{16}\) (See Appendix B for a description of the sampling procedure.)

After all obtainable folders in the sample had been coded, the data were transferred to computer cards for analysis.\(^{17}\) Forty-three variables were coded and punched onto cards, including type of defendant (individual versus organization), age, sex, and race of defendant, charge, trial judge, disposition judge, arrest and bonding information, and final outcome and disposition of the case. (See Appendix C for a complete list of all variables and their values.) Since most of the variables could be measured only on nominal or ordinal scales, analysis of the case folder data consists primarily of frequency distributions and some cross tabulations.

1979 Monthly Report Data

In January 1979 the Economic Crime Project initiated a new monthly reporting system for participating ECU's. The system was designed to provide statistical documentation of the efforts to investigate and prosecute economic crimes. One reporting form (see Appendix D-1) requests information for each investigation which is opened and closed and for each case filed and closed. For investigations, the requested information includes type of economic crime involved, number of individuals and/or organizations under investigation, number and types of victims, source of the investigation and its disposition if closed. For cases filed and closed, the units are asked to record whether the case is criminal (felony or misdemeanor) or civil, the type of proceeding and its result, and the penalty or remedy if closed. An additional
reporting form (see Appendix D-2) covers complaints and inquiries received by the ECU's. The units indicate the number of complaints and inquiries received, resolution procedures initiated, voluntary restitutions (and their amount), and referrals to other agencies.

The ECU's two sets of monthly report forms for 1979 were provided by the director. These data were also coded, punched onto computer cards, and analyzed. They will be used as a supplement to the case folder data for 1973-79. The case folder and monthly report materials constitute the quantitative data of the dissertation. As such they provide an overview of ECU operations through an examination of its "products"—economic crime cases investigated and prosecuted.

Observational Data

Observations of ECU activities involved casual observations of routine, day-to-day operations and formal observations of specific events or incidents.

Occasions for casual observations consisted of impromptu meetings of ECU staff during which cases were discussed. These occasions were observed by being in the vicinity of an ECU office when such discussions were occurring, generally by "hanging around" ECU personnel. During these casual observations, I frequently participated in conversations and felt free to interject questions at appropriate times. The ECU staff assumed the role of informants who explained legal procedures and unit policies. I tried to visit each staff member's office at least once daily to inquire about cases on which they were currently working and make certain they were aware of my presence that day in case occasions
for formal observation should arise.

Situations providing opportunities for formal observations included trials, hearings, ECU staff meetings, and meetings between ECU staff and outsiders, such as police, victims, and defense attorneys. In formal observational situations, my role was that of an unobtrusive nonparticipating observer. I reserved questions or comments until the formal portion of the event terminated.

I did not take notes during either the casual or formal observations. I felt such activity might be distracting to the participants, especially during the first few weeks of observation. Once the research was underway and the practice of no notetaking well established, it seemed advisable to maintain that pattern.\textsuperscript{18} Notetaking, therefore, was a three-step process. Immediately after making an observation, I went to a quiet place, such as the women's restroom or an empty office and jotted down brief fieldnotes. I filled in the details from these jottings after leaving the field for the day. These detailed notes were then typed or rewritten at the end of each week.

Factors which constrained observations within the ECU included physical, structural, and temporal elements. Physical constraints involve the location of the observer vis à vis the observed. In the ECU each staff member was physically isolated from all the others because of the office arrangements. (Appendix E displays an approximate layout of the Prosecutor's Office arrangements.) Thus, there was no central location in which to observe ECU activities. In order to gather observations, it was necessary to be invited to formal occasions or to happen upon informal occasions by walking the halls. Since the majority of ECU
activities involved the director in some manner, the most fruitful strategy was to circulate around his office several times each day.

Structural constraints refer to limitations on observations imposed by organizational norms or rules. Some ECU activities, such as trials, were completely accessible to me and to the general public. Other activities, such as grand jury hearings, were completely inaccessible because of legal rules prescribing secrecy. Still other activities seemed accessible on some occasions and inaccessible on others, depending upon the director's judgment. On several occasions at the beginning of the research, the director announced my presence at staff meetings with a statement that the topics to be covered were not overly sensitive. At the end of the research, I asked him what types of topics had been "too sensitive" for me to observe. He replied that I had not been permitted to know details of some of the open cases at first. But, after I had been with the unit for several months, I was included in meetings concerning both open and even beginning cases.

Temporal constraints involve limitations imposed by the time structure of the research site. The ECU was strictly a nine to five, Monday through Friday operation. Although the staff frequently took work home with them in the evenings and on weekends, observations were limited to the regular work week.\textsuperscript{19}

\textbf{Interview Data}

Interviews with ECU staff were conducted at the end of the field research.\textsuperscript{20} The purposes of interviewing the staff were to fill gaps in information about the ECU, to clarify certain legal procedures, to
check the accuracy of observations, and to solicit opinions on selected issues in economic crime law enforcement.

The interview guides contained in Appendix F were constructed after reviewing the field notes. Questions were open-ended and unstructured. They focused on the sources of ECU cases, criteria by which investigative and prosecutive decisions are made, steps in investigating and prosecuting cases, factors important during plea bargaining, the significance of the judge's role during trials, differences between regular and economic crime prosecution, and a variety of other topics.

The interviews were conducted in ECU private offices. They were not taped because it was felt respondents would be more candid without the presence of a tape recorder. Extensive notes were taken during the interviews and were converted to detailed transcripts immediately after.

Analysis of Observational and Interview Data. As proponents of qualitative methodology have noted, the procedures for analyzing this type of data are not as straightforward as quantitative procedures. Qualitative data collection methods produce vast amounts of notes, tapes, and documents which must be condensed and placed within some logical framework without at the same time destroying the richness of the data.

One solution to this dilemma involves repeatedly examining the data in order to identify broad categories of information. Once these initial categories have been identified, the data are examined for subcategories. This process of examination and categorization continues until the researcher is satisfied that the ordering of the data is com-
Sorting and shuffling data is the simplest part of the analysis. The more difficult task is constructing a coherent framework for presenting the findings. One must condense the data into a manageable form but still supply ample illustrations and examples to permit the reader to draw similar conclusions. With too few illustrations, the work appears fabricated or uninformed. With too many, the result is an overly descriptive narrative with little analysis. The balance between the two extremes is a delicate one.

The analysis of the qualitative data follows the procedures outlined above. Three broad categories suggested by the data are the discovery, investigation, and prosecution of economic crime, the topics of Chapters 3, 4, and 5. The analysis follows the movement of economic crime cases as they progress through the criminal justice system with the ECU as the agency of primary focus. Major procedures and patterns of activity involved in each stage of this overall process are presented and supported by illustrations from the observational and interview data and by tables from the case folder and monthly report data, where appropriate.

**SUMMARY**

The work of an Economic Crime Unit was observed in order to gather data descriptive of the discovery, investigation, and prosecution of economic crime. Research access to the unit was gained and maintained across a six-month period. Data collection procedures included detailed examination and coding of ECU case folders, collection of
1979 monthly reports, observation of day-to-day ECU operations, and interviews with key ECU personnel. Techniques of quantitative and qualitative data analysis are employed in presenting the research findings in subsequent chapters.
NOTES ON CHAPTER 2.

1. The Prosecutor, vol. 13, no. 2, p. 121. The Economic Crime Project defines economic crime as "non-violent illegal act(s) to obtain money/property for personal use or to avoid paying money." (From National District Attorneys Association, Economic Crime Project Background Sheet, Chicago, NDAA, 1978, p. 1.)


6. The population, educational, occupational, and economic data are drawn from a 1970 census report on the County. The identity of the County is not revealed in order to preserve the confidentiality of the data sources.

7. The cultural, economic, social, and political arenas are dominated by a city, population 471,000. whose metropolitan area takes up a large portion of the County. The major manufacturing and retail establishments are located within the city limits, as are many County and some State government offices. The city has two daily
newspapers and four television stations (three commercial and one public).

8. The Chief Prosecutor stated that his resignation was due to personal and family matters, but there was some speculation in the news media that it was politically motivated. The Chief Prosecutor had developed a reputation in the community for losing major criminal cases and his prospects for reelection were viewed as marginal.


10. ECU Interview, December 26, 1979.

11. ECU Interview, December 20, 1979.

12. Under state law, a defendant in a criminal case has the right to examine certain types of evidence possessed by the prosecutor. This evidence includes reports on the defendant's prior criminal record, transcripts of statements made by the defendant to law enforcement authorities, and evidence which might prove beneficial to the defendant's case.

13. Several Prosecutor's Office administrators also reviewed and approved the project.

14. An indictment or "true bill" is returned when the grand jury votes (by at least seven out of nine votes) that the evidence is sufficient to take the case to trial. A bill of information is a procedure whereby the defendant waives the right to have the grand jury hear the case and agrees to plead guilty to the charges in court.
15. I had been informed that folders of indicted cases contained a greater variety of material than folders of nonindicted cases. Thus, I decided to base the coding form on the contents of indicted folders.

16. The indicted/nonindicted dimension was selected as the basis on which to stratify the sample for three reasons. First, from the perspective of the ECU, the two types of cases require different resource allocations. When a case is closed administratively (not indicted), the ECU need not be concerned with trial preparation, plea bargaining, or spending time in court. Second, the two types of cases involve different consequences for the ECU's clientele. A nonindicted suspect experiences a small portion of the criminal justice process compared to an indicted defendant. Third, the two categories of cases were readily identifiable from the case list notebook by virtue of the different numbering systems involved. Cases with only "FR" numbers were nonindicted. Cases with both "FR" and "CR" numbers were indicted.

17. Obtaining sample folders was often difficult. The indicted folders were stored in four different locations, one of which was on a different floor of the building and therefore less accessible to the clerical staff. Folders on more recent cases (1976-79) were easily obtained, but those on earlier cases (1973-75) frequently required a week or more to locate. All nonindicted case folders were in ECU staff offices and therefore more accessible, although they presented a slightly different problem. Some of the nonindicted folders were empty and others were missing. I was told that
the reason for this is that documents collected as evidence during investigations are often returned to their owners (victims, suspects) or transferred to another agency if the case is referred. Thus, the percentage of folders actually obtained in the nonindicted case sample was much lower (62%) than in the indicted case sample (96%). The problem of missing folders was particularly acute for 1978 when the ECU ceased prosecuting welfare fraud and transferred 50% of its cases for that year to a newly established Welfare Fraud Unit. This situation did not become apparent until after the vast majority of the nonindicted sample had already been coded.


19. Two additional tasks competed for that same portion of my day. One was part-time employment in a position requiring regular office hours. The other was coding ECU case folders which could not be removed from the Prosecutor's Office. The former problem was partially solved by eating lunches on buses. The latter problem was handled by placing highest priority on observations. Folders were coded during observational "down time," periods when the staff were unavailable or were engaged in non-ECU activities.
20. The staff were informed that their participation in the interview was strictly voluntary and could be terminated at any time. They were informed that their responses were confidential and would never be attached to their names either within or outside the Prosecutor's Office. All staff members responded enthusiastically to the request for an interview and cooperated fully during the interview sessions.

21. In two cases, these detailed notes were typed in final form within 24 hours after the interview. In the other two cases, the notes were put on tape and transcribed at a later date. The interviews were quite lengthy. The shortest was two hours and the longest was four hours.

22. See Lofland, Analyzing Social Settings and Schatzman and Strauss, Field Research.
CHAPTER 3. THE DISCOVERY OF ECONOMIC CRIME

This chapter examines the ways in which economic crime cases come to the attention of the Economic Crime Unit (ECU). It begins by examining ECU case sources, emphasizing that the unit is a reactive social control agency dependent upon referrals from outside agencies. In addition, unlike other prosecutorial units, the ECU receives very few of its cases from law enforcement agencies. Most come from other government agencies and private complaints or inquiries.

From case sources, the discussion moves to the criteria employed by the unit in selecting its cases. A set of legal and extra-legal criteria, compiled from interviews with the staff, will be examined. These stated criteria for case acceptance will be assessed in terms of available data on the types of cases which the unit has actually accepted for investigation. It will be shown that the ECU has not strictly adhered to some of these criteria in the past, although there are indications that the present staff may be more inclined to do so in the future.

Finally, an analysis of additional offense and offender characteristics among the ECU's past and current cases will reveal a pattern in which the unit has traditionally been concerned with crimes committed by individuals against government and public agencies. In particular,
it will be shown that until recently, the ECU primarily was a welfare fraud unit. As a result of this focus, the unit essentially reversed one of the priorities of the larger Economic Crime Project. Instead of investigating crimes committed against members of disadvantaged groups, the ECU investigated crimes committed by members of disadvantaged groups.

ECU CASE SOURCES

The ECU almost exclusively has been a reactive social control agency, similar in this respect to other prosecutors' offices reported on in the literature. Cases come to the ECU's attention in three ways: 1) agency referrals; 2) complaints or inquiries by private citizens or attorneys; and 3) proactive efforts by ECU personnel. As Table 3.1 below shows, over half of the ECU's cases are referred by other agencies and slightly less than one-third by private citizens or attorneys. Only one percent are the result of proactive efforts by ECU personnel.

<table>
<thead>
<tr>
<th>Source</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Referrals</td>
<td>120</td>
<td>(58)</td>
</tr>
<tr>
<td>Private Complaints and Inquiries</td>
<td>60</td>
<td>(29)</td>
</tr>
<tr>
<td>Proactive</td>
<td>3</td>
<td>(1)</td>
</tr>
<tr>
<td>Unknown</td>
<td>24</td>
<td>(12)</td>
</tr>
<tr>
<td>Totals</td>
<td>207</td>
<td>(100)</td>
</tr>
</tbody>
</table>
Agency Referrals

As shown in Table 3.1, over half (58%) of ECU cases were referred by an outside agency. Such referrals generally come from one of three sources: 1) government agencies; 2) law enforcement agencies; and 3) public interest or service organizations. Table 3.2 below indicates the distribution of ECU agency referrals among these sources.

<table>
<thead>
<tr>
<th>Type of Agency</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>99</td>
<td>(82)</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>14</td>
<td>(12)</td>
</tr>
<tr>
<td>Public Interest/Service</td>
<td>7</td>
<td>(6)</td>
</tr>
<tr>
<td>Totals</td>
<td>120</td>
<td>(100)</td>
</tr>
</tbody>
</table>

Government Agencies. As Table 3.2 shows, the vast majority of agency referrals are from other government agencies (82%), with most of these from the county welfare department. This agency referred a large number of welfare fraud cases to the ECU between 1976 and 1978. In one series of cases, suspects allegedly received two Aid to Dependent Children checks for the same month by falsely claiming that the first check had been lost or stolen. In another set of cases, a computer matching of social security numbers for state employees and welfare recipients revealed that some low-level (mostly clerical) state employees were also collecting welfare benefits. The ECU prosecuted many of these cases.
State government agencies, such as the auditor's office, the division of securities, and the state welfare department also have referred cases to the ECU. The state auditor's office referred cases to the ECU involving irregularities in the state payroll. In one case, an agency supervisor was accused of placing friends and relatives on the state payroll for purposes of engaging in political campaign activities. The division of securities refers cases of possible security law violations to the ECU. The state welfare department referred several cases of Medicaid provider fraud to the ECU. These cases generally involved physicians or medical care suppliers accused of double-billing or overcharging the state for services or products provided under Medicaid. A recent change in state law removed Medicaid provider fraud from the province of local prosecutors and placed it solely within the state attorney general's jurisdiction.

Many state agencies, like the welfare department and the securities division, operate within a relatively narrow range of expertise. Although they have knowledge of the laws governing a particular type of activity, they frequently lack general investigative resources and knowledge of criminal trial procedures. In addition, their power to subpoena documents for evidence is often limited to only certain types of documents. The ECU, on the other hand, has both experience in criminal proceedings and broad investigative power through grand jury subpoenas. As a result, state agencies often pursue an investigation as far as their resources and expertise allow and then send it to the ECU.

Two additional government agency sources of ECU cases are prosecutors' offices in other counties and the state attorney general's office.
Prosecutors in other counties occasionally refer cases to the ECU when the alleged crime appears to have been committed within the ECU's jurisdiction. For example, a resident of another county may complain to the local prosecutor about a possible business opportunity fraud operating within the ECU's county. The complaint is referred to the ECU for investigation.

With respect to the state attorney general's office, remedies available in consumer protection cases generally are limited to filing civil suits and seeking injunctions. In cases in which there is a potential for criminal charges to be filed, the attorney general's office refers case information to the appropriate county prosecutor's office. One such case involved an organization selling advertising space to area businesses in a nonexistent law enforcement magazine. According to one ECU staff member, this company had collected over $70,000 in "conscience money" from businesses desiring to demonstrate public support for local law enforcement.

Throughout its six-year history, the ECU has been heavily dependent upon a variety of government agencies to supply a large proportion of its cases. Many of these cases have been welfare frauds received from the county welfare department, but other state and local government agencies also have contributed to the ECU's investigative caseload.

**Law Enforcement Agencies.** For most county prosecutors, law enforcement agencies, particularly local police departments, are primary sources of cases.\(^3\) As Table 3.2 indicates, the ECU stands in marked contrast to this usual pattern. Only 12% of its agency referral cases
over the past six years have been received from law enforcement agencies. This represents only 7% of the ECU's cases overall.⁴

The law enforcement agencies which have referred cases to the ECU include the state police, city police, and suburban police departments. The state police have referred a number of cases to the ECU, most of which involved some form of public corruption or defrauding of a state agency. The city police department has a "check squad" whose task is to investigate passing bad check cases. According to the ECU staff, the check squad occasionally encounters a complex or sophisticated scheme beyond its expertise and resources. Such cases are referred to the ECU. Uniformed patrol officers also uncover activities which appear to involve financial deception or fraud. They report such cases to the check squad which, in turn, sends them to the ECU.

During my research, the ECU received a case in which a woman's spouse secretly obtained a second mortgage on their home by having his female friend pose as his wife to sign the papers. When the marriage later dissolved, the woman obtained the house but was completely unaware of the second mortgage until the bank threatened foreclosure because payments ceased. The victim called the police who referred her to the check squad who sent the case to the ECU.

In a second case, several accountants for a downtown hotel discovered that one of the night auditors had stolen $12,000 in one year by altering audit sheets and cash register tapes. When the police were called by the hotel manager, they recognized the crime as embezzlement and referred it to the ECU.
Suburban police departments also occasionally refer potential economic crime cases to the ECU. During my research, a suburban police department referred a "sensitive" case to the ECU involving a used car dealer. The dealer was selling used autos without delivering their titles to the customers. In fact, the suspect sold one car which he did not own but merely leased from another dealership. This case was labeled "sensitive" by the ECU prosecutors in a half-joking manner because it was embarrassing to the police department to have the suspect operating his illegal business across the street from their headquarters.

Unlike the typical prosecutor's office, the ECU has not received a large percentage of its cases from law enforcement agencies. A likely reason is that these agencies traditionally have not devoted a great deal of attention to economic crime. For most police departments, "real crime" consists of murder, rape, robbery, burglary, and assault. Fraud and embezzlement have never been high priority investigative tasks for law enforcement agencies. Recent emphasis on economic and white-collar crimes has encouraged new efforts in this direction, but such steps are still at a minimal level.

Public Interest/Service Organizations. The third source of agency referrals to the ECU has been various public interest or service oriented organizations, such as the local Better Business Bureau, press, and news media. The local Better Business Bureau refers complaints to the ECU when its standard mediation procedure is unsuccessful or there is an indication that a fraud has been committed. The local press and news
media also alert the ECU to potential cases of economic crime. One of the city newspapers solicits and attempts to resolve consumer complaints in a call-for-action column. Complaints are referred to the ECU when they appear to involve the possibility of fraud or deliberate deception. In one case, the editor of the call-for-action column received information that a carpet company was improperly charging sales tax on certain types of installations. The ECU as well as the attorney general's office were alerted to the situation and both agencies opened investigations.

In sum, the ECU has received the vast majority of its cases over the years through agency referrals. Unlike other local prosecutorial agencies, the ECU's cases have not come primarily from law enforcement organizations, perhaps because of the traditional lack of attention given to economic and white-collar crime by the police. Instead, a large number of ECU cases, particularly between 1976 and 1978, were received from the county welfare department as a result of crackdowns on welfare fraud.

Extent of interagency cooperation. The national Economic Crime Project is currently attempting to promote greater cooperation and coordination of effort between local ECU's and state and federal economic crime enforcement agencies. As the preceding discussion indicates, interagency cooperation and coordination for the ECU is largely restricted to the local and state levels. Primary contacts have been the county welfare department, the state police, several other state agencies, and local police departments. Federal agencies are conspicuously absent
from any list of case sources provided by the ECU staff or contained in the case folders. The ECU refers cases to certain federal agencies, such as the FBI and U. S. Postal Inspectors, but no instances were encountered in which cases were referred to the ECU from federal agencies.

ECU staff views mirror the quantitative data. For the most part, they believe local interagency cooperation is good. One staff member stated that the extent of cooperation among various economic crime enforcement agencies has steadily improved over the past several years. A second member noted that an agency's willingness to cooperate appears related to the degree of direct interest it has in a particular case. A third member reported that the attorney general's office shares information with the ECU, except in an election year when they do not share anything with anybody. Only one staff member was decidedly negative in his comments about interagency cooperation, and all of his criticisms were directed toward federal agencies, such as the FBI, federal prosecutors and the IRS. He stated that the "feds" are primarily interested in high impact cases; those involving multiple victims, important victims, or millions of dollars. They want to see a stack of newspaper clippings indicating extensive public interest in a case before considering it. This attorney also claimed that federal agencies act as if the information flow should only be one way, from the local to the federal level.

An effort to increase interagency cooperation and coordination is represented by a countywide Economic Crime Roundtable. Representatives of twelve organizations, including the ECU, meet informally for lunch once a month to share information on current economic crime schemes,
to foster greater public awareness of such schemes, and to promote interagency case referrals. Three of the participants are federal agencies, but their attendance at these meetings apparently does not prompt them to refer cases to the ECU.

This lack of close cooperation between local and federal economic crime enforcement agencies is paralleled somewhat by Clinard et. al.'s findings of a definite division of labor between state and federal agencies engaged in corporate crime prosecution. Within this division states tackle crimes committed by small, intrastate corporations, while federal agencies handle crimes by large, national corporations. Clinard and his associates found that federal agencies provide assistance to states in the form of information or advice and some funding, but the preemptive nature of federal law means that the federal government also interferes with state enforcement to some extent. The combination of federal preemption and greater resources at the federal level frequently induces states to defer to the federal government with respect to controlling large-scale corporate crime.

Complaints and Inquiries

As Table 3.1 shows, in 29% of the case folders examined, the source consisted of complaints or inquiries by private citizens or private attorneys. Approximately three-fourths of these complaints or inquiries were made by private citizens, as opposed to attorneys. Citizens generally complain to the ECU when they believe they are victims of some type of unfair or illegal economic activity, such as business opportunity or home repair fraud. In many cases, the victim
paid for a particular service or product and either never received it or received less than promised. The ECU staff contend that a large proportion of these complaints are civil rather than criminal matters. If it appears that no criminal laws have been violated, the complainant is told to seek a private attorney's advice. Even where grounds for criminal prosecution exist, the ECU staff report that some citizens merely use the threat of prosecution to obtain financial or material restitution from the alleged wrongdoer. In other words, private citizens are often interested only in recovering their losses and not in seeing an economic criminal punished by the State.

One ECU attorney told of a victim who vigorously pursued criminal prosecution to the point of trial only to withdraw when money was received from the offending party. This attorney was angered by the fact that he and the ECU had been used in such a manner by the victim. His response was to send a letter to the wrongdoer's defense attorney promising not to prosecute the case in the future. The victim thus forever forfeited the right to have the wrongdoer criminally prosecuted for that particular crime. All ECU staff members state that the unit is a prosecutorial agency, not a collection agency. They express mild resentment over the fact that some complainants attempt to use the ECU for the latter purpose.

Approximately one quarter of the complaints or inquiries received by the ECU come from private attorneys. Some attorneys represent businesses or organizations, while others represent private citizens. According to the ECU staff, attorneys on retainer for large companies contact the ECU when cases of embezzlement or employee theft are
discovered within the company. Attorneys hired by private citizens also provide the ECU with cases when it appears that their clients have been victims of economic crime schemes. According to the staff, some of these attorneys are genuinely interested in seeing an alleged economic criminal prosecuted. However, the ECU occasionally receives "attorney-reject victims." These individuals are referred to the unit by private attorneys when it appears that a civil suit will not yield enough money to pay the attorney's fees.

Thus, the ECU is occasionally used as an agency of last resort by complainants who have tried other methods of recovering losses, but have been unsuccessful. This situation was readily apparent in a case involving a woman who loaned over $25,000 to a man who promised to marry her. After two years of trying to get her money back in every other way, including hiring a private attorney and personally pursuing the man, she brought her case to the ECU. The staff listened to her story and advised her that she did not have a sound criminal case against her ex-fiancé for two reasons. First, she had waited too long after recognizing her mistake to file a formal complaint. Secondly, her ex-fiancé had been paying her back some of the money each month, although she had to chase him down to get it. Thus, their relationship had become one of debtor and creditor, and the ECU could not intervene in what was essentially a civil matter.

Proactive Efforts

Only one percent of the ECU case folders indicate a proactive case source. These three cases include a 1973 investigation into the oil
and gasoline shortage, a 1974 investigation of companies manufacturing gasoline-saving devices, and a 1975 investigation of a possible business opportunity fraud involving cleaning and laundry products. These cases were opened in response to Economic Crime Project requests that local ECU's investigate such activities in their jurisdictions. All three cases were closed administratively by the ECU and did not result in prosecution.

During my research, the Economic Crime Project sent a memo to all ECU's alerting them to ovenware products being sold at cheap prices from the backs of vans and trucks. The merchandise was being advertised as extremely strong and long-lasting, but was actually of dubious quality. The ECU director asked me if I had seen anything like this in the area. I told him I had seen such vans in several locations more than six months ago. He indicated he would alert the attorney general's office to the situation, since consumer product cases fall within the attorney general's jurisdiction.

The ECU staff indicated that the unit had been more proactively oriented earlier in its history. As it gained visibility in the community, more cases were initiated through direct complaints from individuals and businesses. However, the ECU still occasionally opens proactive cases in order to build intelligence on certain types of activities, such as telephone solicitation schemes and local price-fixing operations. These cases are kept open over long periods of time and provide the staff with something to do when their caseloads are relatively light. The ECU director does not emphasize proactive cases because he finds their open-ended nature frustrating. He contends that
attorneys become so enmeshed in the intricate details of these cases that they lose sight of the more important overall patterns of economic crime within the community.

Since the majority of ECU cases (87%) come from sources outside the unit, the ECU can appropriately be called a reactive social control agency. Cases of economic crime discovered by the unit are brought to it by outsiders. The case folder data covering the six-year history of the unit indicate that these outsiders have primarily been other government agencies, particularly the county welfare department. However, at the end of 1978, the ECU gradually discontinued prosecuting welfare fraud cases when the Prosecutor's Office established a Welfare Fraud Unit. In order to determine what effect this has had on the sources of ECU cases, we will examine the 1979 monthly report data.

Case Sources in 1979 Monthly Reports

As Table 3.3 below indicates, the proportions of cases which arise through agency referrals versus private complaints or inquiries have undergone a shift during 1979.

<table>
<thead>
<tr>
<th>Source</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency Referrals</td>
<td>46</td>
<td>(42)</td>
</tr>
<tr>
<td>Private Complaints and Inquiries</td>
<td>50</td>
<td>(46)</td>
</tr>
<tr>
<td>Proactive</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>10</td>
<td>(9)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>109</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>
Table 3.3 displays an almost even division between agency referrals and private complaints and inquiries, with referrals slightly lower than complaints and inquiries. This is in marked contrast to the case folder data (Table 3.1) in which agency referrals were the predominant source of ECU cases.

In spite of this shift between two of the categories, proactive cases remain infrequent. In 1979, the ECU was still a reactive social control agency.

Turning to the question of the types of agencies which refer cases to the ECU, Table 3.4 yields the following distribution of the sources of agency referrals.

<table>
<thead>
<tr>
<th>Type of Agency</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>17</td>
<td>(37)</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>22</td>
<td>(48)</td>
</tr>
<tr>
<td>Public Interest/Service</td>
<td>2</td>
<td>(4)</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>(11)</td>
</tr>
<tr>
<td>Totals</td>
<td>46</td>
<td>(100)</td>
</tr>
</tbody>
</table>

Table 3.4 reveals a shift in the type of agencies referring cases to the ECU in 1979. Whereas the case folder data indicated that 82% of the agency referrals came from government agencies (see Table 3.2), the 1979 data indicate that this figure has decreased to 37%. In addition, while law enforcement agency referrals comprised only 12% of all agency referrals in the case folder data (see Table 3.2), they rose to 48% of agency referrals in 1979. It would be misleading to assume from
this that the ECU is becoming a more traditional prosecutorial agency, one which receives most of its cases from law enforcement organizations. The 22 cases from this source in 1979 make up only 20% of the total 109 cases in the data. Nevertheless, this is an increase over the 7% figure for the case folder data.

One change which did not occur in 1979 was the level of the agencies referring cases to the ECU. It was reported above that the unit receives nearly 100% of its referrals from state and local agencies. In 1979, the same pattern was evident. Only one case investigated by the ECU was received from a federal agency during 1979.

Comparison with Other ECU's

The case sources of this ECU may be compared with available data on two other ECU's, the Seattle and San Diego Fraud Divisions. In 1974, approximately half of the Seattle ECU's cases were referred by other government agencies. The other half came from consumer, business, or private attorney complaints and inquiries. Agencies reported to be regular sources of Seattle's cases include the federal Securities and Exchange Commission, Washington State Securities Division, and the Attorney General's Consumer Protection Division. The Seattle unit originally was more proactive, but as public visibility increased, so did the number of cases referred to the unit, and the need for generating its own investigative leads ceased.

The San Diego Fraud Division received cases from two sources in 1974: telephone or walk-in complaints and agency referrals. The proportions of cases in each category were not reported. The San Diego
unit engaged in several proactive investigations, such as monitoring newspapers for false advertising of silver and gold futures and undercover auto repair fraud investigations. However, the unit is reported to be adequately supplied with consumer and agency complaints, making it primarily reactive in orientation.

The available data indicate that the Seattle and San Diego ECU's are similar to this ECU in that they are primarily reactive social control agencies. All three units receive most of their cases from agency referrals or private complaints and inquiries. Proactive efforts appear to be minimal for all three. The Seattle ECU regularly receives cases from several state agencies as well as one federal agency. The ECU studied here receives few, if any, cases from federal agencies, and the staff indicate a general lack of cooperation on the part of federal officials. Overall, the three ECU's appear to be similar with respect to their case sources.

CRITERIA FOR "TAKING A CASE"

When an individual phones in a complaint or an agency refers a case, the ECU staff member handling the case requests certain information from the complainant or agency. The basic structure of the requested information is who, what, when, where, and how much. The staff member begins by asking how many possible victims there are, who they are, and what was allegedly done to them. The next questions concern the location of the incident or activity and the amount of money involved. Finally, the staff member asks for any available information on the suspect, including identity and present whereabouts.
In collecting this basic information, the staff member is evaluating the potential case in terms of two sets of general guidelines. One set consists of certain legal considerations which are essentially imposed upon the ECU. The other set consists of a number of extra-legal criteria or informal guidelines developed over the years within the ECU.

The two sets of criteria are derived from statements by ECU staff members regarding factors which influence their decisions to accept cases for investigation. After reviewing both sets of criteria, the case folder and 1979 monthly report data will be examined on as many of these dimensions as possible in order to determine the extent to which the stated criteria actually are applied by the unit in its everyday operations.

Legal Criteria

As part of the adult criminal division of the County Prosecutor's Office, the ECU is authorized to prosecute only criminal cases. Thus, one of the first criteria applied to any potential case is whether or not a crime has been committed. In dealing with economic crime cases, this is not always easy to determine. There are numerous instances in which a certain type of economic activity is questionable from a moral or ethical standpoint but is not a violation of criminal law. Individuals are often induced to part with money or property by fraudulent or deceptive means, but such transactions generally are not criminal unless an intent to defraud can be shown to exist. Proving intent often requires showing that a pattern of similar activity exists. Thus, in cases which appear to involve isolated incidents, such as a breach of
contract, the "victim" is advised to settle the matter by means of a civil suit.

A second criterion, location of the activity, is important because the ECU's prosecutorial authority does not extend beyond the boundaries of the County in which it is located. In order for the unit to accept a potential case, the incident or activity in question must have occurred within the geographical limits of the County. Thus, during initial case screening, the complainant or referring agency is asked whether the alleged crime took place within the County.

A third legal criterion centers on state laws regarding economic offenses, and, in particular, on the assignment of enforcement responsibility. Most of the activities investigated by the ECU are contained within the state's broadly defined theft statute, which covers such offenses as passing bad checks, misuse of credit cards, forgery, and frauds. The ECU director refers to this general law as the unit's "bread and butter statute." However, several specific types of economic crimes have been singled out by the state legislature for special consideration and handling. As a result, county prosecutors have been denied authority to enforce some of these statutes.

For example, the state Consumer Practices Act, Home Solicitation Sales Act, and Anti-Pyramid Sales Act place enforcement authority under the control of the state attorney general without providing for concurrent enforcement by county prosecutors. Local prosecutorial units, such as the ECU, must refer cases covered by these statutes to the attorney general's office. The ECU staff are particularly concerned over this issue because the state legislature has been slowly but steadily
diminishing their enforcement authority over the past several years. The two most recent examples of this erosion are the laws governing Medicaid fraud by providers (physicians, drug retailers) and business opportunity fraud. The ECU has investigated and prosecuted both types of offenses since 1973. Now, however, the staff must refer such cases to the attorney general or attempt to prosecute them under different statutes.

A final legal criterion imposed upon the ECU pertains to the legally defined seriousness of the alleged offense. The County Prosecutor's Office is charged with prosecuting felonies on behalf of the state. It is the policy of the office to transfer misdemeanor cases to the city attorney. Thus, the ECU must consider whether an alleged offense is serious enough to warrant a felony charge before accepting the case for investigation. Under the state's theft law, a felony charge is applied to a theft involving more than $150. Therefore, cases of potential economic crime in which the amount of loss is less than $150 are generally referred to the city attorney. One ECU staff member reported that there are occasions on which the unit will take misdemeanors, but it is not a frequent occurrence.

ECU staff thus contend that economic crime cases accepted for investigation by the unit generally involve criminal violations committed within the County which are prosecutable by county prosecutors as felonies. These criteria are referred to as legal because they are imposed upon the ECU from some external source, such as state law or Prosecutor's Office policy.
Most of the legal criteria also have been found to influence decisions to accept cases within other ECU's. One of the first questions asked by staff members screening complaints in Seattle's ECU is "does the complaint allege adequate grounds for a civil or criminal case? What specific offenses may be charged?" This corresponds to the ECU's two criteria of whether or not the behavior constitutes a criminal violation and the nature of the statute covering the alleged violation. Questions of jurisdiction and legal seriousness are addressed by the San Diego ECU in its screening of cases for investigation. That unit processes all consumer complaints within its jurisdiction, referring cases not within its jurisdiction to an appropriate agency. Certain types of offenses also are referred elsewhere. Bad check cases are referred to the local police and sheriff, most corruption cases are referred to the District Attorney's Special Operations Division, and misdemeanors are sent to the city attorney.

Extra-Legal Criteria

In addition to externally imposed legal criteria, the ECU staff list a number of extra-legal factors which enter their decisions to accept cases for investigation. According to the staff, these factors have emerged through investigating numerous economic crime cases and are not applied rigidly or inflexibly to every potential case. Rather, the extra-legal criteria serve as general policy guidelines used to screen out borderline cases and set priorities for the allocation of investigative resources. Based on interviews with the ECU staff, four general categories of extra-legal criteria appear to exist. They are
1) seriousness of the alleged offense; 2) complexity of the case; 3) potential contribution to economic crime deterrence; and 4) current ECU caseload.

Within the ECU, the seriousness of an alleged offense is a combination of three related factors, including dollar amount of loss, number of victims, and prevalence of the activity within the jurisdiction. As indicated above, the ECU usually accepts only felony cases. From the standpoint of the state theft law, a felony involves a dollar amount of loss exceeding $150. However, the ECU staff state that they do not like to investigate a case unless it involves at least a $10,000 loss. This is especially true, they say, in embezzlement cases considered to be fairly straightforward and uncomplicated. The $10,000 lower limit is sometimes relaxed for cases which appear especially complex or difficult and for cases in which particular suspects are involved, especially those that have eluded prosecution in the past for bigger offenses.

With respect to the second component of offense seriousness, number of victims, there is no fixed lower limit, except that at least one victim must be willing to cooperate in the investigation. However, this criterion contains an implicit notion that the greater the number of victims, the more serious the offense. In addition, proving the existence of intent to defraud in economic crime cases is aided by the presence of more than one victim. Multiple victims lend credibility to the prosecutor's contention that a particular offense was planned and purposeful rather than coincidental or accidental. For example, in an automobile accident insurance fraud scheme, an ECU prosecutor sought
to demonstrate that the defendant's auto "accidents" were staged rather than accidental. The fact that there were numerous accidents involving a number of different victims made it easier for the prosecutor to argue that the "accidents" were planned.

The third component of offense seriousness involves the prevalence of the particular offense in the jurisdiction served by the ECU. Through its contacts with other agencies, such as the police and the Better Business Bureau, the ECU develops information or "intelligence" on certain types of economic crime schemes operating in its County. These schemes are often targeted for action by the unit. When a specific complaint or referral involving one of these schemes is received, the staff say that it is investigated immediately in order to shut down the scheme before more individuals or organizations are victimized.

A second extra-legal criterion which the ECU staff contend influences decisions to investigate is case complexity or difficulty. The staff claim that economic crime cases are generally more difficult to prove in court than regular criminal cases. This is, in part, a result of the complexity of the "paper trail" created to cover the fraud or deception involved. However, the staff point out that some economic crimes are more complex than others. For example, some embezzlers merely alter bank deposit slips, leaving adding machine or cash register tapes untouched. The discrepancy in amounts is easy to document, and tracing the money to the guilty employee, the one who usually makes bank deposits, is a relatively simply matter. In other cases, the company's accounting system may be more complex, or the embezzler may be more adept at covering losses. In such cases, the staff must document a greater
number of alterations in the records. Linkages between missing money and specific personnel also may be harder to demonstrate. A similar distinction in complexity can be made with respect to bad check cases. Some are quite straightforward, while others are more sophisticated, involving several different banks with two or more separate accounts each.

Ideally, the ECU prefers to reserve its time and expertise for the more difficult cases and refer simpler cases to prosecutors on the regular criminal trial staff. However, because the regular trial staff's caseload is often heavy, this is not always possible. Thus, the ECU investigates many simple economic crime cases. In addition, if large amounts of money are involved, even in relatively simple cases, the ECU staff feel obligated to accept such cases because of their economic impact and high public visibility.

Deterrence, both specific and general, constitutes the third extra-legal factor influencing the ECU's screening decisions. As mentioned above, the ECU sometimes targets specific crimes or suspects for special attention and effort. The staff learn of schemes currently operating in their area through complaints or agency contacts. When it appears that a particular scheme is becoming widespread, the ECU will often take the first prosecutable case of this type which comes along. Press releases are then issued indicating that the ECU is actively investigating several cases of this type and expects to vigorously prosecute them all. The staff believe that swift and highly publicized action serves to deter others who are contemplating doing the same thing. In addition, it removes one economic criminal from
the scene at least temporarily. Cases involving certain suspects also may be readily accepted for investigation by the ECU. In some instances, the staff believe a suspect is operating some type of fraud but may be unable to prove it. If a more prosecutable case involving this suspect comes along, the staff take immediate action on that case. The goal is to get the suspect off the streets and to interrupt, if not eliminate, the operation.

The final extra-legal criterion which the staff claim enters the decision to investigate is the unit's current caseload. They contend that economic crime cases require longer periods of investigation and trial preparation than regular criminal cases. Therefore, the ECU can maintain only a certain number of open cases at any given time. There is no fixed upper limit, however, because the maximum is determined by the complexity of the cases currently underway. As I was completing data collection, the ECU experienced a large influx of new cases, boosting the total number of open cases to nearly 40. The ECU director said at the time that this was approaching the maximum number which the unit could handle at any one time.

The literature on other ECU's indicates that similar extra-legal criteria influence their decisions to accept cases for investigation. In the Seattle ECU, two of the "major unwritten criteria which are used for deciding which cases to handle include significant economic loss and likely deterrent effect on other potential white-collar criminals."16 In addition, the Seattle ECU prefers to accept cases which: "1) involve well-known or powerful businesses; 2) involve repeated offenses; 3) deal with activities in which crime is widespread; 4)
require relatively little investigative time and expertise (or for which resources can be provided by other agencies); 5) respond to broad public concern; 6) involve little-known schemes (so that prosecution will increase public awareness of particular dangers); or 7) involve some new area in which the Division wishes to become involved."17 Thus, the Seattle ECU shares with this ECU the stated extra-legal criteria of amount of loss, offense prevalence, and deterrence.

Within the San Diego ECU, certain simple fraud cases, such as minor embezzlements, are referred to another division within the prosecutor's office so the ECU staff can "concentrate on more complex cases."18 With some exceptions, including bad check cases, corruption cases, and misdemeanors, the San Diego ECU processes all consumer complaints within its jurisdiction. The stated reasons for this blanket policy are "1) the Division tries to provide services to all victims of consumer fraud, large or small; 2) Division personnel have found that many major fraud cases come to their attention from everyday consumer complaints."19 Thus, the San Diego ECU engages in minimal screening of cases prior to investigating them. However, certain extra-legal criteria do enter their decisions to file charges after conducting an investigation. The four major criteria are "1) potential for publicity and deterrence; 2) amount of money involved; 3) number of victims; and 4) possibility of successful prosecution."20 The San Diego ECU's extra-legal criteria are quite similar to this ECU's (complexity, deterrence, amount of loss, number of victims), but the San Diego unit applies these criteria at a later stage in the overall processing of cases than this ECU does.
Assessment of Legal and Extra-Legal Criteria in ECU Cases

The case folder and 1979 monthly report data provide information on some, though not all, factors which the ECU staff have stated influence their decisions to investigate cases. We will examine the two data sets below to assess the extent to which these case selection criteria appear in cases actually investigated by the ECU.

Unfortunately, none of the variables in either data set provide information on the legal criteria of criminality, jurisdiction, or statutory restrictions. The legal seriousness of the offense, whether it classifies as a felony or misdemeanor, can be assessed approximately by determining the number of cases in which the amount of loss is above $150 (felonies) and the number in which the amount is below $150 (misdemeanors). Table 3.5 below indicates the distribution of the case folder data across three categories of the variable, dollar amount of loss.

<table>
<thead>
<tr>
<th>Amount</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $150</td>
<td>9</td>
<td>(4)</td>
<td>(5)</td>
</tr>
<tr>
<td>$150 - 9,999</td>
<td>120</td>
<td>(58)</td>
<td>(74)</td>
</tr>
<tr>
<td>$10,000 and Above</td>
<td>33</td>
<td>(16)</td>
<td>(20)</td>
</tr>
<tr>
<td>Unknown</td>
<td>45</td>
<td>(22)</td>
<td>(N/A)</td>
</tr>
<tr>
<td>Totals</td>
<td>207</td>
<td>(100)</td>
<td>(100)</td>
</tr>
</tbody>
</table>

*a - no comparable data exist for the 1979 monthly report data
b - percentage based only on those 162 cases for which amount of loss is known*
Table 3.5 reveals that only a small percentage (4%) of the ECU's cases can be classified as misdemeanors by the $150 loss criterion. Thus, the statement that the ECU generally prosecutes felony cases is supported by the case folder data.

Table 3.5 also provides data on one of the extra-legal factors which the staff claim influences decisions to accept cases for investigation, amount of loss as a component of offense seriousness. The ECU staff claim that $10,000 is used informally as a lower limit for accepting economic crime cases for investigation. The data in Table 3.5 indicate that few of the unit's cases over the years have met this criterion. At a minimum, 62% of the unit's cases have involved amounts below the $10,000 figure. It should be noted that the average amount of loss for the sample of case folders is $11,910.79, a figure which slightly exceeds the minimum $10,000 amount. However, there are several large values in the sample, including one of over $500,000 which are responsible for inflating this mean. Thus, while the ECU has prosecuted several cases involving large amounts of money, for the most part, the $10,000 minimum figure has not been adhered to in selecting cases for investigation.

A second dimension of offense seriousness which can be assessed is the number of victims involved. The ECU staff contend that the more victims there are, the more serious the offense, and the more likely it is to be investigated. Table 3.6 below indicates the distribution of case folders across three categories of the variable, number of victims.
TABLE 3.6 NUMBER OF VICTIMS
(case folder data)

<table>
<thead>
<tr>
<th>Number of Victims</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)a</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>149</td>
<td>(72)</td>
<td>(78)</td>
</tr>
<tr>
<td>Two - Nine</td>
<td>32</td>
<td>(15)</td>
<td>(17)</td>
</tr>
<tr>
<td>Ten or More</td>
<td>10</td>
<td>(5)</td>
<td>(5)</td>
</tr>
<tr>
<td>Unknown</td>
<td>16</td>
<td>(8)</td>
<td>(N/A)</td>
</tr>
<tr>
<td>Totals</td>
<td>207</td>
<td>(100)</td>
<td>(100)</td>
</tr>
</tbody>
</table>

a - Percentage based only on those 191 cases for which number of victims is known.

As Table 3.6 shows, almost three-fourths of the cases investigated by the ECU over the past six years have involved single rather than multiple victims. Thus, there has not been an overwhelming emphasis on selecting multiple victim cases. If we turn to the 1979 monthly report data, however, we find that the ECU, under the present staff's direction, may be moving in the direction of giving greater attention to cases with multiple victims.

Table 3.7 displays an increase in the percentage of multiple victim cases from 20% in the case folder data to 32% in the 1979 data. Since the two data sets contain different proportions of unknown cases, we will also examine these percentages among only those cases for which the number of victims is known (column labeled "percent of known cases"). With this adjustment the percentage of multiple victim cases increases from 22% in the case folder data (Table 3.6) to 38% in the 1979 data. Thus, it appears that the present ECU staff may indeed be adhering more closely to the multiple victim criterion.
TABLE 3.7 NUMBER OF VICTIMS
(1979 monthly report data)

<table>
<thead>
<tr>
<th>Number of Victims</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)a</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>56</td>
<td>(51)</td>
<td>(62)</td>
</tr>
<tr>
<td>Two - Nine</td>
<td>25</td>
<td>(23)</td>
<td>(27)</td>
</tr>
<tr>
<td>Ten or More</td>
<td>10</td>
<td>(9)</td>
<td>(11)</td>
</tr>
<tr>
<td>Unknown</td>
<td>18</td>
<td>(17)</td>
<td>(N/A)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>109</strong></td>
<td><strong>(100)</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

a - Percentage based on the 91 cases for which the number of victims is known.

Unfortunately, there is no available data with which to assess the criteria of case complexity or deterrence. The caseload criterion also cannot be assessed in any direct manner. However, it can be noted that between February 1, 1979 and November 30, 1979, the ECU received 273 complaints. During that same period, 52 new investigations were opened. Thus, in a ten-month period, new ECU investigations constituted approximately 19% of the number of complaints processed by the unit.

In sum, a number of legal and extra-legal criteria have been examined which, according to ECU staff, influence decisions to accept potential economic crime cases for investigation. Some of these criteria were found to be employed by ECU's in other jurisdictions. Several of the case selection criteria were assessed by examining the distribution of actual cases along these dimensions. It was found that the ECU has primarily investigated felonies (losses over $150) but has not adhered to a $10,000 minimum loss figure as a criterion for investigating cases. In addition, while the staff state that the number of victims is an
important consideration, it was found that in the vast majority of the unit's cases, there has been only one apparent victim. However, the 1979 monthly report data suggest that the ECU may be moving in the direction of selecting more cases which involve multiple victims. A corresponding change with respect to the amount of loss could not be assessed due to unavailability of data.

CASES INVESTIGATED BY THE ECU

Cases accepted for investigation by the ECU can be analyzed along two broad dimensions: offense characteristics and suspect characteristics. Within each dimension, a number of more specific variables can be identified. Included among offense characteristics are the nature of the offense and type of victim. Included among suspect characteristics are type of suspect (individual versus organization), age, gender, and race.

Offense Characteristics

Throughout the ECU's six-year history, three-fourths of the cases it has investigated have involved one of three general types of economic offenses: 1) frauds against government, public agencies, or utilities (43%); 2) corruption, abuse of trust, or theft (18%); and 3) sales and repair frauds (15%). The remaining quarter of the cases are divided among investment frauds (7%), financing, credit, and banking schemes (3%), illicit trade practices (1%), housing, land, and real estate frauds (4%), a miscellaneous category (6%), and unknown cases (3%). (The distribution of the case folders on this variable is presented
in Table 8 of Appendix G.) Almost all of the cases in the largest category, frauds against government, public agencies, and utilities, involved welfare fraud. Thus, the offense most frequently investigated by the ECU is welfare fraud, occurring in approximately 42% of the case folders examined.

The ECU phased out its investigation and prosecution of welfare fraud cases in late 1978 and early 1979 when a new Welfare Fraud Unit was established in the Prosecutor's office. The ECU's monthly reports for 1979 reflect this shift in the types of offenses investigated by the unit. (The distribution of 1979 monthly report data on this variable is presented in Table 10 of Appendix G.)24 With the elimination of welfare fraud from the ECU's responsibilities, the offense category, fraud against government, public agencies, and utilities, has decreased from representing 43% to only 11% of the unit's investigated cases.

Cases involving corruption, abuse of trust or theft, on the other hand, have increased from 18% to 39% of the unit's investigative caseload. Sales and repair frauds appear to have been eliminated from the types of offenses investigated during 1979, but the ECU seems to be branching out by adding new types of offenses to its list, including insurance fraud and health and medical care frauds.

The other offense characteristic for which data are available is the type of victim. In slightly more than half of the ECU's investigated cases throughout its six-year history, a government agency or the State was the victim of the alleged offense (Table 11, Appendix G). This is a reasonable finding in view of the fact that 43% of the offenses were frauds against government and public agencies, most of which were
welfare frauds. Individuals accounted for the victims in roughly one-third of the investigations, and private organizations were victims in most of the remaining cases.

After welfare fraud cases were eliminated, the proportion of investigations involving government agencies or the state as victims declined sharply. During 1979, only 20% of the victims were in the above category. Individuals and private organizations appear as victims in approximately equal proportions in 1979, 30% and 32%, respectively (Table 12, Appendix G). Thus, since the elimination of welfare fraud cases, the percentage of government agency victims has decreased, the percentage of individual victims has remained approximately the same, and the percentage of private organizational victims has increased.

In sum, both the type of victim and the type of offense involved in cases investigated by the ECU have undergone a noticeable shift during 1979. The unit appears to be changing from an agency which primarily investigated frauds committed against the state and its agencies to one which investigates frauds against the private sector, private individuals and organizations.

Suspect Characteristics

Economic crimes are committed not only by individuals, but also by organizations. Thus, it is appropriate to consider "type of suspect" as one dimension of the ECU's investigated cases.

According to the case folder data, over 70% of the ECU's investigations throughout the past six years have involved individual suspects (Table 13, Appendix G). An additional 19% of the case folders examined
had organizations as targets of investigations. Eight percent of the cases were investigations of individuals who conducted business as organizations, such as self-employed sales and repair persons or contractors. Thus, individuals have represented the vast majority of the ECU's suspects.

Many of the individuals investigated by the ECU were suspects in welfare fraud cases. When welfare fraud was eliminated from the ECU's responsibilities in 1979, the percentage of individual suspects declined somewhat from 71% to 56%, but individuals were still suspects in the majority of investigations. Organizations were investigated in only 9% of the unit's cases. Individuals and organizations both were suspects in 31% of the unit's investigations for 1979. Thus, in 40% of its cases reported in 1979, the ECU did engage in investigating an organizational suspect (Table 14, Appendix G).

With respect to suspect characteristics of age, gender, and race, the data are far from complete. Values on these variables could be obtained only for the case folder data. The 1979 monthly reporting forms do not provide space for the collection of this type of information. In addition, age and race are often not recorded in the ECU's case folders, especially for nonindicted cases. Thus, the percentage of cases for which the variables are unknown is higher than desirable for drawing any firm conclusions.

No information on the suspect's age was available in 31% of the investigated cases. However, for those cases in which the suspect's age was known, over two-thirds were between the ages of 26 and 44. An additional 27% of the cases involved suspects between the ages of 18
and 25. Only 6% involved suspects 45 years or older (Table 15, Appendix G). It appears that economic crime cases investigated by the ECU involve primarily middle-aged suspects.

Because the ECU deals only with adult offenders, it is difficult to determine whether this factor is responsible for the relatively low percentage of youthful suspects investigated by the unit. According to the FBI's Uniform Crime Reports for 1976, persons under age 25 constitute over half (56.7%) of the arrested population for all reported crimes. However, it is also the case that the percentage of arrestees under 25 for crimes such as fraud and embezzlement, ECU handled offenses, is lower than 50%. Persons under 25 constitute 35% of those arrested for fraud and 42.1% of those arrested for embezzlement. This suggests that the ECU's enforcement actions are consistent with the national figures with respect to the age of the suspects it investigates.

Over half the suspects in ECU investigated cases were females (Table 16, Appendix G). This is an unusual finding since females have traditionally not been suspects in criminal cases in the United States. However, the high percentage of female suspects corresponds with the fact that the vast majority of welfare fraud cases (92%) involved female suspects.

Suspect's race could not be determined in almost half (47%) the case folders examined. However, among those folders for which this information was available, 60% of the suspects were nonwhite (Table 17, Appendix G). Once again, this largely is attributable to the fact that blacks were suspects in 80% of welfare fraud cases for which the suspect's race was known.
In summarizing this discussion of cases investigated by the ECU, we may note two significant findings. One is that the types of cases investigated by the unit have recently undergone a noticeable shift. The other is that the types of suspects investigated by the unit have largely been middle-aged individuals, many of whom were minorities.

During the first six years of the ECU's existence, cases involving frauds against government and public agencies, particularly welfare fraud, constituted a large percentage (43%) of the unit's pool of investigated cases. After the creation of a new unit removed welfare fraud investigation and prosecution from the ECU's responsibilities, the proportion of cases which involve frauds against the public sector has diminished considerably. The ECU now appears to be concentrating its efforts on the offenses of corruption, embezzlement, and theft. In addition, there has been a corresponding shift in the types of victims involved in ECU investigations. Previously, half the victims in ECU investigations were public agencies. Currently, this category represents only 20% of victims.

The second significant finding is that although the ECU has investigated a number of organizations over the years, it has primarily investigated middle-aged individuals, many of whom were minorities. Unlike most other criminal justice agencies at the local level, which deal only or primarily with individual suspects, the ECU has investigated a number of cases involving organizational suspects. The 1979 data indicates that the unit may be increasing its efforts to investigate organizational suspects. However, most of the unit's suspects have been, and still are, individuals. Unlike other criminal justice agencies, many of these
individuals have been females. Like other criminal justice agencies, however, many of them have also been black. The high percentages of female and black suspects occur most often in conjunction with welfare fraud cases.

One of the priorities of the national Economic Crime Project has been to focus special attention on offenses which primarily injure members of disadvantaged groups, including the poor, minorities, and the elderly. By focusing largely on welfare fraud cases, this ECU essentially reversed that priority by devoting special attention to suspects who were members of some disadvantaged group. In that sense, the ECU has achieved results similar to more traditional social control agencies, whose clients typically overrepresent such groups.

SUMMARY

In this chapter, we have explored the manner in which economic crime cases are discovered by the ECU. We found the unit to be primarily a reactive social control agency, like many others of its general type. However, rather than receiving most of its cases from law enforcement agencies, the cases which the ECU selects for investigation come primarily from government agencies and private complaints or inquiries.

In selecting cases for investigation, the ECU staff state that a number of criteria are employed. We examined both legal and extra-legal criteria discussed by the staff and concluded that many of these same criteria were employed by two other ECU's. Some of the criteria were also found in the general literature on prosecutors, but, for the most part, that literature focuses on the decision to prosecute, not investigate
cases. The ECU is therefore somewhat unique by virtue of being both an investigative and prosecutive agency.

When the case selection criteria were evaluated in terms of cases actually investigated by the unit, it was found that some of the criteria generally were not followed by the unit. Very few investigated cases exceeded the $10,000 minimum for amount of loss or involved multiple victims. However, there is some indication that the present staff may be trying to apply these criteria more strictly.

Finally, an examination of the ECU's investigated cases reveals that the unit has traditionally been concerned with offenses against government and public agencies, especially welfare fraud. This focus resulted in the investigation of a large number of cases involving female suspects and black suspects. This reversed one of the goals of the Economic Crime Project which emphasized protecting rather than pursuing members of various disadvantaged groups. Since the unit no longer investigates welfare fraud cases, the focus has turned to cases involving corruption, embezzlement, and various kinds of frauds perpetrated against both individuals and organizations. However, no data is yet available to indicate whether the gender and racial characteristics of the unit's suspect pool have been altered as a result.

Having examined the process through which cases of economic crime are discovered by the ECU, we may now proceed to a discussion of the manner in which the ECU investigates those cases which it accepts. The investigation process is the topic of the next chapter.
NOTES ON CHAPTER 3


2. Each table presented in the dissertation will indicate whether the data are derived from the case folders or the 1979 monthly reports. The two sources are not combined because the case folder data are based on a random sample and the 1979 monthly report data are not. The case folder data reflect the operations of the ECU over the years between 1973 and 1979. The 1979 data reflect more recent operations of the unit under the present staff and indicate possible shifts in certain trends for the future.

3. See, for example, Cole, "Decision to Prosecute;" Neubauer, "After the Arrest;" and Rosett and Cressey, Justice by Consent.

4. Fourteen out of the total 207 case folders examined were received from law enforcement agencies.

5. There is, of course, a discrepancy between what police departments view as real or important crimes and the types of incidents they actually deal with most of the time.
6. In the ECU's jurisdiction, the city police department recently established a five-officer White Collar Crime Squad (WCCS) within a larger organized crime unit. Cases are brought to the WCCS by the department's detective division. If the conduct appears criminal, the WCCS alerts the ECU, and the two agencies coordinate investigative efforts. Some of the suburban police departments also have assigned one or two officers to investigate economic crime cases. The ECU staff encourage such efforts by local police and believe they will receive more cases from these units in the future. However, they have not traditionally depended upon such agencies for their cases.


10. One factor which determines who screens any particular case is staff availability. Since many complaints and inquiries are first received by telephone, whoever is available to answer the call at the
time performs the initial screening function for the unit. However, there is some division of labor with respect to the case sources with which ECU personnel most frequently come in contact. The intern and the investigator generally take calls from individuals who believe they are victims of economic crimes. In addition, agency referrals are often screened initially by the investigator before they are examined by one of the prosecutors. Complaints from private attorneys and some types of agency referrals (White-Collar Crime Squad cases and securities cases) are frequently reviewed initially by the prosecutors.

11. The Consumer Sales Practices Act prohibits sellers from engaging in deceptive practices in transactions with consumers. The Home Solicitation Sales Act provides consumers with the right to cancel a purchase contract within three days of the sale. The Anti-Pyramid Sales Act prohibits schemes in which persons buy into an enterprise based upon a promise that they will make money by inducing other people to buy into the enterprise (a chain letter type of operation).

12. The ECU staff believe that political "acrimony" between the County Prosecutor and the State Attorney General may be causing the erosion of the unit's enforcement authority. The belief is that the present Attorney General has been lobbying for bills which will diminish the opportunity for the County Prosecutor to obtain favorable publicity. This belief is supported by the fact that the passage of the Medicaid provider fraud law occurred shortly after the ECU successfully prosecuted a highly publicized case of this type.
13. Some economic crimes involve several different types of illegal activities. For example, a business opportunity or franchise scheme may also involve passing bad checks or selling unregistered securities, both of which can be prosecuted locally. Clinard et al., Illegal Corporate Behavior, note that a similar problem exists with respect to state enforcement of anti-corporate crime laws. In some areas, federal legislation preempts state enforcement actions.

14. Finn and Hoffman, Exemplary Projects, p. 15. The Seattle ECU processes civil as well as criminal cases.

15. The literature on regular criminal prosecutors is not particularly relevant to this dimension because most prosecutive units do not make investigative decisions. For most prosecutors, the decision is whether to prosecute, not whether to investigate, a case. The literature on regular criminal prosecutors reflects this usual pattern by concerning itself with the decision to prosecute rather than investigate cases.

16. Finn and Hoffman, Exemplary Projects, p. 16. A third criterion states that there should be "high probability of a successful outcome." This does not appear to be a significant extra-legal criterion for this ECU at the initial screening stage, but it does enter the unit's decisions to file charges in a case after conducting an investigation as will be discussed in Chapters 4 and 5.

17. Finn and Hoffman, Exemplary Projects, p. 16-17.


21. It is reasonable to assume that some of the 45 cases in which loss amount is unknown may have been below $10,000. Thus, the 62% figure may be viewed as a minimum.

22. Data on both complaints received and investigations opened were available for only this ten-month period.

23. The number of victims and amount of loss were examined in Tables 3.5, 3.6, and 3.7.

24. Table 9 in Appendix G presents the Economic Crime Project's offense code classifications.


26. As reported in Reid, Crime and Criminology, females made up only 15.7% of those arrested for crimes in 1976 according to the FBI's Uniform Crime Reports. Specifically, for the crimes of fraud and embezzlement, females constituted only 36.6% and 31% of those arrested, respectively.
CHAPTER 4. THE INVESTIGATION OF ECONOMIC CRIME

This chapter examines the ECU's investigations of economic crime. Specifically, it examines the ECU's external and internal investigative resources, the various steps or stages through which a typical investigation progresses, and the ECU's criteria for deciding whether or not a case is suitable for prosecution. The chapter will conclude with a presentation of characteristics of cases designated as prosecutable by the unit.

In examining the ECU's investigative resources, it first will be shown that the unit relies on external sources, including victims, law enforcement agencies, and other government agencies, for various types of important information. With the exception of several law enforcement agencies, however, these external investigative resources are largely passive suppliers of information and do not actively participate in the investigative tasks. The ECU must rely heavily upon its own internal resources to perform much of the investigative legwork. As a result, the ECU prosecutors perform many investigative functions in addition to their roles as attorneys.

Second, the discussion of ECU investigative procedures will emphasize that the staff's overriding concern is whether enough evidence can be assembled to convince a jury that a crime has been committed. This is the major theme of the investigative process. The staff collects a
variety of documents and records in an attempt to piece together the "paper trail" left by the suspect and to assess the convictability of the case.

Last, it will be noted that the unit has prosecuted a large number of cases in which the victims have been government agencies and the suspects have been individuals. Many of these cases involved the offense of welfare fraud. Since the ECU no longer prosecutes welfare fraud, the 1979 data will be examined for a preliminary indication of the types of cases the unit may be prosecuting in the future.

INVESTIGATIVE RESOURCES

The ECU's investigative resources can be divided into two types. One type, external resources, consists of investigative resources which exist outside the ECU and are organizationally independent of it. External investigative resources include victims, law enforcement agencies, and other government agencies. The second type, internal resources, includes those which exist within the ECU and are directly controlled by the unit. These are the ECU investigator and the ECU prosecutors. Following the discussion of each type below, we will examine several constraining factors which limit the ECU's access to these resources.

External Investigative Resources

The external investigative resources employed by the ECU are 1) victims of economic crime; 2) law enforcement agencies; and 3) other government agencies.
Victims. Victims of economic crimes are one of the ECU's most important investigative resources from the standpoint of constructing a convincing case. The reason is that the victim is generally the major witness in an economic crime case. This person or organization is the ECU's primary source of information about what happened, how it happened, and who did it. The victim also is the major source of physical evidence in the case. Therefore, a "good" victim, from an investigative perspective, possesses an accurate memory for details, a complete set of records documenting what happened, and the willingness to pursue criminal investigation.

In the case of organizational victims, the type of information and evidence needed is often part of records routinely kept by the organization. Organizational records generally are readily accessible because they are stored in central locations. In addition, there is usually no problem retrieving old records because they are kept over long periods of time. Linking specific activities to specific personnel can be accomplished through knowledge of the routine division of labor or through records which indicate which employee was assigned to what task.

For these reasons, organizational victims generally are useful economic crime investigative resources. The following description of an investigation involving an organizational victim illustrates the kind of assistance this type of victim provides to the ECU.

Investigation 4.1

The ECU received a call from an organization complaining that one of its employees had stolen over $16,000 during
the preceding year from her cash drawer. The ECU sent the organization a "factual synopsis" sheet and requested that a written summary of the case be prepared. Several weeks later, the employee's supervisor and the organization's legal counsel brought the summary to the ECU. The organization was able to document that the suspected employee had removed money from her drawer by ringing large amounts on the miscellaneous key of her register and then discarding that portion of the tape. She altered the grand total at the end of her shift by the appropriate amount in pencil and claimed machine error. Organizational personnel retrieved the discarded portions of one tape from her wastebasket and pieced them together to show how the scheme worked. Grand total tapes kept over the preceding 12-month period displayed similar instances in sufficient numbers to confirm the pattern. Organizational records linked this employee to the specific machine. In addition, her claims of machine error could be shown invalid through routine maintenance reports. Because of the available evidence, the ECU staff regarded this case as an excellent candidate for prosecution.

As the preceding investigative summary indicates, the ECU attempts to reach out and shape some of its investigations before the case is officially opened. In cases involving embezzlement and employee theft, like the one in Investigation 4.1, the ECU has developed a set of guidelines
for constructing a factual synopsis of the case (see Appendix H). When a business or organization calls the ECU and reports such an incident, a copy of these guidelines is sent to the victim company. The company representative who is to serve as a liaison with the ECU is asked to follow these guidelines in writing a report on the incident and bring it to the Prosecutor's Office for the first meeting on the case. According to the ECU director, this procedure prevents companies from just walking into his office and dumping an unorganized stack of papers on his desk. In addition, by taking the time to produce such a document, the company affirms its commitment to prosecute the suspected employee. This gives the ECU some degree of assurance that the company will not withdraw the complaint once an official investigation has begun.

Individual victims whose complaints appear to merit further investigation are asked to write a letter detailing the nature of the complaint or to complete a formal complaint form. In addition, they are generally invited to visit the Prosecutor's Office in order to meet with an investigator and discuss the case. Individual victims are asked to bring with them any documents pertinent to the investigation which could be used as evidence in a trial. However, in contrast to organizational victims, individual victims generally do not maintain detailed records of their daily activities. Memory sometimes compensates for lack of written records, but it too can be problematic for certain categories of individuals, such as the elderly. Financial transactions involving checks or credit cards are often traceable through organizational records if receipts are lost or destroyed, but cash transactions are typically not recorded. For these reasons, individual victims are often less than
ideal investigative resources for the ECU.

Investigation 4.2 below indicates the types of problems the ECU sometimes faces when dealing with individual economic crime victims.

Investigation 4.2

This case involved a woman who loaned over $25,000 to a man based upon his promise to marry her. At first she believed he was using her money to build a condominium. After two years of no marriage, no "condo," and only partial repayment of the loans, she brought her case to the ECU. During her meeting with ECU staff members, she had difficulty remembering when certain events occurred. For example, she could not remember exactly when she became engaged to the suspect. The ECU attorney told her that she would have to be more certain about dates, places, and events if the case went to trial. The victim produced several documents and cancelled checks, but these items did not improve her memory to any great extent. The ECU did not prosecute this case for several additional reasons, but the victim's lack of memory was viewed as a definite liability.

Not all cases involving organizational victims are as well prepared as the one in Investigation 4.1. In fact, the ECU staff sometimes complain about the lack of cooperation they receive from certain types of organizations, especially banks. Banks are particularly remiss in preparing bad check cases for the ECU. On several occasions, the progress
of an investigation has been delayed because of a bank's failure to submit account records which are crucial pieces of evidence in a case.

Additionally, not all cases involving individual victims are as unorganized as the one in Investigation 4.2. In a case described as the "classic sucker case" by an ECU staff member, an elderly widower was duped into spending his life savings on poor-quality home repairs. One of the more promising features of the case was the fact that the victim kept detailed records and paid for everything by check.

In general, however, organizational victims are more useful investigative resources than individual victims. Part of the reason involves differences in detail and completeness of records. In addition, the ECU's practice of providing organizational victims with guidelines for constructing case summaries also contributes to the greater degree of organization in their cases.

Apart from the quality of the victim's information or evidence, the victim also must be willing to pursue criminal prosecution. Even though victims may initially report an instance of possible economic crime, they are sometimes reluctant to proceed with a full-scale investigation which could lead to prosecution. One of the reasons for such reluctance is embarrassment. As Edelhertz has suggested, organizational victims may fear loss of public confidence as a result of revealing large employee thefts or embezzlements. According to ECU staff, banks and other organizational victims often settle out of court to avoid such embarrassment. Companies feel that their credibility and reputation may be brought into question if they are forced to prosecute an employee. One ECU attorney reported a case in which a company refused to prosecute an
employee who allegedly stole $12,000. The company wished to avoid any public embarrassment associated with a trial. In another case, an investment company paid a suspect $50,000 for exclusive rights to a chemical formula he was supposedly developing. Although he never delivered the completed formula and apparently gave it to someone else, the investment firm decided to absorb the loss, fearing a public trial would reflect negatively on its ability to evaluate potential investments for its shareholders.

Individual victims also are often reluctant to prosecute in economic crime cases because of the potential embarrassment involved. They worry about appearing stupid, foolish, naive, or gullible. In addition, the nature of their interpersonal relationships with suspects can be embarrassing, especially when some degree of intimacy is involved. Some victims delay taking legal action until they have exhausted all other available means of recovering their losses. Two such cases involved women who loaned large sums of money to men who promised marriage. In both cases the victims did not report the events to the ECU until 18 months after they began to suspect something was amiss. Both victims stated that they remained in the relationships and avoided legal action in order to protect their investments and recover their money. Finally, victims may be reluctant to prosecute because of threats against their physical safety. One elderly man lost $40,000 through a forgery committed by his son. He told an ECU prosecutor that his son had threatened to kill him if he testified about the case in court.

Victims are extremely important external investigative resources for the ECU. Organizational victims tend to be better resources than
individual victims, largely because the types of records required to prove economic crime cases are routinely kept by organizations. Organizational victims are better able to assist the ECU, but like individual victims, they are often reluctant to do so.

**Law Enforcement Agencies.** Law enforcement agencies are the second category of external investigative resources employed by the ECU. Some agencies play a passive role in the ECU's investigations by merely supplying certain types of information upon request. Others actively participate in the investigative process by contributing time and effort as well as evidence.

Passive investigative resources include the state Bureau of Criminal Investigation (BCI), the FBI, and suburban police departments. The state BCI and the FBI provide data on a suspect's prior arrest and conviction records in the state (BCI) or throughout the United States (FBI). Most suburban police departments also simply provide information to the ECU. This information is generally in the form of a brief summary of a case which is being referred to the ECU for further investigation. However, several suburban police departments have established formal white-collar or economic crime investigative positions. The ECU staff see this as a positive step. One staff member said that these "local people" would have to prepare cases on their own more often because the ECU has too large a volume to work up every case from the beginning. He went on to say that if the local departments cannot handle it, the ECU will need more personnel.
The state police and the city police department's White-Collar Crime Squad tend to become more actively involved in ECU investigations. The investigative section of the state police, consisting of 16 officers and a supervisor, is responsible for investigating crimes committed on state property. In the area of economic crime, the state police investigate cases of public corruption and thefts of state funds and often bring the results of these investigations to the ECU. The ECU prosecutors evaluate the evidence and indicate whether or not the state has a prosecutable case. The two agencies generally work together on these cases with the ECU acting in the role of legal adviser and shaping the direction of the investigation.

The law enforcement agency with which the ECU presently works most closely is the city police department's White-Collar Crime Squad (WCC Squad). At the ECU's request, the police department established the Squad in 1978 as a subdivision within an existing organized crime unit. The Squad consists of five officers formally assigned to assist the ECU with economic crime investigations on a full-time basis.

As a newly formed unit, the WCC Squad is still in its developmental stages and the officers are not yet familiar with the full range of economic crime investigations. The ECU staff try to monitor the Squad's activities closely and maintain direct control over their investigations in order to ensure that they produce prosecutable cases. This monitoring is illustrated in a case involving business opportunity fraud.
Investigation 4.3

The WCC Squad received a complaint about a potential business opportunity fraud, but the officers were unfamiliar with this type of crime. One of the ECU attorneys met with the Squad to explain the essential features of such schemes and instruct them on the types of evidence needed to prove a criminal action. Two of the Squad's officers were to interview a complainant that evening. The attorney suggested some questions they should ask the potential victim. In addition, he indicated that some Squad members might want to pose as interested buyers to gather first-hand evidence on this scheme. The meeting lasted approximately 30 minutes. The Squad was to report back to the attorney after they interviewed the complainant.

During my research, the ECU staff were in the process of teaching the Squad how to construct useful investigative files. The success of these educational efforts is illustrated in two cases. One involved a group of "lie-down artists" who allegedly staged minor automobile accidents in order to collect insurance money. The WCC Squad constructed a large wall chart (approximately six feet by four feet) on which they listed each suspicious accident and certain basic information, such as the occupants of each auto, the date, time, and place of occurrence, whether a citation was issued and whether an insurance claim was filed. They also compiled three file folders of material on the case. An ECU
attorney proudly displayed the chart and folders and praised the Squad for doing a "tremendous" job of compiling the evidence. A second case involved two city employees who apparently skimmed funds from a federally sponsored housing renovation program. The WCC Squad investigated the case and constructed a coherent and complete investigative file for the ECU. The attorneys again praised the Squad and claimed that nothing as good as this report had ever been done by the city police department before.

Not all comments about the WCC Squad were quite as laudatory, however. One ECU staff member remarked that officers assigned to the Squad tended to be "burnt out." After being on the streets with the patrol division and then with narcotics or one of the other detective squads, economic crime is not very exciting for them. This staff member felt that business administration majors should be recruited as economic crime investigators. He said it might be advisable for them to take basic police training, but he did not believe that extensive police experience was necessary in order to investigate economic crime. On another occasion, an ECU attorney described the members of the WCC Squad as "bush league." This remark was made when most of the Squad took a week-long hunting vacation in the middle of several important investigations. In spite of these mildly negative comments, the ECU staff view the overall contributions of the WCC Squad positively. They provide the ECU with sound cases, as long as their work is carefully monitored by the ECU staff.

Other Agencies. Non-law enforcement agencies are the third category of external investigative resources used by the ECU. Most agencies
in this category are state government agencies which supply information to the ECU. The secretary of state's office, for example, maintains articles of incorporation on all businesses operating within the state. When the ECU is investigating a business, the staff often request a copy of the articles of incorporation in order to determine the nature of the business and its controlling officers.

The state attorney general's office also occasionally provides the ECU with useful information, such as complaints it has received on certain suspects. However, the ECU staff describe this resource as generally "inept" when it comes to conducting investigations. As one ECU staff member put it, the attorney general's office files its cases by complainants without cross-filing by suspects. Such a practice does not provide for much continuity of effort across cases.

The state division of securities is a third government agency which provides investigative information to the ECU. The securities division generally "works up" a case more than some of the other agencies. Nevertheless, it is criticized by the ECU staff for its inadequate investigative procedures. In one case, described as typical of the division's work, the "summary" was over 30 pages long, but did not provide a succinct statement of who did what to whom or how much money was involved. Some of the xeroxed documents to be used as evidence were unreadable. In addition, the division investigated the case by interviewing suspects first rather than potential victims. Partial transcripts of suspects' statements to division personnel were included among the documents. The division reasoned that some of the suspects' statements were so ridiculous that a criminal action must be involved.
The ECU attorney who reviewed the case described it as a bad example of economic crime investigation. He said that good investigators interview victims first and suspects last and write brief summaries emphasizing only the major points.

When the ECU was prosecuting welfare fraud cases, the county welfare department was an essential investigative resource for the unit. This department did the bulk of the investigative work on such cases and turned the results over to the ECU for evaluation and prosecution. The welfare department's contribution to the ECU's investigative efforts was unique for a government agency because so much of the investigative work was completed before the cases were sent to the ECU.

An ECU staff member explained that most government agencies lack the resources necessary to conduct adequate economic crime investigations. Some of them have difficulty collecting documentary evidence because they lack subpoena power. Those which have subpoena power are limited in exercising it because of time-consuming enforcement procedures. In the time it takes to obtain the subpoena and serve it, evidence can be destroyed. The ECU's grand jury subpoena power permits a faster and more direct method of obtaining evidence.

Of the three types of external resources, victims and law enforcement agencies provide the most direct assistance to the ECU. Except for the WCC Squad, however, neither group participates actively in the task of investigative work. The investigation process, therefore, is largely carried out by the ECU staff themselves.
**Internal Investigative Resources**

The ECU's internal investigative resources consist of one full-time investigator and three full-time prosecutors. As Katz discovered in studying a U. S. Attorney's Office, the investigative and prosecutive functions are not as distinct in economic or white-collar crime cases as they are in common crime cases. In white-collar crime cases, prosecutors often become actively involved in cases during the early stages of investigations. This is in marked contrast to the typical common criminal case in which police or investigators conduct the investigation and bring the results to the prosecutor who reviews the investigative report and decides whether or not to file charges.

Katz contends that three essential features of white-collar crime cases contribute to "the creation of an investigative role for the prosecutor in the enforcement process." First, because white-collar crimes frequently occur over extended periods of time and through a series of transactions, it is necessary to trace and document these transactions through business records and documents. In order to obtain such records, grand jury subpoena power is usually necessary, and prosecutors are the only officials who have this type of subpoena power. Second, proving the existence of intent in white-collar crimes is often the difference between having and not having a prosecutable case. The determination that sufficient evidence exists to prove criminal intent requires a lawyer's expertise, according to Katz. Finally, because white-collar crimes often involve the element of "concerted ignorance" on the part of others, investigations frequently require the assistance of
someone on the "inside" to explain how the scheme was carried out. Grants of immunity are often necessary to gain such cooperation, and these are "within the exclusive authority of the prosecutor." 10

Katz' finding of early prosecutor involvement in the investigation process clearly applies to the ECU. The prosecutors are very active in the investigative stages of making a case. One staff member stated that 80% of what the prosecutors do is investigative rather than strictly directive or evaluative. It is difficult to identify tasks which are performed only by the investigator. For example, the investigator interviews potential victims and witnesses, but the prosecutors also conduct these interviews. Sometimes the investigator makes the first contact with a victim or witness. Sometimes the prosecutors do. The tasks for which the investigator does appear to have primary responsibility are gathering physical evidence and doing the legwork of the investigation.

Katz's explanations also apply to the ECU. Many state agencies lack adequate subpoena power to pursue economic crime cases beyond the early investigative stages. Such agencies do what they can and then transfer the cases to the ECU. In addition, problems in proving criminal intent often require that ECU prosecutors apply their legal knowledge and expertise to cases early in their development. And, there have been cases in which the ECU has sought immunity for one or more of its key witnesses in a case. In a major public corruption case, the unit obtained immunity for a key informant after he "blew the whistle" on a series of alleged criminal activities in a state office.
There are several additional factors not mentioned by Katz which also promote investigative involvement by the ECU prosecutors. One of the major reasons for the ECU prosecutors' active involvement in the investigative stage is the lack of alternative investigative resources. Most of the unit's external investigative resources, such as victims and government agencies are passive participants in the investigation process. They supply documents and information to the unit but do not actively participate in the process of collecting, compiling, and evaluating the evidence. Several law enforcement agencies, including the state police and the city's WCC Squad, participate more actively in investigations, but their participation also is limited. The state police can only investigate crimes committed on state property. The WCC Squad has only begun to develop the knowledge and expertise needed to construct prosecutable economic crime cases. Therefore, the ECU cannot depend on external investigative resources to carry out thorough economic crime investigations.

Within the ECU itself, there is only one full-time investigator assigned to three full-time prosecutors. Since the ECU's own formal investigative resources are minimal, the prosecutors are forced to assume additional responsibility. In response to the question, "Do you think the ECU needs more attorneys and/or more investigators?" the ECU staff unanimously answered that the unit needs more investigators, but not more attorneys. Their estimates of the ideal ratio of investigators to prosecutors range from one to one (1:1) to three to one (3:1). With more investigators the staff believe the unit could handle a greater volume of cases. The investigators could do more of the initial in-take
or screening of potential cases and take more responsibility for investigative decision-making. The attorneys would be able to prosecute more cases and perhaps generate more proactive investigations.

The ECU prosecutors' active role in investigations also can be attributed to the complexity of many economic crime cases. Because of this complexity, the ECU attorneys believe it is necessary to remain in close contact with the evidence from the beginning of an investigation. An example of what can happen when an ECU attorney fails to remain close to the evidence is illustrated by a case of electrical services theft. An electrical power company accused a motel manager of turning back the motel's meter. When the case went to trial, the testimony of a power company engineer proved disastrous to the ECU's case. This engineer testified that the power company had installed a "check meter" at the motel when it appeared someone was tampering with the main billing meter. The check meter was to document the true amount of electricity being used by the motel and prove that the main meter was being turned back. The engineer supplied the two sets of meter readings to the prosecutor. When they were compared in court, the check meter, which should have registered higher if tampering had occurred, indicated a lower figure than the billing meter for the same time period. The defense attorney saw this error and brought it to the jury's attention. The ECU subsequently agreed to drop the charges. In return, the newly freed defendants promised not to file suit for malicious prosecution. The ECU director explained this incident by saying that his colleague had failed to thoroughly examine all the evidence in this extremely complex case.
The ECU prosecutors are unique among prosecutors because of their active involvement in the investigations of their cases. Most prosecutors merely evaluate cases for prosecution based upon the investigative work of law enforcement agencies. Katz' finding of similar involvement by prosecutors in white-collar crime cases in a U. S. Attorney's Office suggests that the nature or complexity of economic and white-collar crime cases may be an important factor inducing this activity. However, an equally important factor in the ECU's case is the lack of alternative investigative resources on which the prosecutors are able to rely.

Structural Constraints on Investigative Resources

The ECU lacks adequate external and internal investigative resources. To some extent, the gap is being filled by increasing participation of the police department's WCC Squad and by ECU prosecutors' active participation in investigations. However, there are several factors which limit the unit's access to even these resources.

One ECU staff member stated that most police departments associate the word "crime" with street crimes or crimes against persons, but not with economic or white-collar crime. He argued that as a result of this traditional association, police administrators are reluctant to assign officers to investigate "paper crimes." The city police department, under pressure from the ECU, did assign officers from its organized crime unit to work on economic crime cases with the ECU. However the ECU's access to the WCC Squad as an investigative resource is limited by the physical distance between the two agencies and the Squad's
position within the larger police department.

The WCC Squad is located in police headquarters, approximately 10 blocks from the Prosecutor's Office. Although not miles apart, personnel in the two units must make appointments to coordinate day-to-day investigative activities. As one ECU staff member put it, it is not the same as just walking across the hall to somebody's office to discuss a case. The ECU staff would prefer the two units to be co-located, but it is doubtful that this will occur, largely because the WCC Squad is officially part of the police department.

As a small subdivision of the organized crime unit within the larger police department, the WCC Squad can be, and often is, diverted from its ECU investigations to perform other types of investigative duties. After all, from the police department's perspective, paper crimes are not "real" crimes. Thus, the ECU cannot depend upon the Squad's availability at all times.

The other limitation on the ECU's investigative resources directly affects the availability of its own personnel. As part of the adult criminal division of the Prosecutor's Office, the ECU staff are sometimes called upon to perform tasks unrelated to the investigation and prosecution of economic crime. For example, they are expected to back up the regular criminal trial staff when someone is ill or on vacation. During my research, one of the ECU attorneys spent an entire month working on regular criminal cases, including carrying concealed weapons, gross sexual imposition, and burglary. This attorney stated that in one six-month period, approximately 36 out of the 40 cases he prosecuted were regular criminal cases rather than economic cases. The ECU's
investigator also takes on regular criminal cases from time to time. Even the ECU director is called upon to prosecute a variety of "real" crimes, including auto thefts, concealed weapons, and rape cases.

The ECU staff have mixed reactions to this situation. On the one hand, they prefer investigating and prosecuting white-collar cases and believe they are most valuable to the Prosecutor's Office in that capacity rather than any other. Some of the staff resent the fact that economic crime is such a low priority task in the Office. On the other hand, the staff regard the trial experience gained as valuable both for the ECU and for their own careers. According to the ECU director, attorneys need to be well-versed in regular criminal trial procedures and strategies before handling more complex economic crime cases. Since his two assistants are "rookies" in this respect, he wants them to gain the courtroom experience and confidence that only comes with practice.

With respect to himself, the director claims that prosecuting regular criminal cases occasionally is a relaxing change of pace from the usual routine. In spite of this potentially positive aspect of the situation, the fact remains that the ECU does not always have its full complement of internal resources available to investigate economic crime cases.

As the preceding discussion indicates, the ECU's ability to carry out its mission, the investigation and prosecution of economic crime, is sometimes severely hampered by a perception that its task is of low priority. The ECU staff believe that within both the police department and the Prosecutor's Office, economic crime is not viewed as serious crime or as real crime. The result is that the ECU's few investigative resources are not always available for economic crime investigations.
INVESTIGATIVE PROCEDURES

The procedures the ECU uses to investigate its cases depend to some extent upon the nature of the particular case. There are no inflexible rules which must be strictly adhered to in each and every instance. Instead, there is a general procedure which guides an investigation but also leaves room for flexibility and innovation. For analytical purposes, we may divide this general procedure into four steps or stages: 1) assigning the case to an investigator; 2) collecting evidence; 3) putting the case together; and 4) evaluating the case.  

Underlying this overall procedure is a general goal which infuses every ECU investigation. The staff try to determine whether a case can be constructed which will convince a jury that the suspect has committed a crime. The aim of an ECU investigation is to construct a prosecutable case, if at all possible.

Assigning the Case to an Investigator

Cases which the ECU takes in for investigation are assigned to unit personnel by the ECU director. The present director assigns each case to an investigative team consisting of one WCC Squad or ECU investigator and one ECU prosecutor. The ECU has been carefully selecting cases for the WCC squad to investigate, primarily because the officers still lack experience with economic crime cases. If the investigation involves a close examination of financial records, the ECU investigator generally takes the assignment. If most of the essential
documents have already been collected and the investigation basically involves interviewing victims, the WCC Squad is given the case.

However, toward the end of my research, it appeared that the ECU director was determined to enhance the investigative skills of the WCC Squad. In one meeting, the ECU staff were discussing who should handle which cases. One attorney suggested that the WCC Squad be assigned to only the simpler cases. He argued that if they were assigned some of the more complex cases, it would take forever just to explain to them what they were supposed to do. The ECU director replied that he did not care how long it took, he wanted them to learn how to do it. He also wanted to inundate the Squad with cases so that the police department would realize more officers were needed on the Squad.

The assignment of a particular prosecutor to the investigative team depends upon current caseload and area of expertise. For example, one of the prosecutors is an expert on securities frauds and is assigned all such cases. The ECU director also takes on certain cases for investigation. In addition, he insists upon being informed of developments in all other current cases. To this end he maintains and periodically updates a list of the unit's current cases and their statuses.

Comparable information on the Seattle and San Diego ECU's indicates that their investigative procedures are similar to this ECU's. In Seattle, "one attorney or one investigator assumes primary responsibility for each case, relying on the expertise of the other staff, including the Chief Deputy, on an ad hoc basis." The Seattle ECU relies on outside agencies for some investigative support, but in complex cases, the unit's own attorneys become actively involved in the investigation
process.

In San Diego, each case is assigned to one attorney and one investigator, "in order to provide continuity from case development to trial."16 Attorneys and investigators are encouraged to work together closely in developing cases, but the description of San Diego's investigative procedures suggests that investigators do more of the investigative legwork than the attorneys do.

Collecting Evidence

After the case has been assigned to an investigative team, the next step is to collect as much information about it as possible. In deciding whether to accept a case for investigation, the ECU requests certain information from the complainant or referring agency regarding the basic facts of the case. Once the general outlines of the activity and the identities of potential victims and suspects have been determined, the investigators proceed to collect any evidence which appears relevant to the case. The underlying principle guiding this process is to collect enough evidence to convince a jury that the suspect has committed a criminal act.

The most important type of evidence in an economic crime case is physical evidence, which consists of documents and records. According to the ECU staff, physical evidence is absolutely essential to their cases. They must be able to prove a case on paper in order to gain a conviction. As a result, the staff spend a great deal of time compiling a wide assortment of documents, including contracts, brochures, bank records, cancelled checks, receipts, cash register and adding
machine tapes, articles of incorporation, securities filings, employment records, and criminal records. Any piece of paper which supports the allegation that the suspect engaged in an illegal activity is obtained. Bank records, for example, can be used to trace money involved in check-kiting schemes, business opportunity frauds, and embezzlements. In an embezzlement case, the ECU examines a suspect's bank account records to determine if the total deposits equal the individual's known salary. If deposits exceed salary by an amount approximately equal to the amount embezzled, the ECU is all the more confident that the case can be prosecuted.

In some investigations of business opportunity frauds, investigators may pose as interested purchases of a franchise in order to gather first-hand information on the nature of the sales pitch and the verbal representations made to prospective buyers. However, the ECU's opportunities to gather this type of direct evidence are infrequent. In most cases they must rely on the victim's representation of what took place, supported by the documentary evidence. As one ECU staff member put it, the basic task of the investigator is "putting together documents that are all over hell." 

Very early in the investigative process, the ECU staff members assigned to the case meet with the victim. Since the victim generally is the primary witness in an economic crime case, the staff believe it is important to hear the victim's story first-hand and try to assess how it might sound to a jury.

During these meetings, the victim is asked to explain what occurred, while ECU staff members listen attentively, frequently interrupting
with questions. Generally these are clarification questions, such as "when did that occur?" or "what did the suspect do or say at that point?" In addition, the staff asks if there were any other witnesses and what other types of physical evidence might be available. The attorneys are usually cautious about accepting a victim's statements at face value. They believe that victims do not always present complete stories and may even lie if they are embarrassed about the experience or their relationship with the suspect. After a meeting with a victim during which there were several surprising revelations, one staff member told another to face the fact that the victim may have lied to him at their first meeting.

At the conclusion of a meeting with a victim, the prosecutor indicates what the ECU's next step will probably be. Further evidence might be required, the suspect might be invited in to discuss the case, or other victims might need to be contacted and interviewed. In addition, the victim is told whether the case appears to be a good candidate for criminal prosecution and the reasons for this assessment. Finally, the ECU staff promise to keep the victim informed of the investigation's progress and outcome.

To some degree, the tasks of collecting evidence and putting the case together proceed concurrently. Each piece of information the ECU obtains is placed in the context of all other evidence to form an overall picture of the case.

**Putting the Case Together**

After an initial period of evidence collection, the investigators
attempt to compile all the information obtained about the case into a
workable file. Ideally, a workable file consists of the raw evidence,
an evidence list, a witness list, and a summary of the "facts" of the
case as the ECU knows them. The summary is an essential feature of the
file for two reasons. First, it represents the investigators' under-
standing of what the case is all about; i.e., who did what to whom and
how much money is involved. Second, the summary organizes the contents
of the file for any other staff member who may examine it later. This
is particularly important when there is a personnel change or when a
case is reopened. The ECU director contends that too many prosecutors
store important information about a case in their heads or on scribbled
notes. He strongly encourages the staff to include complete summaries
of cases in the file folders.

As mentioned previously, the underlying principle guiding all ECU
investigations is to construct a case which will be convincing in court.
In order to accomplish this task, the ECU staff emphasize putting to-
gether cases in which they can demonstrate how a particular criminal
activity was carried out. They believe they must be able to expose a
suspect's "paper trail" and explain the manner in which the deception,
 fraud, or theft occurred.

In constructing this explanation, the staff frequently employ
visual devices, such as diagrams and charts which depict the steps
through which a suspect proceeded. Such devices are particularly use-
ful in tracing the flow of money in check-kiting schemes, public corrup-
tion cases, and some embezzlements. They provide a means of organizing
the evidence so that the scheme's operation can be grasped more easily
by the other staff members and by a jury if the case goes to trial.

Evaluating the Case

The evaluation of a case in terms of whether or not it is prosecutable proceeds throughout the investigation process. The case is reevaluated each time a new piece of evidence is added to the file folder. However, at some point during the investigation, a formal decision must be made about whether the folder is complete, and if it is, whether the case should be closed, referred, or prosecuted. The ECU staff routinely consult with each other and with the director about the progress of their investigations. In cases in which the decision appears to be clearcut, the prosecutor assigned to the case makes a decision and obtains the director's "OK." When the evidence does not point to an obvious decision, evaluations are made in ECU staff meetings.

At these meetings, the investigative team presents a summary of the facts and briefly reviews the evidence collected thus far. The other staff members listen and ask questions concerning the amount of money involved, the victim's relationship to the defendant, or the period of time over which the activity occurred. After the case has been presented, each staff member is asked for an evaluation and recommendation. The two staff meetings described below illustrate the general concerns and issues raised in the context of evaluating cases.

Investigation 4.4

The suspect in the case operated a "travel service" which allegedly was a front for a scheme involving
check-kiting and double-billing clients on their credit cards. One of the problems with the case was a large discrepancy between the ECU's figure ($9,000) and the bank's figure ($3,000) on the amount of money lost in the check scheme. The staff felt that someone from the bank should come in and explain the discrepancy. One theme of the meeting was that banks did not properly prepare bad check cases for the ECU. Someone suggested that the WCC Squad should learn to sort out such cases so the ECU would not have to do it. Another theme was how to get the suspect off the streets quickly. Two possible cases were developing. One involved passing bad checks (PBC), and the other involved double-billing on credit cards. The problem with the PBC case was the $6,000 discrepancy. The credit card case looked better but still needed more work. One prosecutor recommended going with the credit-card case because it would get the suspect off the streets faster. The suspect's two prior misdemeanor convictions within the past year, plus the PBC case could be presented at a bond hearing to induce the judge to set a high bond. This prosecutor also suggested indicting the suspect secretly and holding the arrest warrant until a tough judge was rotated to bond hearing duty. After some additional deliberation, the final decision was to pull the evidence together on the credit-card case and move on it as quickly as possible.
The suspect was arrested several weeks later.

Investigation 4.5

This case involved a woman who loaned her male companion over $10,000 to help him pay off creditors and start a new business. He was developing a chemical formula and had received $50,000 from an investment company for the rights to it once it was tested. According to the investigators, the suspect also gave the rights to the formula to his female friend should anything happen to him. The couple exchanged a number of documents which added confusion to the case. She signed a document releasing him from all debts to her. The next day he signed a note promising to repay the money he owed her. He also gave her a document granting her the right to exercise an option to buy 10 shares of stock in his company at some future time. The relationship ended, but the suspect never repaid the $10,000 loan, and his business never got off the ground. After listening to this summary, one prosecutor said he had some real problems with the case. The victim would not present a sympathetic figure to a jury. She "stole" this boyfriend away from her own best friend, so perhaps she deserved what she got. The suspect also could argue that he did his best, but the business just failed. Another prosecutor said the case might make it as an illegal sale of
securities. This was rejected by someone else who said there were too many exceptions in the state securities law to try that route. The possibility of prosecution looked extremely remote until someone else mentioned that the suspect had written three bad checks, totaling approximately $2,600. The case suddenly took on a new aspect. If the bad checks were combined with the woman's case and possibly some cooperation from the investment company, the ECU might be able to show the jury the behavior pattern of a "flim-flam artist." The outcome of the meeting was a decision to contact the investment company and to examine the possibility of a multi-charge indictment involving passing bad checks and theft by deception.

In both cases, there was no doubt among the ECU staff that the suspects had done something wrong. The problem was finding a way to present the facts of the cases in a way that would convince a jury to convict these suspects.

Length of Investigations

The ECU staff contend that economic crime investigations generally take much longer to develop than regular criminal investigations. In fact, when asked what characteristics or skills are needed by economic crime investigators, one answer unanimously given was "patience." An economic crime investigator must have the patience to endure lengthy
investigations which often do not lead to prosecution.

An analysis of the case folder data indicates that an ECU case is open an average of five months. Indicted cases tend to remain open longer than nonindicted cases. Indicted cases are open an average of six and one-half months, and nonindicted cases are open almost four months on the average. However, an indicted case is recorded as closed only after a plea is accepted or a verdict returned in court. Since there is often a delay between the end of an investigation and the trial date, the length of the investigative stage may be more nearly equal in the two subsamples than the above figures indicate.

CRITERIA FOR PROSECUTING CASES

Previous research has shown that the goal of conviction is frequently influential in prosecutors' decisions to file charges against suspects. As Miller observed in his study of prosecutors in Michigan, Kansas, and Wisconsin, "there is no evidence to suggest that prosecutors ever recommend warrants charging persons whom they do not believe to be clearly guilty. Beyond this, they will not recommend warrants unless they are convinced that a judge and jury are very likely to concur in their belief about the suspect's guilt." In the Seattle ECU, one of the issues the staff consider even as they are accepting a case for investigation is whether the available evidence appears good enough to win the case. One of three major unwritten criteria influencing the unit's decision to handle a case is "high probability of successful outcome." For the San Diego ECU, four criteria enter into the decision to file (prosecute) a case. They are the
potential for publicity and deterrence, the amount of money involved, the number of victims, and the possibility of successful prosecution.\footnote{23} Thus, in both the Seattle and San Diego ECU's, the convictability of a case, the unit's assessment of its chances of winning in court, is an important factor in the decision to prosecute.

In a similar manner, the overriding concern for this ECU is whether a jury can be convinced that the suspect was engaged in an illegal activity. The prosecutors note that in criminal cases, a conviction requires "proof beyond a reasonable doubt," the highest standard of proof. The only reason not to prosecute a case, once it has been investigated, is that this standard cannot be met. Thus, the ECU staff distinguish between cases in which a crime has been committed and those in which a "provable" crime has been committed. Others have referred to this as a distinction between factual guilt and legal guilt.\footnote{24} Several factors influence the decision to assign a given case to one of these two categories.

The quality of the documentary evidence is the most important criterion in deciding to prosecute an economic crime case. ECU staff members emphasize that a case is "no good" unless it can be proved on paper. Ideally, the documents should demonstrate not only that a crime has been committed, but also that the suspect is the guilty party.

A second significant factor is the plausibility of the victim's story. At a minimum, the story should be believable. In addition, the victim should be able to present it in a detailed, complete, and coherent manner.\footnote{25} The victim also should appear as someone deserving of sympathy in the eyes of a jury. Victims who appear to have been involved
in an economic crime scheme because of their own greed or some other questionable motive may be viewed by jurors as having deserved what they got.

The suspect's story also may be a factor in deciding to prosecute a case. The ECU does not meet with all suspects, but some are invited in to hear the potential charges against them and to respond. If the suspect's story appears as plausible as the victim's and can be substantiated, the ECU is reluctant to prosecute the case. In addition, there are certain standard defenses, such as "business failure," in economic crime cases. Some of these are extremely difficult to refute. Even if the ECU staff do not meet with a suspect, they try to anticipate the possible defenses which a good defense attorney might use in the case.

To some extent, the ECU's resources also enter decisions to prosecute a case. In certain types of schemes, including magazine sales frauds and franchise and securities schemes, the potential victims may reside outside the County and even outside the state. The costs involved in contacting all possible victims and bringing them to a trial can prohibit prosecution in such cases.

In the final analysis, however, it is the perceived probability of achieving a conviction or winning the case which determines the decision to prosecute. The combination of all of the above factors contributes to an assessment of this probability. In their more cynical moments, the ECU staff indicate that even the question of guilt or innocence is secondary to the consideration of convictability. For the most part, however, the staff appear to believe in the guilt of the suspects they decide to prosecute.
A high conviction rate is, as Neubauer and Alschuler have suggested, a measure of the prosecutor's successful job performance. In addition, as Reiss has pointed out, the emphasis on winning cases or securing high conviction rates may stem largely from the fact that chief prosecutors' are elected officials who must run on their records. In the case of the ECU, both factors probably partially account for the emphasis on gaining convictions. In the following section, the influence of politics on the ECU's operations will be addressed.

Political Considerations

Politics does not pervade every aspect of the ECU's day-to-day operations. However, the political nature of the Prosecutor's Office, within which the ECU staff must work, does have its effect on the unit's activities. None of the positions within the Prosecutor's Office are civil service. All are dependent upon the person who occupies the position of Chief Prosecutor. The staff contend that this is not a problem for the continuity of the ECU's enforcement efforts. One staff member claimed that if the Chief Prosecutor lost the next election, the new boss would probably replace present employees gradually. Old staff would stay on long enough to train newcomers in the proper procedures. Another staff member claimed that elections can have positive effects on the Prosecutor's Office. If the staff believes the Chief Prosecutor is doing a good job, they all pull together to aid the reelection campaign. This same staff member indicated, however, that he did not wish to remain in the Prosecutor's Office through another election, because he did not enjoy political campaigning. Although no one is forced to
campaign, it is difficult to avoid, he said, when your job depends upon the outcome of the election.

Politics also enters the ECU staff's considerations in resolving some of their cases. The staff believe and the local press supports the notion that the Chief Prosecutor's record is the major campaign issue. This means that the Prosecutor's Office should win more cases than it loses, or at least win the big cases. Not all of the ECU's cases are big ones, but some do receive front-page headlines in the local papers. If the Chief Prosecutor's image as an effective crime fighter is to be preserved for the next election, the ECU must contribute to this image by winning, or at least by not losing, its big cases. The staff deny that there is any direct pressure applied to them to win any particular case. However, one incident appears to contradict this assertion.

Investigation 4.6

During 1978 and 1979, the ECU investigated and prosecuted several related major public corruption cases. During my research one of these cases was dismissed by the trial judge for lack of evidence after the prosecution rested its case. This was a major disappointment for the ECU and for the Prosecutor's Office. The timing of this defeat is also significant because it followed closely upon the loss of another ECU case and the loss of a highly publicized murder trial. The next trial in this series of corruption
cases was scheduled to begin three weeks after the dismissed case concluded. The ECU staff believed this to be a better case than the dismissed one. The prosecutor in charge spent a great deal of time secluded in his office working on the final trial preparations. I was invited several times to come to the trial because the ECU was going to "pull out all the stops on this one." When I arrived on the day of the trial, I was surprised to learn that the case had been settled by a plea. The defendant received a $100 fine and was to resign his position of responsibility immediately. 29 Publicly, the ECU staff said very little about the case, but privately, I was told they were very disappointed with the outcome because there was no deterrence whatsoever in a $100 fine. The unit had apparently accepted a reduction from five felony counts to one misdemeanor count. This was unusual since the idea of plea bargaining down to misdemeanors is generally unacceptable to the ECU staff. I was told that the unit was instructed by Prosecutor's Office administrators to accept the defense attorney's plea offer because the Prosecutor's Office could not afford to lose another big case at the time. The Office as a whole was said to be "running a little bit scared." A mediocre win was considered better than another major defeat. Thus, there was pressure applied to the ECU in this case to produce a successful outcome in spite of the apparent sacrifice in
terms of the stated goal of deterrence.

Political considerations can be particularly problematic in public corruption cases. If the defendant is of the same political party as the Chief Prosecutor, there is generally no problem. If the defendant and the Chief Prosecutor are from opposing political parties, as was true in the above cases, the Prosecutor's Office is open to accusations that it is conducting a politically motivated campaign of witch-hunting, harassment, or smear tactics. As one staff member succinctly put it, "the major difficulty in the (series of public corruption) cases was a Republican office investigating a Democratic office during an election year in which the heads of both offices were running for office." 30

Adding to the political overtones of these cases was the fact that a "Deep Throat" or informant in the Democratic office gave information to his boss's Republican challenger. The challenger's campaign manager immediately brought the information to the Prosecutor's Office and urged the ECU to file charges before the election. According to the ECU director, this manager was told, "we don't do things that way around here." 31 The ECU and the Prosecutor's Office then attempted to "get rid of" the case in several ways, including requesting a court-appointed special prosecutor, hiring a special assistant prosecutor, and requesting the investigative aid of the state police. None of these alternatives proved viable. 32 Thus, the ECU was "stuck" with the investigation.

As a result of the ECU's investigation seven cases were filed after the election was over. The final outcomes included one negotiated settlement, two cases dropped, one acquittal, and three misdemeanor convictions.
The minimum penalty was a $100 fine, and the maximum was a $2000 fine. One of the defendants was an organization which allegedly paid off public officials in return for special favors. The organizational defendant in this case appeared to receive the stiffest penalty. In exchange for dropping the charges, the organization agreed not to do business with the State or its subdivisions for the next five years and to relinquish any claims for currently unpaid contracts. Considering that the ECU spent 136 working days on these cases over a period of 15 months, the rest of the outcomes were generally disappointing to the staff. By the time the last case was ready to be settled, the prosecutor in charge said he no longer cared what the outcome was. He simply wanted it to end.

Several weeks after the last case was settled, this prosecutor informed me that he had just received two new public corruption cases, "only this time they're Republicans," he said. I laughed and replied, "No more of those Democrats, eh?" He laughed also and said, "Yeah, but these guys are black."33 The prosecutor's words proved to be somewhat prophetic. After the two suspects had been bound over to the Grand Jury at a preliminary hearing, their defense attorney called the ECU to discuss the case. According to the prosecutor, the defense attorney charged that the entire case was racially motivated, thereby supporting the prosecutor's implicit statement that not all charges of bias are based upon one's political affiliations.
PROSECUTABLE CASES

As a result of its investigation process, the application of the criterion of convictability, and political considerations the ECU separates investigated cases into those deemed prosecutable and those deemed nonprosecutable. The prosecutable cases generally are those which the ECU believes will be convincing to a jury. The nonprosecutable cases are those which the staff believe cannot be proved beyond a reasonable doubt in court. This section compares and contrasts the prosecutable and nonprosecutable cases along a number of dimensions, grouped into one of two general categories: offense characteristics and offender characteristics.

Offense Characteristics

The case folder and 1979 monthly report data permit examination of the following offense characteristics: type of offense, type of victim, number of victims, and source of case. The case folder data also permit an examination of the amount of loss. No data on this variable are available in the 1979 monthly report data.

Type of Offense. The case folder data indicate that approximately 90% of the cases deemed prosecutable by the ECU over the past six years have been in one of two offense categories. They were either corruption, abuse of trust, or theft cases (28%) or frauds against government, public agencies, or utilities (63%). (The distribution of cases on this variable is presented in Table 1 of Appendix I.)
Since these two offense categories are rather broad and encompassing, they can be broken down into more specific offenses. The 27 cases of corruption, abuse of trust, or theft include 7 cases of embezzlement, 11 cases of political corruption, and 9 cases of theft of equipment, services, or funds. The 62 cases of fraud against government, public agencies, or utilities include 2 cases of Medicaid fraud and 60 cases of welfare fraud. Thus, welfare fraud cases alone make up just over 60% of the ECU's prosecutable cases in this sample.

Among the nonprosecutable case folders there is greater diversity with respect to the types of offenses involved (Table 1, Appendix I). Twelve percent of the nonprosecutable cases were corruption, abuse of trust, or theft cases, 24% were frauds against government, public agencies, or utilities, 26% were sales and repair frauds, and 10% were investment schemes.

Throughout its six-year history, therefore, the ECU has deemed prosecutable cases involving predominantly two types of offenses: corruption, abuse of trust, or theft and frauds against government, public agencies, and utilities. Other types of offenses, including investment schemes, housing and land frauds, and sales and repair frauds, all of which are consumer protection offenses, are represented in ECU investigations, but not in cases deemed prosecutable by the unit.

In 1979, the ECU's monthly reports indicate several changes in the types of offenses deemed prosecutable by the unit. Half of the 26 cases deemed prosecutable by the ECU in 1979 were corruption, abuse of trust, or theft cases. The remaining half were fairly evenly divided among investment frauds, financing, credit, and banking schemes, housing,
land, and real estate schemes, and insurance frauds. Only 2 of the 26 cases deemed prosecutable in 1979 were frauds against government, public agencies, or utilities. (The distribution of the 1979 data on type of offense is presented in Table 2 of Appendix I.) Thus, in 1979, with the elimination of welfare fraud from the ECU's responsibilities, the unit's prosecution of frauds against government, public agencies and utilities diminished sharply. It appears the unit is moving toward increased prosecution of corruption and embezzlement cases, with various types of frauds mixed in from time to time.

Type of Victim. An analysis of the case folder data indicates that a government agency or the state has been the victim in 77% of the ECU's prosecutable cases (Table 3, Appendix I). This is not surprising, given the large number of welfare fraud cases prosecuted by the ECU. It is also noteworthy that 17% of the victims were organizations and only 4% were individuals. In contrast, for the nonprosecutable cases, 53% of the victims were individuals. This difference between the two types of cases suggests that the interests being protected by the ECU over the past six years have been those of the state government and its agencies rather than individual consumers.

In contrast to the case folder data, the figures for 1979 reveal that only 12% of the ECU's prosecutable cases involved a government agency or the state as the victim. Half of the prosecutable cases involved private organizations as victims, and another quarter involved individual victims (Table 4, Appendix I). For the nonprosecutable cases, individuals represented only 35% of the victims, while government agencies
and organizations represented 29% and 20%, respectively. Thus, the types of victims in cases deemed prosecutable by the ECU has undergone a shift during 1979. Whereas government agencies were the victims in the vast majority of the ECU's prosecutable cases in the past, during 1979, they were victims in only 12% of these cases. Part of this change involves a shift toward individual victims, but an even greater trend may be in the direction of prosecuting more cases involving organizational victims.

Number of Victims. The case folder data indicates that slightly more than 70% of both prosecutable and nonprosecutable cases have involved only one victim (Table 5, Appendix I). In contrast, the 1979 data reveal that only 38% of the prosecutable cases involved a single victim, whereas 54% involved multiple victims (Table 6, Appendix I).

These findings suggest that the ECU staff's stated preference for cases involving multiple victims has not been strictly applied over the past six years. However, the more recent data indicate that the unit is moving in the direction of applying this criterion to its cases in a more stringent manner.

Source of Case. In the past, 82% of the ECU's prosecutable cases originated as agency referrals, while only 10% were initiated by complaints or inquiries from private citizens or attorneys (Table 7, Appendix I). The largest percentage of nonprosecutable cases, on the other hand, came from private complaints or inquiries (46%), while only 37% of these cases were agency referrals.
The 1979 data reveal the beginnings of a change in this pattern of case sources. The monthly report data indicate that both prosecutable and nonprosecutable cases were more evenly divided in 1979 between private complaints and agency referrals (Table 8, Appendix I).

Amount of Loss. The ECU staff consider serious economic crime cases to be those involving large losses. In fact, they state a preference for those cases which exceed a $10,000 loss figure. As the case folder data reveal, however, the ECU has prosecuted few cases involving more than a $10,000 loss (Table 9, Appendix I). In fact, the majority (64%) of the cases deemed prosecutable by the ECU over the past six years have involved losses under $5,000. In addition, there is very little difference between prosecutable and nonprosecutable cases on this variable. For both categories the majority of cases are below $5,000 with respect to loss.

Unfortunately, there is no data available on amount of loss from the 1979 monthly reports. It is not possible to determine whether the ECU is still below its stated minimum of $10,000, or if the pattern is changing, as is true of several other offense characteristics.

In sumarizing the preceding discussion of prosecutable and nonprosecutable cases, several important findings should be reiterated. One is that the ECU has tended to prosecute certain types of cases throughout its existence. The other is that these patterns showed signs of changing during 1979, probably as a result of the elimination of welfare fraud cases from the ECU's task responsibilities.
The case folder data indicate that the ECU has prosecuted a large number of cases involving frauds against government, public agencies, and utilities. Most of these cases were welfare frauds. In addition, the ECU was active in prosecuting cases of corruption, abuse of trust, and theft. Offenses which have generally been placed in the nonprosecutable category by the ECU include sales and repair frauds, investment frauds, and housing and land frauds. For the most part, the victims in the prosecutable cases have been single rather than multiple victims and have generally been government agencies or the state. This is not a surprising finding given the types of offenses involved. Most of the prosecutable cases came to the ECU through agency referrals and the majority of them involved losses of less than $5,000. Thus, for most of its six-year history, the ECU served the interests of the state and its agencies in prosecuting local cases of small-scale welfare fraud and theft.

In 1979, it appeared that the ECU was beginning to undergo a transformation. Most of the unit's backlog of welfare fraud cases were transferred to a newly formed welfare fraud unit, leaving the ECU to develop its enforcement activities in new directions. The 1979 monthly report data suggest the general outlines of these new directions. Half of the 26 cases prosecuted by the ECU in 1979 were corruption, abuse of trust, and theft cases. Only two cases involved frauds against government, public agencies, or utilities. Most of the victims in the 26 cases were private organizations or individuals. Only three victims were government agencies. In addition, the case sources were more evenly divided between private complaints and agency referrals. Finally, the ECU
began to prosecute more cases involving multiple victims. Thus, there is evidence that the ECU is beginning to alter the previous patterns with respect to its prosecutable cases. Rather than becoming more consumer oriented, however, the unit seems to be moving toward prosecuting more cases of embezzlement and employee theft.

Offender Characteristics

The case folder data permits an examination of several offender characteristics, including the type of suspect, and the suspect's age, sex, and race. The 1979 monthly report data provide information on only the first variable, type of suspect.

Type of Suspect. In the case folder data, none of the cases in the prosecutable category involve organizational suspects. All 39 organizational suspects in the sample were deemed nonprosecutable by the ECU (Table 10, Appendix I). This does not mean that the unit has never prosecuted an organization. One of the cases in the category labelled "Other," for example, involves three co-defendants, two of which are organizations. However, such cases are very rare. Organizations comprise 36% of the suspects in the nonprosecutable cases and none of the defendants among the prosecutable cases. Individuals, on the other hand, comprise 50% of the suspects in the nonprosecutable cases and 91% of the suspects in the prosecutable cases. Organizations represent almost one-fifth of the suspects in the ECU's economic crime investigations, but they are virtually excluded from consideration as defendants in the ECU's decisions to prosecute.
The 1979 monthly report data display a very similar pattern. (Types of suspects involved in 77 cases closed by the ECU in 1979 are shown in Table 11 of Appendix I.) Individuals were suspects in 65% of the cases prosecuted by the ECU in 1979. None of the prosecutable cases involved organizational suspects alone. However, 23% of the cases involved both organizational and individual suspects. Although it may appear that the ECU is currently taking a more active role in prosecuting organizations, further analysis reveals that this is not actually the case. When indictments were filed in the 26 prosecuted cases, only one named an organization as a defendant (Table 12, Appendix I). The case involved public corruption on the part of several individual and one organizational defendants.

The case folder and monthly report data demonstrate that the ECU has consistently investigated but not prosecuted organizations. Unfortunately, these data do not provide a clearcut explanation of why this pattern has occurred. However, the case folder data do permit a closer examination of the 39 nonindicted organizational cases on two dimensions which might provide an indirect explanation of why they were not prosecuted: the type of offense involved and the reason for closing the investigation.

The questionable behaviors of the 39 organizations vary across at least eight different offense categories (Table 13, Appendix I). Approximately one-third of the cases involve contractual problems and another 18% involve consumer protection offenses. Contractual problems generally are better handled in civil court according to ECU staff, unless intent to defraud can be established. Consumer protection offenses are the
province of the state attorney general rather than local prosecutors. After eliminating these two offense types, this still leaves 29% of the cases in which the offenses are ones routinely handled by the ECU (business opportunity fraud, magazine sales schemes, Medicaid fraud, land fraud, etc.). Thus, the type of offense does not provide a reason for the nonindicted status of many organizational cases.

The reason for closing the 39 organizational cases also cluster in two general categories, referrals to other agencies and lack of merit to prosecute (Table 14, Appendix I). The remaining cases are dispersed among six additional specific categories, including lack of victim or witness cooperation, civil action recommended over criminal action, financial recovery obtained, lack of jurisdiction, and too expensive to prosecute.

There is little correspondence between the stated reason for closing the organizational cases and the types of offenses involved. The 10 cases referred to other agencies include three contractual disputes, two business opportunity frauds, one Medicaid fraud, and one land sales fraud (plus two "unknowns" and one "other"). The nine cases lacking merit to prosecute include two contractual disputes, four consumer protection offenses, one home repair fraud, and one business opportunity fraud (plus one "other"). Thus, there is no apparent relationship between the specific offense involved and the reason for closing the case. The quantitative data, therefore, provide very little information on which to base a consistent explanation for the nonindicted status of ECU cases which involve organizations as suspects.
ECU staff responses. Since the quantitative data do not provide a satisfactory explanation for the tendency of the unit not to prosecute organizations, I decided to seek the ECU staff's views on the matter. During each staff member's interview, I raised this issue by asking them to discuss the differences between individual and organizational suspects with respect to economic crime investigation and prosecution. The responses of two of the staff were very similar. Both rejected the notion that economic offenders could be organizational as well as individual actors. One staff member acknowledged that the ECU did not prosecute corporations or organizations. He stated that for all practical purposes, the corporation is merely a "fiction, a disguise or a shield that the white-collar criminal can hold up to protect himself (sic)."

He went on to say that in all white-collar cases, somebody benefits; all economic crime ultimately benefits individuals.\(^{36}\) The other staff member who shared this view stated that businesses are made up of people, and it is these people who appear in court. He claimed that people, not businesses, sit at the defense table, and that defense lawyers are quick to tell the jury their clients are human beings, not organizations. This staff member said that if the ECU does indict a corporation, it is because the action was perpetrated by someone high enough in the company to call it company policy.\(^{37}\)

A third staff member did not question the reality of corporate actors directly, but his statements imply the same type of orientation as that of his two colleagues. This third member explained that in investigating a business, you may have a half dozen people involved in the crime. Within this group one must be certain to question the person
who knows the most about the organization and the person who is the weakest link in the scheme. The former can tell you how the organization operates, but the latter will probably be the first to confess. He also stated that two advantages of prosecuting the organization as well as the individuals involved in the crime are that the fines are larger for organizational offenders, and it is a signal to the public to be wary of dealing with this particular business in the future.38

The fourth and final ECU staff member to address this issue approached it somewhat differently. He contended that organizational crimes are generally beyond the ECU's investigative resources and probably beyond the staff's expertise. "We really don't know a damn thing about that type of crime." He said that most organizational crime probably involves violations of federal statutes, except perhaps in securities frauds. In addition, he suggested that the state attorney general is better able to deal with some corporate crimes under the consumer protection laws, although most of these cases result in class action suits rather than criminal cases. "We just ignore corporate crime. It's so complex, nobody even knows what it's all about. But really, I can't see a three-man shop like this taking on the Ford Motor Company. What it means ultimately is that we just let these things go on ... It's just something we let go by us."39

The statements by three of the ECU staff that organizations are essentially fictional entities do not provide a satisfactory explanation of the unit's lack of attention to organizational crime. The organizations in the nonindicted category undoubtedly have individual members, such as executives or managers, who could sit at the defense table. It
also is possible to argue that an organization's officers benefit at least financially from certain types of organizational crime. Thus, the notion that organizations are not acting units does not preclude prosecuting "somebody" in such cases.

I suggest that an explanation of this pattern must take into account the notion of convictability. The probability of securing a conviction is a major consideration for the ECU in deciding whether or not to prosecute a case. Before the unit takes the initial step of filing a charge, the staff contend that they must believe they can prove the case in front of a jury. In cases involving the element of fraud, whether on the part of an individual or an organization, the prosecutors must prove that the defendant intended to defraud the victim in some way. Proving this requisite intent can be difficult when the actor is an organization. Intent generally is a quality attributed to human rather than corporate actors. In addition, organizations can counter charges of intentional fraud with defenses such as bankruptcy or business failure, bad business decisions, clerical errors, and oversights. In order to overcome some of these defense strategies, prosecutors must demonstrate a consistent pattern of questionable activity over time and across victims. In two-thirds of the 39 nonprosecutable organizational cases, only one victim complainant appeared to be involved. In addition, one-third of these cases involved an offending organization which was located outside the ECU's state, thereby limiting the possibility that large numbers of victims would reside within the ECU's jurisdiction. On these two dimensions, at least, the unit's chances of proving intent to defraud were diminished in many of the
nonindicted organizational cases. Given the criterion of convictability, it becomes somewhat more understandable that very few organizations are prosecuted by the ECU. The consequence, however, is that organizational crime is almost totally ignored by the ECU.

**Age of Suspect.** Economic offenders whose cases are considered prosecutable by the ECU tend to be middle-aged. Two-thirds of the prosecutable cases for which information on age is available list the suspect's age as between 26 and 44 years at the time of the investigation (Table 15, Appendix I). Most of the suspects in the nonprosecutable category also are older. Thus, the suspect's age does not appear to be a discriminating factor in determining the prosecutability of a case.

**Gender and Race of Suspect.** Almost two-thirds of the suspects in the ECU's prosecutable cases over the years have been female. Males account for only one-third of the suspects in prosecutable cases (Table 16, Appendix I). Viewed from another perspective, the 65 male suspects are evenly divided between prosecutable and nonprosecutable cases. The 86 female suspects are divided such that there are two and one-half times as many in the prosecutable category as in the nonprosecutable category.

In sixty percent of the prosecutable cases for which the suspect's race is known, the suspects were black. The high percentage of black suspects in the prosecutable cases appears to be the result of a selection occurring during investigative screening rather than prosecutive screening. Ninety percent of the black suspects in ECU
investigations were prosecutable, but so were over 85% of the white suspects.

The case folder data display distributions on the variables of gender and race which are quite unexpected for an economic crime unit. Given the traditional image of economic or white-collar criminals as white males, it is initially surprising to find that 64% of the prosecutable suspects are females and 48% are black. When the variables of gender and race are combined, black females account for 42% of the cases deemed prosecutable by the ECU. White males account for only 14% of these cases. White females account for 11%, and black males account for 6%. It was not possible to classify the remaining 27% of the prosecutable cases on both sex and race together.

The high proportions of females and blacks among the ECU's cases appear closely related to the types of offenses prosecuted. In particular, the welfare fraud cases involved large percentages of female and black suspects. Fifty-six out of 60 (93%) prosecutable cases of welfare fraud involved female suspects. Forty-one out of these 60 (68%) cases involved black suspects. Suspects who were both black and female constituted 62% of the ECU's welfare fraud cases.

With respect to the offenders in cases deemed prosecutable by the ECU, it was first discovered that the unit has traditionally prosecuted individuals but not organizations. The 1979 data and the interviews with ECU staff provide no evidence to suggest any future alterations in this pattern. Secondly, most of the suspects in ECU cases are middle-aged, as opposed to either youthful or older offenders. Finally, the ECU has a history of prosecuting large numbers of black and female
suspects, primarily in the context of welfare fraud cases.

One of the original purposes of the ECU's under the national Economic Crime Project was to prosecute those cases of economic crime most troublesome to the local community and thereby restore respect for the criminal justice system at the grass-roots level. Apparently, the way in which this ECU opted to fulfill this purpose was by prosecuting welfare frauds rather than sales and repair frauds, or other types of consumer frauds. In addition, instead of giving special attention to crimes which primarily injure members of disadvantaged groups, the ECU was engaged, to a large extent, in prosecuting members of those groups (blacks and females).

Unfortunately, there is little recent data available through which to determine whether the elimination of welfare fraud cases has significantly altered this state of affairs. It may be expected, however, that as the unit prosecutes more embezzlement cases, the proportion of traditional economic or white-collar criminals, white males, will increase.

SUMMARY

In this chapter, we explored the process through which the ECU investigates its economic crime cases, and we examined the results of that process, the cases deemed prosecutable by the ECU.

In discussing the ECU's investigative resources, it was found that external resources, consisting of victims, law enforcement agencies, and other agencies, are important sources of information for the unit. For the most part, however, this is the only type of investigative assistance they provide. Among law enforcement agencies, the state police and the
city police department's WCC Squad do some of the ECU's investigative legwork, but their contributions also are limited by certain structural constraints. Thus, the ECU must rely on its own internal investigative resources for most of its investigative support. Because of limited internal investigative personnel, the necessity to remain in close contact with the evidence, and the need for legal expertise and subpoena power in economic crime cases, the ECU prosecutors step outside the prosecutor's usual role of merely evaluating evidence and take an active role in investigations. Katz made a similar observation in his research on white-collar crime investigation and prosecution in a U. S. Attorney's Office.

The principal theme underlying all ECU investigations is the goal of making a prosecutable case, one which will convince a jury of the suspect's guilt. To this end, the ECU staff collect a variety of documents and attempt to piece together the "paper trail" left by the suspect. Unlike other criminal investigations in which the primary question is "who did it?," the major question the ECU must answer is "how was it done?"

After compiling enough evidence to construct a fairly complete portrait of the alleged offense, the staff generally meet to discuss the case and evaluate its prosecutability. The major criterion applied to each case is the staff's perception of whether or not a jury can be convinced of the suspect's guilt. Hence, convictability is a significant factor in the ECU's decision to prosecute.

In reviewing the types of cases deemed prosecutable by the ECU, we noted that the unit has prosecuted a large number of fraud cases in
which the victims have been government agencies and the suspects have been individuals. Many of the suspects have been females and blacks. Since the ECU no longer prosecutes welfare fraud cases, the trend seems to be more toward various types of corruption, embezzlement, and theft. The ECU has not been and does not appear on its way to becoming a consumer protection agency. This role has been largely left to the state attorney general.

Having produced a set of cases which they believe provable in court, the ECU staff's next step is to file charges against the suspect and prepare for trial. The final outcome of the prosecution phase of ECU operations is an affirmation or negation of the staff's decisions regarding the convictability of their cases. This process is the topic for the next chapter.
NOTES ON CHAPTER 4


2. One of these cases is described in Investigation 4.2. The other is described in Investigation 4.5.


4. The ECU attorney later used the chart and the file folders in trying to negotiate an early guilty plea with one of the defendant's attorneys.


6. The part-time legal intern assists in the investigative operations by accompanying the investigator on interviews and by helping to organize evidence for review and possible trial presentation. As a part-time employee and trainee, he is not as actively involved in the investigations as are the other members of the staff.


9. Katz' definition of white-collar crime is presented in terms of the problems these types of crime create for law enforcement agencies. It is a social construction definition of white-collar crime. According to Katz, "in the purest 'white-collar' crimes, white-collar social class position is used (1) to diffuse criminal intent into ordinary occupational routines so that it escapes unambiguous expression in any specific, discrete behavior; (2) to accomplish the crime without incidents or effects that furnish presumptive evidence of its occurrence before the criminal has been identified; (3) to cover up the culpable knowledge of participants through concerted action that allows each to claim ignorance," p. 435. For Katz, "white-collar" social class position means, "the bourgeois professions (doctor, lawyer, accountant, cleric), the managerial ranks of private and public companies, public officials with significant discretion powers (i.e. not mailmen), and owners of substantial capital," p. 434.


11. In contrast to white-collar cases, the ECU attorneys contend that a good prosecutor can pick up a regular criminal case 15 minutes before walking into court to prosecute. Regular criminal cases are viewed as very simple and straightforward, for the most part, compared to economic crime cases which entail large volumes of paper and often intricate schemes.

12. According to one ECU staff member, the formation of the WCC Squad stemmed from a case in which the police department withdrew two detectives from a major embezzling case and assigned them to a murder case. The ECU attorneys complained about this and about the police
department's general disregard for economic crime investigations.

They were appeased with the formation of the WCC Squad.

13. The method of discussing this investigative process will treat it as if each step follows the preceding one in a simple linear fashion. However, in actual practice, there are no clear dividing points between the steps, and the investigation process does not proceed in a linear fashion. Evaluation of a case may lead to a decision to close the case or prosecute it, but it may also lead to a decision that more evidence is needed (return to step two) or that the evidence needs to be reexamined or reorganized (return to step three).

14. Prior to the formation of the WCC Squad, the ECU investigator worked with all three attorneys on every case. This meant that the attorneys did almost all of the investigative work on their own. With the increased participation of the WCC Squad, the ECU director hopes to have more of the investigative work done by investigators. His concern is that the prosecutors do so much of the investigative work they are often more like witnesses than prosecutors in their own cases.


17. The Privacy Act presents a problem in securing certain types of documents, such as employment records. Since the ECU investigator does much of the actual collecting of these documents, he seems to experience the greatest difficulty with the Act. According to one
staff member, the Act protects no one but the "bad guy." Everyone is afraid of being sued for releasing information. When he calls for something, he says, "I need the following information from you." He does not ask for it because that makes the respondent wonder whether it can be released. If the respondent asks, "Can I give you that?," he replies, "Sure you can." ECU Interview, December 19, 1979.

18. ECU Interview, December 19, 1979.

19. Having examined over 200 case folders, I can support this statement unequivocally. Making sense out of some of the folders was extremely difficult.


22. Finn and Hoffman, Exemplary Projects, p. 16. The other two criteria are "significant economic loss and likely deterrent effect on other potential white-collar criminals."


24. See, for example, Cox, "Prosecutorial Discretion," and Neubauer, "After the Arrest."
25. The coherence of a victim's story can be improved, according to the staff, through pre-trial "coaching" or "programming."

26. Myers and Hagan found support for some of the same factors in their research on prosecutors' decisions to charge and go to trial. However, they did not emphasize as strongly the notion that the underlying desire is to gain convictions. See, Martha A. Myers and John Hagan, "Private and Public Trouble: Prosecutors and the Allocation of Court Resources," Social Problems 26 (April, 1979), pp. 439-451.


29. The defendant later denied that his resignation had been a formal part of the plea agreement and refused to step down from his position.

30. ECU Interview, December 19, 1979.

31. ECU Interview, December 20, 1979.

32. The court refused to appoint a special prosecutor. The special assistant prosecutor turned out to be too closely connected with certain political allies of the Chief Prosecutor. The agency which funds special state police investigations refused to fund this one unless a Democratic special assistant prosecutor was hired. The
Republican Chief Prosecutor refused to comply with this demand.

33. ECU Field Notes, November 8, 1979.

34. Five of the cases in the "Other" category involved multiple individual defendants doing business as organizations (business partnerships). The two remaining "Other" cases involved multiple individual defendants.

35. The 1979 monthly report data do not permit a comparable analysis. All of the cases involving organizational suspects were simply listed as "closed administratively." Cases involving both organizations and individuals as suspects were listed as follows: 10 were closed administratively; one was resolved through remedial action; three were closed with restitution; and two were referred.

36. ECU Interview, December 26, 1979. Ermann and Lundman, Corporate and Governmental Deviance, state that there is a tendency to view corporate actors as mere collections of individuals rather than as viable actors in and of themselves.

37. ECU Interview, December 20, 1979.

38. ECU Interview, December 19, 1979.

39. ECU Interview, December 27, 1979. Clinard et. al., Illegal Corporate Behavior, note that a similar problem occurs even at the state level. States lack the resources to prosecute major national corporations. Most of their efforts are directed toward smaller corporations.
CHAPTER 5. THE PROSECUTION OF ECONOMIC CRIME

This chapter analyzes the manner in which the ECU carries out prosecution of the cases it has deemed prosecutable. It examines the procedures used in filing charges against suspects, the steps in preparing a case for prosecution, the alternatives of plea bargaining versus trial, and the factors which appear to influence sentencing of convicted ECU defendants.

In analyzing ECU prosecution of cases, it first will be shown that the ECU files most of its charges against suspects by means of direct indictments. The investigative phase of ECU casework is generally completed before an indictment is sought with the unit technically ready to go to trial immediately after the indictment is obtained.

The ECU prefers to have most of its defendants put through formal arrest and detention procedures. The staff believe the process has a desired deterrent effect on economic or white-collar crime defendants. However, some suspects appear willing to admit guilt when confronted with evidence before an indictment. The ECU then bypasses many of the formal criminal justice procedures by using a bill of information.

Once formal charges have been filed and the defendant has been arraigned, the ECU initiates trial preparation. In most cases these preparations serve primarily a backup function should pre-trial plea negotiations prove unsuccessful. As will be discovered, the ECU success-
fully negotiates guilty pleas in the vast majority of cases it prosecutes.

During the plea negotiation process, the extensive discretion and autonomy exercised by the ECU in determining the outcomes of its cases begins to diminish. The prosecutors must contend with the defendant's attorney during actual negotiations. They also must contend with anticipations about what types of sentences certain pleas will elicit from the judge.

If plea negotiations are unsuccessful and the case goes to trial, the judge and jury constitute two highly problematic aspects of the courtroom situation. The judge in particular has the authority to dismiss counts of the indictment or grant defense motions to dismiss the prosecution's entire case.

With respect to sentencing, both the legal structure and the judge's discretion determine the types of sentences imposed on ECU cases. With respect to the latter, judges in the ECU's county have tended to impose lenient sentences in economic crime cases, selecting restitution more often than incarceration as a form of punishment.

FILING CHARGES

Once the ECU has determined that a case is prosecutable, there are three alternative procedures through which formal charges can be filed against a suspect: 1) direct indictment; 2) arrest and bindover; and 3) bill of information. Table 5.1 shows, for the case folder data, the frequency with which each of these procedures is utilized.
Table 5.1 shows that direct indictment was employed in 94% of the prosecuted cases. Under this procedure, the prosecutor presents evidence on a case directly to the County Grand Jury. This nine-member panel determines whether there is probable cause that the suspect committed the alleged crime. If at least seven jurors conclude that sufficient evidence exists to send the suspect to trial, the case is "true-billed," and the specific charges are listed in an indictment. If a negative conclusion is reached, there is no indictment, and the case is "ignored" by the Grand Jury.

When an ECU prosecutor believes the facts in a case are clear, the witnesses identified, documentation collected, and witnesses and documentation linked, the case is ready to be taken before the Grand Jury. Cases thus are presented to the Grand Jury only after investigations have been completed. ECU staff contend that an economic crime case should be ready to go to trial the day after it is indicted. There are two reasons for concluding the investigation before filing charges. One is that Grand Jury subpoenas can be used only prior to indicting a case.
Since the ECU relies heavily on this type of subpoena power to conduct investigations, the staff try to make certain they have everything they need before they relinquish use of this investigative tool. The second reason is that the ECU presents cases to the Grand Jury only if they appear to have a high probability of conviction. The staff believe they must conduct a thorough investigation in order to assess a case's probability of conviction. Thus, they feel confident about the chances of winning a case in court even before it has been indicted.

In spite of the fact that the ECU has a complete case assembled prior to presenting it for indictment, the prosecutors report that they typically do not display all the evidence to the Grand Jury. They need only demonstrate probable cause to obtain an indictment. Therefore, they take "just enough" evidence to get the indictment. Generally, an investigator briefly discusses the facts in the case, and one or more victims tell their stories. In most cases, the Grand Jury follows the prosecutor's recommendation to charge the suspect. In the case folder data, only two cases initially deemed prosecutable by the ECU were turned down by the Grand Jury. One involved an alleged public corruption, the other involved an alleged embezzlement.

The Grand Jury can serve other purposes for the ECU prosecutors. One prosecutor reported having victims testify before the Grand Jury in order to determine which ones are the "best" witnesses in terms of story plausibility and coherence. They are the victims whose names appear on the indictment. Additionally, victims make their statements under oath before the Grand Jury. If they should later change their minds about the "facts" of the case, these sworn statements can be introduced. Such statements
protect prosecutors from charges of bias and malicious prosecution. ³

Bindover Indictment

Table 5.1 shows that the second way in which charges are filed, bindover indictment, is used in only two percent of the ECU's prosecuted cases. The bindover occurs in those cases in which a suspect is arrested before the ECU has sought a direct indictment. For instance, the WCC Squad may obtain an arrest warrant on the basis of a sworn complaint or affidavit. After the suspect is arrested, the case must proceed through a preliminary hearing. During this hearing, evidence against the suspect is presented by a City Prosecutor. Witnesses are called to testify, and the defendant's attorney can cross-examine them.⁴ At the conclusion of the hearing, the judge decides whether there is sufficient evidence to bind the case over to the Grand Jury for possible indictment. The case then proceeds in the same manner as in a direct indictment.

Arrest, Arraignment, and Bonding. Following an indictment, the defendant is formally arraigned on the charges. The defendant's appearance at the arraignment can be obtained through a summons or by means of an arrest warrant.⁵ The ECU staff claim that they prefer to have defendants arrested because of the potentially deterrent effects of experiencing formal arrest procedures and detention in jail. Some, but not all, ECU defendants have been put through this process.

As Table 5.2 below shows, arrests were made in 59% of the ECU's prosecuted cases. In 24% of the cases, no arrests were made. Arrest warrants were issued for most of this group (18 out of 23), but the
defendants were never apprehended. For the remaining 17\% of the indicted cases, there was either no arrest information in the case folders (14\%) or multiple defendants were involved, and some, but not all, were arrested (3\%).

If we combine the figures for the arrested group with those for whom warrants were issued although they were never apprehended, we find that arrest was intended in at least 75 of the 96 indicted cases (78\%). Considering only those 83 cases on which there is information, arrest was intended for defendants approximately 90\% of the time.

During an arraignment, the defendant receives a copy of the indictment, enters a plea, and has bond set or altered by the arraignment judge.

<p>| TABLE 5.2. ARREST OF ECU DEFENDANTS  |</p>
<table>
<thead>
<tr>
<th>(case folder data)</th>
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<tbody>
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<tr>
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<td>Mixed (multiple defendants)</td>
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<tr>
<td>Unknown</td>
</tr>
<tr>
<td>Totals</td>
</tr>
</tbody>
</table>

As Table 5.3 indicates, slightly less than two-thirds of the ECU's indictments included multiple counts. In some cases, multiple counts represent multiple victims. In other cases, they represent the same act occurring on several different occasions with the same victim. For example, in welfare fraud cases in which suspects fraudulently collected too much ADC (Aid to Dependent Children) money each month for one or
two years, the ECU sometimes filed three or four counts to cover the entire time period.

TABLE 5.3. NUMBER OF COUNTS
(case folder data)

<table>
<thead>
<tr>
<th>Number of Counts</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
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<td>33</td>
<td>(36)</td>
</tr>
<tr>
<td>Two</td>
<td>21</td>
<td>(23)</td>
</tr>
<tr>
<td>Three</td>
<td>7</td>
<td>(8)</td>
</tr>
<tr>
<td>Four</td>
<td>10</td>
<td>(11)</td>
</tr>
<tr>
<td>Five to Ten</td>
<td>12</td>
<td>(13)</td>
</tr>
<tr>
<td>Eleven to Twenty</td>
<td>2</td>
<td>(2)</td>
</tr>
<tr>
<td>Twenty-one to Thirty</td>
<td>2</td>
<td>(2)</td>
</tr>
<tr>
<td>Mixed (multiple defendants)</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>2</td>
<td>(2)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>92</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

Multiple counts in an indictment serves another purpose in addition to representing victims or instances of behavior. They permit plea negotiations to occur over the number of counts, rather than a reduction in the charge. This is important for the ECU since most of the offenses the unit deals with are minor felonies. Without multiple counts, the ECU sometimes is forced during plea bargaining to reduce a felony charge to a misdemeanor. The staff do not favor such bargains because of the reduced penalties misdemeanors carry. They prefer to lower the number of felony counts rather than reduce the charges.

As Table 5.4 indicates, in the overwhelming majority of cases, defendants enter pleas of not guilty to the charges against them at the time of the arraignment.
TABLE 5.4. NATURE OF PLEA
(case folder data)

<table>
<thead>
<tr>
<th>Plea</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Guilty</td>
<td>73</td>
<td>(79)</td>
</tr>
<tr>
<td>Guilty</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Unknown</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>None (defendant not apprehended)</td>
<td>18</td>
<td>(20)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>92</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

After the defendant enters a not guilty plea, the arraignment judge sets or alters the defendant's bond.7 As Tables 5.5 and 5.6 below show, bonding information was available in 71 of the 96 indicted case folders examined.

In 66 (93%) of these cases, a recognizance bond was imposed on the defendant.8 Only one (1%) case involved a surety bond, and the remaining four cases (6%) involved some combination of several types of bonds.

The average amount of the bonds was $6,700. However, as Table 5.6 shows, the amounts ranged from $1,000 to $50,000 with the modal category being the $5,000 bond which occurred in 58 cases (39%). Most of these also were recognizance bonds. Thus, in most cases ECU defendants were released from jail without having to actually post bond.

In spite of the fact that bonding appears to have been fairly lenient over the ECU's history, the present staff are attempting to obtain more stringent bonds for some of their defendants. The ECU director contends that sitting in a cell in the County Jail can be an appropriately degrading and deterring experience for many ECU defendants. He therefore encourages his staff to participate actively in the bonding
### TABLE 5.5. TYPE OF BOND
*(case folder data)*

<table>
<thead>
<tr>
<th>Bond</th>
<th>Frequency</th>
<th>Percent</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recognizance</td>
<td>66</td>
<td>(72)</td>
<td>(93)</td>
</tr>
<tr>
<td>Appearance</td>
<td>0</td>
<td>(0)</td>
<td>(0)</td>
</tr>
<tr>
<td>Surety</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>Combination</td>
<td>4</td>
<td>(4)</td>
<td>(6)</td>
</tr>
<tr>
<td>None (defendant not apprehended)</td>
<td>18</td>
<td>(20)</td>
<td>N/A</td>
</tr>
<tr>
<td>Unknown</td>
<td>3</td>
<td>(3)</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>92</strong></td>
<td><strong>(100)</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

### TABLE 5.6. AMOUNT OF BOND
*(case folder data)*

<table>
<thead>
<tr>
<th>Amount</th>
<th>Frequency</th>
<th>Percent</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3,000</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>5,000</td>
<td>58</td>
<td>(63)</td>
<td>(89)</td>
</tr>
<tr>
<td>10,000</td>
<td>5</td>
<td>(6)</td>
<td>(8)</td>
</tr>
<tr>
<td>15,000</td>
<td>2</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>20,000</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>25,000</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>50,000</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>Mixed (multiple defendants)</td>
<td>2</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>No Bond (defendant not apprehended)</td>
<td>18</td>
<td>(20)</td>
<td>N/A</td>
</tr>
<tr>
<td>Unknown</td>
<td>3</td>
<td>(3)</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>92</strong></td>
<td><strong>(100)</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>
procedures in order to induce judges to set higher and tougher bonds on ECU cases.

In three different cases during my research, the ECU actively pursued "stiff" bonds for defendants. The staff were pleased with the results of their efforts in each case. The first case involved a defendant accused of staging automobile accidents to obtain insurance money. He was placed under a $30,000 appearance bond. A second defendant accused of defrauding elderly persons through a faulty home repairs scheme was placed under a $50,000 surety bond. A third defendant who allegedly operated a check-kiting and credit card fraud scheme received a $30,000 surety bond. In all three cases, the ECU staff viewed the actions committed by these defendants as particularly aggravated or serious. The prosecutors expressed a desire to "get these guys" and teach them a lesson by making them sit in the County Jail for at least a few days in order to consider the errors of their ways. In addition, the defendants' schemes would be interrupted longer if they were kept in jail. The prosecutors regarded this as a public service.

Bill of Information

As Table 5.1 shows, the bill of information procedure was used to charge suspects in only 4% of the ECU's prosecuted cases. A bill of information differs considerably in format from both the direct indictment and the bindover procedure in that it bypasses the entire Grand Jury process. In order to use a bill of information, the prosecutor must informally confront the suspect with the evidence in the case. If the suspect admits guilt and waives the right to have the Grand Jury review
the evidence, the prosecutor may proceed with the bill of information. The suspect, the suspect's attorney, and the prosecutor work out the nature of the charge, the number of counts, and the suspect's plea before the case formally enters the criminal justice system. In a single brief court session, the defendant is served the bill of information stating the charges, pleads guilty or no contest, and is found guilty by the judge. Sentencing is typically postponed pending a probation investigation. The entire process takes approximately 30 minutes, thereby saving considerable court time and expense.

The ECU staff prefer to use the bill of information procedure in dealing with first offenders who probably will be treated leniently by the court. First-time embezzlers are considered good candidates for this procedure because they are often willing to confess and plead guilty when confronted with the evidence. In these cases, the ECU staff accumulate most of the evidence needed for an indictment. Then, the suspect and the suspect's attorney are contacted and invited in for a conference. The evidence is presented and the suspect is asked to respond to the allegations. Sometimes the suspect admits guilt at this point and agrees to the bill of information procedure. The exact charge and number of counts are negotiated by the attorneys for both sides. Except for the courtroom formalities, the prosecution is essentially completed at that time. If the suspect denies the allegation, the ECU staff press for a statement or explanation of the suspect's version of the case. This statement is used as the basis for further investigation. The suspect is told that if the story "checks out," there is no problem, but if it does not hold up under further scrutiny, it will be used in
court.

The bill of information procedure is not used in cases involving a particularly aggravated offense or when the ECU staff believe a suspect may flee or destroy evidence if informed about the investigation. In those cases, the ECU wants the defendant arrested and put through the formal booking and detention procedure for its deterrent value. The bill of information minimizes the impact of the criminal justice system on the defendant. There is no arrest, detention in County Jail, or bond to post. In fact, unless the ECU staff make special arrangements after the court session, the defendant is never formally booked or "slated." By using the bill of information, the ECU staff believe they are giving the defendant a break. Thus, it is reserved for only the most "decent" defendants which generally means those who are willing to cooperate with the ECU and plead guilty early.⁹

PROSECUTION

Once an indictment has been returned, the investigative stage of a case is essentially finished. The staff begin anticipating and initially planning for a jury trial, although they generally hope to negotiate a plea rather than try the case in court. However, they always initiate trial preparations since plea negotiations may be unsuccessful. And, even if negotiations are successful, the prosecutors must prepare a fact summary and sentence recommendations for the court session in which the plea is formally presented.

In the section below, the ECU's pre-trial preparations are briefly examined. In succeeding sections plea negotiations and the alternative
of prosecution by trial will be considered.

Pre-Trial Preparations

Since the guiding principle underlying all ECU investigations is to construct a provable case, pre-trial preparation actually begins when a case is accepted by the ECU for investigation. The jury trial is viewed, therefore, as the end point of a case, and all ECU activities are oriented toward preparing for that eventual outcome.

According to ECU staff, economic crime cases require more advance preparation than regular criminal cases. The economic crime prosecutor must plan certain strategies and tactics, know the weaknesses of the case, and anticipate the defense attorney's attack of those weaknesses. By giving some early consideration to the contents of an opening statement and the order of witnesses, ECU prosecutors believe they are better able to plan trial strategy.

In addition, prior organization contributes positively to plea negotiation. The ECU director contends that the unit has a reputation among defense attorneys for preparing well-organized and tight cases. He believes this reputation gives the prosecutors an advantage during plea bargaining. If you have a solid case to stand on, you do not have to give up as much to get a guilty plea.

Another phase of pre-trial preparation involves responding to certain requests or motions filed by the defendant's attorney. Under the state's rules of criminal procedure, the defendant has a right to request "discovery" from the prosecutor. In responding to a discovery request, the prosecutor must supply copies of certain items considered
material to the defendant's case, such as statements made by the defendant, documents and objects material to the defense, to be used as trial evidence by the prosecutor, or obtained from or belonging to the defendant. Discovery also permits the defense to obtain the results of tests or experiments, and any evidence favorable to the defendant. The ECU prosecutors expect defense attorneys to file discovery requests as minimum efforts on behalf of their clients. A copy of the defendant's request for discovery appeared in slightly more than half (52%) of the indicted case folders examined.

There are other types of pre-trial motions filed by defense attorneys and answered by prosecutors. The ECU is not required to process each type of motion in every case, but there are usually one or more such items per case, with some requiring a judicial ruling. For example, motions for change of venue or for a separate trial on each count of an indictment must be decided by the judge presiding over the case. In most instances, this is done at the beginning of the trial before jury selection. However, some judges prefer to handle pre-trial motions several weeks before the trial begins. In either event, the attorneys for both sides are invited to present oral arguments in support of or against any or all motions. In one case, the defendant's attorney filed five motions in addition to a discovery request. During the pre-trial court session, the judge overruled four of the five motions. At the conclusion of the session, the prosecutor, who was extremely pleased with the outcome, remarked privately that "these hearings are basically for the defendant's benefit so he can see how hard his lawyer's working for him."
Plea Negotiations

As Table 5.7 below indicates, two-thirds of the ECU's indicted cases are settled out of court by guilty or no contest pleas. The 1979 monthly report data displays a similar pattern. Of the 21 indicted cases settled in some manner during that year, 12 (57%) were resolved through plea negotiation and only three (14%) were resolved through trials. Thus, while the ECU uses the jury trial as a standard against which to judge the quality of its cases, the majority are not tested by that standard. Plea negotiations, therefore, are a very important aspect of the ECU's prosecution efforts.

**TABLE 5.7. METHOD OF CASE SETTLEMENT**

<table>
<thead>
<tr>
<th>Method</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendant Never Apprehended</td>
<td>18</td>
<td>(19)</td>
</tr>
<tr>
<td>Guilty Plea</td>
<td>61</td>
<td>(64)</td>
</tr>
<tr>
<td>No Contest Plea</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Trial by Judge</td>
<td>2</td>
<td>(2)</td>
</tr>
<tr>
<td>Trial by Jury</td>
<td>6</td>
<td>(6)</td>
</tr>
<tr>
<td>Charges Dropped or Dismissed</td>
<td>5</td>
<td>(5)</td>
</tr>
<tr>
<td>Mixed</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>96</td>
<td>(100)</td>
</tr>
</tbody>
</table>

According to ECU staff, plea bargaining benefits both the prosecution and the defense. The state is saved the cost of a trial and prosecutors can take on additional cases. Since economic crime trials can last three or four weeks in some cases, the time and expense saved by negotiating pleas is significant. Similarly, it is not profitable
for defense attorneys to spend months on one economic crime case. They too are anxious to obtain speedy settlements rather than remain with cases through lengthy trials for the same fee.

There are a few defense attorneys with whom ECU prosecutors refuse to bargain because they have "fought dirty" in the past. In one public corruption case, for example, an attorney's client promised to resign his public position as one of the conditions of a negotiated plea. After the case was closed, the client reneged on his promise to resign, saying he was considering staying on another six months. The defendant's attorney was informed that plea bargaining would be very difficult in the future if his client refused to fulfill his part of the agreement. The attorney disavowed all responsibility for his client's actions.  

In other jurisdictions, judges play active formal roles during plea negotiations. They meet with the prosecutor and defense attorney in a pre-trial hearing to review the evidence and negotiate an outcome. In the ECU's county, pre-trial hearings are conducted in civil cases, but not in criminal cases. According to ECU staff, however, some judges do participate informally in criminal plea negotiations. Some subtly hint at the type of sentence they might impose upon the defendant for pleading guilty. Others participate in a more direct, often intimidating, manner. One ECU prosecutor reported that judges have been known to play games with attorneys on both sides of a case. A judge might call the prosecutor and say, "Look, I don't want you tying up my courtroom for three weeks on this case. You don't have a good case anyway. Take whatever plea you can get, because the most you're going
to get from me is a fine whether it goes to trial or not." Later, the judge calls the defense attorney and says, "That young prosecutor has a real good case against your client. I'm going to send your client to jail unless you go out there and work up a plea on this case."17 The ECU prosecutor labeled this an "extreme" case, but added that half the judges in his County do "punish" defendants for going to trial rather than pleading guilty.

Other judges refuse to participate in plea negotiations, even on an informal basis. One judge routinely declines to comment on any preliminary plea the prosecutor and defense attorney are considering. I was present when one ECU prosecutor and a defense attorney approached this judge for his position on a reduction from 14 counts of grand theft to five. The judge stated that it was his policy not to become involved in plea bargaining and refused further comment on the matter.

When asked to discuss the types of issues considered during plea negotiations, ECU prosecutors list a variety of factors, including the defendant's criminal record and likelihood of recidivism, the amount of money involved, the degree of public interest in the case, the quality of the witnesses, the reputation of the defense attorney, and the overall strength of the ECU's case. Although all of these factors are said to influence plea negotiation strategies, the desire to promote deterrence is an overriding factor which shapes the entire process. The ECU staff contend that both specific and general deterrence are goals of economic crime prosecution.18 They believe that the unit's mission is not only to prevent a convicted economic criminal from repeating the offense, but also to discourage others from trying the same thing. ECU staff claim
that the most effective deterrent is a jail sentence.\textsuperscript{19} Thus, they try to negotiate pleas which will result in jail sentences for defendants.\textsuperscript{20}

In the attempt to achieve this type of deterrence through plea bargaining, the judge again becomes a very significant factor from the prosecutors' perspective. According to ECU staff, each judge has a certain sentencing pattern.\textsuperscript{21} Some judges tend to disregard the number of counts in the indictment when imposing sentence. As one ECU prosecutor explained, if you know the judge is not going to give the defendant more than six months to five years no matter how many counts there are, there is no point in getting the defendant to plead to a large number of counts. It is better to get a plea to just two counts and give the judge some leverage. If the judge decides to be hard, two consecutive sentences can be given. If the judge wants to be lenient, two concurrent sentences can be imposed. Thus, the ECU attorneys try to anticipate what kind of sentence a particular plea might elicit from the judge and negotiate accordingly. In a previously referred to negotiation, the ECU prosecutor offered a reduction from 14 counts to five, plus a recommendation that the sentences be served concurrently. The defense attorney responded that he was thinking more in terms of one count because with five, his client was certain to receive the maximum sentence of two to five years.

The judge also is considered in plea negotiations with regard to the provability of the case. In general, ECU prosecutors do not ask the Grand Jury for an indictment unless they believe they can prove the case to a trial jury. However, they are more confident about the provability of
some cases than others. Prosecutors tend to "discount" or be more flexible in negotiating cases which have more weaknesses. There are two reasons for this. The more obvious one is that from a prosecutor's standpoint, it is better to take a minimal guilty plea than to end up with nothing due to an acquittal or hung jury. A less obvious reason for discounting cases is that judges do not like to have their courtrooms tied up for weeks with cases that are weak and might have been settled with a plea. As one ECU prosecutor put it, "You don't want to take a bad case to trial and get the judge ticked off at you because you've wasted his time."

Other factors which enter into plea negotiations include the prosecutor's available time to try the case, the importance of the case within the overall current caseload, the existence of investigative foul-ups, and the sympathy-eliciting qualities of the victim. However, these factors as well as those mentioned at the outset of the discussion, are considered in reference to the larger goals of the ECU—to successfully resolve the case by putting the defendant in jail. Any additional factors are secondary and are assessed in terms of how they contribute to or impede the achievement of these overall goals.

In spite of the fact that the majority of the ECU's cases are settled by pleas, there are those which cannot be resolved through negotiation and must proceed to the trial stage. When this occurs, the ECU staff complete the task of organizing the case for trial presentation. In order to reserve sufficient time to make these final preparations, the prosecutors generally impose a time limit on the plea negotiation process. They provide the defense attorney with a date beyond which no
further bargaining can occur. In addition, if the prosecutor extends an offer, there is usually a date beyond which the offer is rescinded if not accepted by the defendant.

Trials

As Table 5.7 indicates, trials occur in only 8% of the ECU's indicted cases. In spite of the fact that trials are infrequent, their anticipation is a major focus of ECU activity. Trials appear to be viewed as "tests" of the ECU's task effectiveness. Successful negotiation of a guilty plea or a bill of information is a feather in a prosecutor's cap, but successful courtroom prosecution is a cause for celebration. Similarly, an unsuccessful prosecution is a source of great consternation and disappointment for the unit, especially in major cases. When they occur, trials are of considerable importance to the ECU and will therefore be discussed at some length below.

From the perspective of the ECU prosecutors, the two most significant participants in a trial are the jury and the judge. They are the subject of numerous formal and informal discussions among the staff, and they are focal points of ECU activity throughout a trial. In addition, juries and judges are the two most problematic aspects of the courtroom for the ECU prosecutors.

The jury. As a category of trial participants, jurors are not highly regarded by the ECU prosecutors. Some of the phrases used to describe them include "twelve rocks in a box," "a bunch of dumb asses," and "no better than derelicts off the street." One problem with jurors,
according to ECU prosecutors, is that they tend to have low education levels. In addition, professional people regularly avoid jury duty, leaving it to "little old ladies who have nothing to do except sit home watching soap operas, so they show up for juries."  

Given the perceived inferior quality of jurors, there appear to be two theories about the best way to select economic crime jurors. One theory suggests selecting only persons of above average intelligence so that most of the jury will understand the facts of the case. The other theory contends that an economic crime jury needs only one or two intelligent persons who can explain the facts to the rest of the jurors. One prosecutor reported that he lost his first economic crime trial because he assumed everyone knew how checking accounts work and did not take time to explain them to the jury. Half the jurors, he later discovered, did not have checking accounts and did not know how they operated. Their confusion resulted in an acquittal for the defendant.

In the view of ECU staff members, the problem of "unsophisticated" and even "stupid" jurors is further compounded by the complexity of economic crime fact patterns. The prosecutors employ two approaches in attempting to ameliorate this situation: 1) they attempt to carefully instruct or "program" economic crime jurors during the jury selection or voir dire process and 2) they try to simplify and clarify the fact patterns of economic cases as much as possible during the trial.

**Jury selection.** During jury selection, the prosecutor and defense attorney question prospective jurors to determine whether they can be fair and impartial in deciding the case. The ECU prosecutors use this time to not only question but also lecture or instruct prospective
jurors about what to expect during the trial. The ECU prosecutors inform the jury that, unlike regular criminal cases, there will probably be no police officers testifying as witnesses and warn that some of the testimony may seem dull and boring. There will be no drama or excitement. "No rape victim will get on the stand and talk about 'penetration.'" The prosecutors also attempt to counter the image of the economic crime victim as someone who is greedy or gullible. Lack of jury sympathy for victims can undermine the ECU's chances for conviction. One prosecutor uses the approach that everyone is an economic crime victim, telling jurors that all of them have probably been "sucked in" by a bait and switch advertising scheme at some time. Another prosecutor reported that lack of sympathy for victims is even more problematic when the victim is a business. Jurors often believe that businesses "rip off" the public so much they deserve to be victimized in return.

Another point on which the prosecutors attempt to instruct jurors is the meaning of "reasonable doubt." They emphasize that the prosecutor's charge to prove guilt beyond a reasonable doubt is not the same as beyond all doubt. The ECU staff contend that defense attorneys frequently use the complexity of economic crime "paper trails" to create confusion in the minds of jurors. The problem for the ECU is that jurors will equate their own confusion over the facts with reasonable doubt and vote for acquittal.

Simplifying the case for the jury. The ECU prosecutors contend that economic crime fact patterns are not easy to explain to a jury. Embezzlement and public corruption frequently involve financial manipulations and transfers of funds which are everyday knowledge for professional
accountants, but not for laypersons. As one prosecutor put it, a burglary is easy to explain since everyone knows what it is. In addition, everyone knows that burglary is a crime. Part of the problem with ECU cases is that it is not always clear a crime has been committed. An example of this problem occurred in a major case of public corruption. The defendant was accused of using state time and resources to further the ends of a private corporation in which he had an interest. Under direct examination by the ECU prosecutor, the defendant's supervisor testified that he did not authorize the defendant's actions. He also stated that these activities were not part of the defendant's job and by implication that state time and resources should not have been used. However, under cross examination by the defense attorney, the supervisor referred to these actions as merely "unorthodox," noting that the official sanction would probably have been a "reprimand." The message to the jury was that the defendant's actions may have been unprofessional or unethical, but certainly not illegal. The defense attorney did not attempt to disprove the charges but did call into question affixing the label "crime" to the defendant's behavior. The case was later dismissed by the judge for lack of evidence after the prosecution had finished presenting its case. The ECU prosecutor who lost the case privately indicated his belief that the supervisor's testimony produced the dismissal.

The ECU prosecutors attempt to overcome the complex and technical nature of their cases by delivering detailed opening statements. They note that this deviates from the normal practice of not divulging the entire case to the defense. Instead, every effort is made to "lay all
the cards on the table" in order to clarify the fact pattern for the jury. The ECU prosecutors believe the danger of exposing the case's weaknesses to the defense is outweighed by the benefits gained by structuring the case for the jurors.

In addition to presenting detailed opening statements, the prosecutors coach their technical or expert witnesses. They assist these witnesses with translating technical language into terms jurors can understand and to which they can respond. For example, accountants serving as witnesses in embezzlement cases are encouraged to refer to the defendant's activities as "stealing" rather than as "financial manipulations." The ECU prosecutors contend that a case must be made "black and white" for the jury.

As stated above, the jury is one of two major participants in a trial from the prosecutor's perspective. In fact, the other participant, the judge, can be described as more significant in terms of controlling courtroom activity. The section below indicates the manner in which judges exercise control during trials.

The Judge. According to one ECU prosecutor, the judge controls the progress of a trial. The longer you are in the courtroom, the more you are exposed to the judge's wrath. This is especially important in economic crime cases since trials often continue for weeks. The ECU prosecutors contend that most of the County's judges fail to appreciate the seriousness of economic crime, believing all such cases should be heard in civil rather than criminal courts. In addition, with 20 to 25 regular criminal cases to deal with per week, most judges do not want
their courtrooms tied up for several weeks on an economic case, especially since they question the merit of criminal prosecution of such activities in the first place.

The judge's control over the conduct of a trial is illustrated in two ECU trials presented below.

**Trial 5.1**

In this case, two defendants were charged with stealing utility services. They had allegedly tampered with a billing meter by rolling back the dials in order to reduce their monthly bill. The power company installed a second "check" meter to document the actual amount of electricity being used and prove that the billing meter was being altered. During a company engineer's testimony at the trial, it became apparent that the billing meter and check meter figures were indeed different, but the difference was in the wrong direction to prove the prosecutor's case. The billing meter was displaying higher readings than the check meter. The defense attorney was the first to catch the error and pointed it out during his cross examination. The prosecutor asked for a recess to straighten things out. When the trial resumed the following day, the prosecutor asked that the charges be dropped in exchange for a release from the defendants not to file suit for malicious prosecution. The prosecutor stated that the unit believed in its case, but was asking for a dismissal because the jury would find
it difficult to understand such a highly technical case. Privately, this prosecutor said that the judge did not want to spend any more time on a case which he did not think would make it. The prosecution's case would have taken at least two more days to present (the trial was in its fourth day), and it was difficult to tell whether further efforts would prove successful. The judge did not want to spend two more days on a case which could become worse instead of better.

**Trial 5.2**

This case involved public corruption by a state employee who allegedly used both his position of authority and state resources to further the ends of a private corporation in which he had a private interest. The indictment contained two charges: unlawful interest in a public contract and theft in office. The unlawful interest charge hinged upon the ECU's contention that the defendant was a "business associate" of the corporation's owners. The defense attorney challenged the applicability of the term "business associate" in a pre-trial motion to dismiss the case. The judge deferred a final ruling on the motion until after the trial had begun. Following the prosecutor's opening statement, the defense attorney once again moved for a dismissal on these grounds. This time the judge granted the motion, and one count of the indictment was eliminated. (The prosecutor later stated
privately that the unlawful interest charge was the core of the indictment. Proving theft in office was more difficult after that primary charge was dismissed.) After six days of testimony by prosecution witnesses, the prosecutor rested his case. The defense attorney moved for a dismissal on grounds that the ECU failed to present sufficient evidence that a crime was committed. The judge granted the dismissal motion and the trial ended. The ECU prosecutors were surprised, disappointed, and angry, but powerless to alter the situation. Word filtered down to the unit from a source close to the judge that he simply did not believe the testimony of the ECU's star witness, an inside informant.

The power of judges to dismiss counts of an indictment or to dismiss the prosecution's case altogether is a source of frustration for the ECU staff, especially when they have invested four or five months investigating and preparing a case. Of course, the fact that a case goes to trial indicates that the prosecutor and defense attorney could not reach a plea agreement. The defense attorney may have reason to doubt the convictability of the defendant. It also may be that cases which go to trial tend to be somewhat weaker than those settled by a plea.

Since the ECU prosecutors must work with or contend with the same set of judges continually, they develop mechanisms of coping or getting along with each judge. The prosecutors report that they come to know each judge's personal predilections. One prosecutor stated that every judge has a "worst crime" category, a type of crime over which the judge
becomes particularly upset or outraged. For example, some judges hate rapists, while others cannot abide gun crimes. Most judges are reportedly disinclined to become upset over economic crimes. Another prosecutor indicated that some judges will do anything for him and others will "try to kick my ass as I'm walking out the door." This prosecutor added that with some judges you have to sit down over coffee and talk about fishing for an hour in order to get what you want. Others prefer to do everything formally in the courtroom as with the judge who refuses to react even informally to a tentative plea negotiation. The ECU prosecutors make a point of knowing each judge's quirks so they can use them to their advantage whenever possible.

The role of the judge in controlling the progress of a trial is a significant issue for the ECU prosecutors. However, since trials are not very frequent occurrences, the opportunities for judges to enhance or hinder this phase of ECU operations is limited. The actions of judges become more important in the final phase of prosecution, sentencing. Whether prosecution takes the form of a trial, negotiated plea, or bill of information, a judge must pass sentence on every convicted ECU defendant.

SENTENCING

In this section types of sanctions available for sentencing economic offenders and the manner in which they are applied will be examined. Particular attention will be paid to the use of incarceration in punishing economic crime. The role of ECU prosecutors in the sentencing process also will be briefly examined.
The Available Sanctions

According to ECU staff, there are two major types of sanctions available in economic crime cases: 1) restitution and 2) incarceration. The ECU staff view restitution as a means of taking the profit out of economic crime and providing some assistance to victims. Incarceration, on the other hand, is seen as a very effective deterrent for economic criminals. It is viewed as an experience which they do not soon forget, and one which they are unlikely to want to repeat. According to the ECU director, the threat of jail is the biggest weapon the ECU has.

Although the ECU staff contend that incarceration is the preferred method of sanctioning economic crime, they also sympathize with victims who desire some compensation for their losses. The ideal solution is to achieve both restitution and incarceration, but this is not always possible. Under state law, the court must choose between a prison sentence and restitution. Incarceration can be accompanied by a fine, but the money from fines goes to the state, not to victims.

There are two ways in which this problem of a forced choice between restitution and incarceration can be overcome. One involves the notion of "up-front" restitution, and the other involves the practice of split sentencing. In an attempt to achieve both goals, the ECU tries to obtain restitution "up front" during plea negotiations. Then, the prosecutors recommend a prison term to the judge prior to sentencing. The basic strategy here is sound, but the prosecutors note that its success often depends upon a factor over which they have little control, the probation department's pre-sentence investigation (PSI) report. The ECU director contends that the probation department is the "biggest weak
link" in economic crime sentencing. During plea negotiations the
prosecutors generally agree not to oppose a PSI if the defendant pleads
guilty. The result is often detrimental to the ECU's larger goals.
The probation department tends to write glowing reports on economic
crime defendants. Since many of them are first offenders, and have held
steady jobs, they are excellent candidates for probation. In addition,
the payment of restitution is viewed as a positive sign of repentence
or remorse on the part of an offender, and this mitigates against im-
position of a harsh sentence. Another problem is that ECU case folders
have often been incomplete and not well organized. This makes it diffi-
cult for a probation officer to understand the nature of the offense
and its seriousness, and thus leads to positive or at least non-negative
probation reports. Since many judges are said to follow the recommen-
dations of the probation department to the letter, the ECU frequently
fails to achieve incarceration as well as "up front" restitution.

The other alternative through which both restitution and incarcera-
tion can be achieved is split sentencing. The judge has the option of
sentencing a defendant to a brief jail term as a condition of probation.
Since restitution can also be a condition of probation, a judge can
order both restitution and a County Jail term as probationary conditions.
The problem with this option is that judges are reluctant to use it
too often because the County Jail frequently becomes overcrowded due
to its function as a pre-trial detention center.

As Table 5.8 indicates, the combination of incarceration and
restitution is not a frequent disposition of ECU cases.
TABLE 5.8. TYPE OF DISPOSITION  
(case folder data)

<table>
<thead>
<tr>
<th>Type of Disposition</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison</td>
<td>16</td>
<td>(22)</td>
</tr>
<tr>
<td>Fine Only</td>
<td>3</td>
<td>(4)</td>
</tr>
<tr>
<td>Probation Only</td>
<td>4</td>
<td>(6)</td>
</tr>
<tr>
<td>Probation and Jail</td>
<td>2</td>
<td>(3)</td>
</tr>
<tr>
<td>Probation and Restitution</td>
<td>26</td>
<td>(36)</td>
</tr>
<tr>
<td>Probation and Jail and Restitution</td>
<td>9</td>
<td>(12)</td>
</tr>
<tr>
<td>Jail and Fine</td>
<td>2</td>
<td>(3)</td>
</tr>
<tr>
<td>Jail and Restitution</td>
<td>4</td>
<td>(6)</td>
</tr>
<tr>
<td>Jail and Fine and Restitution</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Mixed (multiple defendants)</td>
<td>4</td>
<td>(6)</td>
</tr>
<tr>
<td>Unknown</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Total</td>
<td>72\textsuperscript{a}</td>
<td>(100)</td>
</tr>
</tbody>
</table>

\textsuperscript{a} = All cases which resulted in some type of disposition. Out of 96 indicted cases, 18 defendants were never arrested and six were found not guilty or the charges were dismissed or dropped.

The two major types of dispositions imposed upon the ECU's defendants are probation with restitution and prison. If we consider all dispositions in which some incarceration, either prison or jail, is part of the sentence, incarceration is imposed in 34 or 47% of the dispositions. Thus, the ECU's preferred type of sanction is imposed less than half the time. Restitution is ordered in 40 or 56% of the dispositions. The courts appear to lean more toward restitution than incarceration as a form of punishment in economic cases, although the difference is only six cases. The combination of incarceration and restitution occurs in only 14 or 19% of the cases. This supports the ECU staff's contention
that it is a relatively infrequent combination.

Since incarceration is the sanction preferred by the ECU staff, this option will be examined in greater detail below along with two factors which the staff contend influence the nature of the sentence imposed.

**Incarceration**

According to the ECU staff, the nature of the sentence imposed on its defendants depends upon both the legally defined seriousness of the offense and judicial discretion.

**Offense Seriousness.** The ECU's "bread and butter" statute is the theft statute under which three-fourths of its cases are prosecuted. The charge of grand theft requires that the amount of loss exceed $150. Grand theft is a fourth degree felony, the least serious felony category. Petit theft (loss under $150) is a misdemeanor charge. The minimum prison sentence for a fourth degree felony is one-half, one, one and one-half, or two years and the maximum is five years with a maximum fine of $2500. For a first degree misdemeanor there is no minimum sentence, but the maximum is six months with a maximum fine of $1000.

The ECU staff contend that the legally defined seriousness of grand theft hampers their enforcement efforts. The existing law makes no distinction between stealing $151 and stealing $151,000. Either offense is a fourth degree felony and can receive the same sentence. The staff contend that stealing $100,000 should not be treated in the same manner as stealing a CB radio. They argue that a year in prison is a high price to pay for a radio, but not for $100,000. Hence, the existing
law has little deterrent value for major economic criminals. They support a proposed change in the law which would reclassify theft over $10,000 as a third degree felony, punishable by one, one and one-half, two, or three years up to 10 years in prison and a maximum fine of $5000.

Not only does the present law appear to lack deterrent value, but it also hampers the prosecutors' plea negotiation efforts. If an indictment contains more than one count, plea negotiations typically involve a reduction in the number of counts. If there is only one count, however, the settlement usually involves reducing the seriousness of the charge. In order to reduce a fourth degree felony, the prosecutors have no choice except to drop the charge to a first degree misdemeanor. This entails reducing the maximum sentence from five years to six months. The ECU prosecutors dislike having to take reductions from felonies to misdemeanors, especially when large amounts of money are involved. The amended theft statute would enable charge reductions on amounts over $10,000 to remain at the felony level by reducing them from third to fourth degree felonies.

**Judicial Discretion.** The preceding discussion indicates that sentences are determined to some extent by statutory restrictions. However, the law merely provides a range of alternatives within which the actual sentence must be imposed. Judges have wide latitude within that range to exercise considerable discretion.

The ECU prosecutors contend that sentencing depends to a large extent upon the personal predilections and preferences of individual judges. The ECU staff believe that judges have certain "worst crime" categories, those offenses they tolerate least and dispose of most severely.
To the dismay of the ECU staff, none of the County's judges appear to have adopted economic crime as a "worst crime." Table 5.9 below indicates the length of sentence for each ECU case folder in which some prison or County jail time was imposed.

**TABLE 5.9. LENGTH OF SENTENCE**
*(case folder data)*

<table>
<thead>
<tr>
<th>Length of Sentence</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Six months or less</td>
<td>22</td>
<td>(32)</td>
</tr>
<tr>
<td>Six months to Five years</td>
<td>13</td>
<td>(19)</td>
</tr>
<tr>
<td>One to Five years</td>
<td>21</td>
<td>(31)</td>
</tr>
<tr>
<td>One and one-half to Five years</td>
<td>2</td>
<td>(3)</td>
</tr>
<tr>
<td>Two to Five years</td>
<td>7</td>
<td>(10)</td>
</tr>
<tr>
<td>More than Two to Five years</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Mixed</td>
<td>2</td>
<td>(3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>69</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

Nearly one-third of the cases were sanctioned by jail terms of six months or less. Three-fourths of the remaining cases received sentences on the lower half of the fourth degree felony range (six months to five years and one to five years). In terms of sentence length, the judges appear to be lenient in sanctioning the ECU's defendants. As one prosecutor put it, "some judges are philosophically inclined not to get upset over white-collar crime." He added that they probably never handled such cases as attorneys and therefore fail to understand the seriousness of the problem. One judge in particular was regarded as having been a very good criminal lawyer and a good judge to have on a murder case, but terrible on ECU cases because he does not understand
the social and economic impact of economic crime.

Judges reportedly have other sentencing peculiarities or quirks with which the prosecutors must contend. Some judges consistently refuse to "ship" (incarcerate) defendants on misdemeanor pleas. Others give the maximum six month sentence because they realize that a first degree misdemeanor plea is a charge reduction on a fourth degree felony. One judge refuses to use split sentencing under any circumstances. Certain judges are more severe in passing sentence when there are a number of news reporters in the courtroom. Others are influenced by the number of police officers in the courtroom. By understanding the nature of these quirks, prosecutors can manipulate the courtroom environment in their favor during disposition hearings.

The Role of the Prosecutor in Sentencing

During my research in the ECU, the prosecutors took advantage of every available opportunity to participate in the sentencing process by making recommendations to the court prior to disposition.\(^4\) The ECU director actively encourages his prosecutors to participate in the sentencing process. He argues that without such participation all the "puffing" one does during plea bargaining or the trial is for nothing. A prosecutor should stay with a case from beginning to end, even to the point of making recommendations regarding parole. Given the notion that economic crime prosecution is not taken seriously by other courtroom participants, especially judges, the prosecutors view their active role in sentencing as a necessary counterbalance to a general attitude of unconcern.
SUMMARY

This chapter has examined the manner in which the ECU prosecutes cases of economic crime. The process has been traced from the point at which charges are filed through pre-trial preparations, plea negotiations or trial, to the point at which a sentence is imposed upon the defendant. In examining the influential factors at each stage of the process, a progressive decline was noted in the degree of ECU control over the outcome of a case as it moves from the filing of charges to the point of disposition. The decision regarding the method of filing charges is almost totally within the prosecutor's control. However, in the plea negotiation process, the defense attorney becomes a significant participant, and the judge begins to emerge as an influential factor in the future direction of the case. If the case goes to trial, the judge and jury represent problematic and challenging courtroom participants. Finally, the judge exercises the greatest degree of control over the sentencing of economic defendants, in spite of the active participation of ECU prosecutors. Thus, in the phase of economic crime investigation and prosecution most closely related to the ECU's express task, the unit's control over what occurs is sharply curtailed. The prosecutors appear to exercise a great deal of discretion over the direction of cases until the point of prosecution, when the entrance of other significant actors onto the scene disrupts the relatively free exercise of discretion.
Notes on Chapter 5

1. No comparable data is available in the 1979 monthly reports.

2. Since Grand Jury proceedings are closed to outside observers, I was unable to directly determine how much evidence is "just enough."

3. In some cases the ECU prosecutors invite the suspects to testify before the Grand Jury in order to present their sides of cases. Most suspects do not accept these invitations for two reasons. First, their defense attorneys cannot be present at Grand Jury hearings. Secondly, any statement a potential defendant makes in a Grand Jury hearing can be used for impeachment purposes at a subsequent trial if the defendant takes the witness stand. Thus, according to the ECU staff, 99% of the invited suspects do not choose to make statements to the Grand Jury.

   However, not all suspects are invited to testify before the Grand Jury, nor are they always advised of an ECU investigation. If the prosecutors believe a suspect will attempt to flee to avoid prosecution, they do not inform the suspect about the investigation. Instead, they pursue a secret indictment followed by an arrest warrant.

4. For one preliminary hearing the ECU prosecutor was hoping that a particular witness would appear. This case involved two city employees who were allegedly skimming funds from a federal government redevelopment project. The White-Collar Crime Squad had tape recordings
of conversations which implicated the witness. If this person appeared at the preliminary hearing and contradicted his taped statements, he could be indicted for perjury. If he confirmed the tapes, the ECU's case against the city employees would be greatly enhanced. The witness did not appear, but the case was bound over to the Grand Jury without his testimony.

5. If the indictment stems from a bindover, the defendant has already been arrested.

6. ADC recipients must file redetermination forms periodically. Each redetermination form on which a recipient made a false statement represented another instance of the crime and another count in the indictment. Most of the false statements were related to the recipient's employment status.

7. In cases involving bindovers from municipal court, bond is initially set at a court appearance shortly after arrest and before the preliminary hearing takes place. Bond would therefore be altered rather than set at the arraignment.

8. According to ECU staff, three types of bond can be imposed upon defendants in the ECU's county: recognizance, appearance, and surety. Under a recognizance bond, the defendant does not pay any bail money in order to be released. However, if the defendant fails to appear at the trial, he/she is liable for the full amount of the bond. Appearance bonds require the defendant to pay 10% of the bond to the County Clerk of Courts. Ninety percent of this payment is returned to the defendant when he/she appears for trial. A surety bond requires full payment as a condition of release from jail.
Defendants typically arrange for bonding companies to post surety bonds. Thus, release from jail is progressively more difficult and costly as one moves from recognizance to appearance to surety bonds. The ECU prosecutors press for large appearance or surety bonds when they want a defendant to sit in jail for a few days or weeks.

9. Very little case information exists on the four defendants for whom this procedure was used. All four were males, but there was no indication of their race. Age was available for only one defendant who was 30 years old. Two of the defendants appear to have been involved in some type of public corruption scheme, involving "phantom" employees on the state payroll. The third defendant was accused of embezzlement, and the fourth was accused of Medicaid provider fraud.

10. I can neither confirm nor disconfirm the existence of this reputation among defense attorneys. I can only state that in my judgment the ECU's cases did not appear very tight or sound in the trials I observed. This may have been partly attributable to the skill of the defense attorneys in picking apart the prosecutors' cases or it may have been due to the complexity of the cases.

11. Lie-detector tests, handwriting comparisons, psychological tests.

12. In 19% of the folders, the defendant was never apprehended and thus never had a defense attorney. In the remaining 27%, there was no evidence of any request for discovery.

13. According to Alschuler, defense attorneys often file numerous pre-trial motions as a time-consuming strategy. The basis for this
approach is the defense attorney's knowledge that prosecutors seek to conserve their resources. If a case looks like it will require a lot of time and effort to prosecute at trial, the prosecutor is more likely to want to settle it with a quick plea and get it off the calendar. Albert W. Alschuler, "The Prosecutor's Role in Plea Bargaining," University of Chicago Law School 36 (Fall, 1968), pp. 50-112.


15. Being unable to negotiate pleas is a considerable inconvenience for defense attorneys. It means they must spend a week or two in court on a case rather than working things out in a few hours in the Prosecutor's Office.

16. The ECU staff reported that in another county in the state, judges routinely engage in plea negotiations in criminal cases.

17. ECU Interview, December 20, 1979.


20. The ECU prosecutors dislike accepting pleas to misdemeanors because the maximum jail sentence is only six months. It is sometimes
difficult to avoid this outcome, however, because of the current state theft law. Grand theft (over $150) is a fourth degree felony, which is the lowest degree felony. In order to reduce the charge on a grand theft when there is only one count, the prosecutor must go to a first degree misdemeanor. The ECU supports a proposed change in the law which would make grand theft of $10,000 or more a third degree felony, so that charge reductions would involve dropping to a fourth degree felony instead of a misdemeanor.


22. ECU Interview, December 27, 1979. Alschuler, "The Prosecutor's Role in Plea Bargaining," also reports that judges tend to encourage pleas in cases which appear as if they will tie up the courtroom for several weeks.

23. If the 18 cases in which the defendant was never apprehended are excluded, trials occur in 13% of the ECU's resolved cases.

24. Since the ECU prepares for and primarily engages in jury trials, they will be the focus of discussion rather than trials by judges alone. Although defense attorneys are major participants in trials, the ECU staff never appeared as concerned with these participants
as they were with judges and juries. When a case goes to trial, there is no doubt that defense attorneys make their presence felt by raising objections and making motions. Nevertheless, there seems to be an understanding among the prosecutors that the defense attorney is hired to do the best possible job for the defendant. The prosecutors admire defense attorneys who are good at what they do and refer to the rest as "assholes." Perhaps because prosecutors generally bargain with defense attorneys, they do not view them as adversaries but rather as opponents in a chess game. In addition, many young prosecutors aspire to become defense attorneys after they have gained experience in the prosecutor's office.

25. ECU Interview, December 26, 1979.

26. I can affirm this statement through personal experience and through observation. During some of the trials I attended, I observed jurors dozing off and one newspaper reporter who began snoring aloud during the testimony of a star prosecution witness.

27. ECU Interview, December 20, 1979.


29. Although restitution takes the profit out of economic crime, the money has already been used as an interest-free loan by the offender. This, according to the staff, diminishes the punitive effect of restitution.

30. Since probation reports are not part of the Prosecutor's Office case folders, I did not examine any reports which would either confirm or refute these statements by the ECU staff.
31. As the ECU staff also suggested, judicial decisions on sentencing are influenced by the pre-sentence investigation of the probation department. Several studies have found a strong direct relationship between the probation officer's recommendations and final disposition of criminal cases. See, for example, Robert M. Carter and Leslie T. Wilkins, "Some Factors in Sentencing Policy," Journal of Criminal Law, Criminology, and Police Science 58 (1967), pp. 503-514; John Hagan, "The Social and Legal Construction of Criminal Justice: A Study of the Pre-Sentencing Process," Social Problems 22 (June, 1975), pp. 620-637; and Rodney Kingsworth and Louis Rizzo, "Decision-Making in the Criminal Courts: Continuities and Discontinuities," Criminology 17 (May, 1979), pp. 3-14. Kingsworth and Rizzo suggest that probation officers may be deferring to plea bargained arrangements in many of their sentence recommendations; thereby affording the prosecution and defense even greater influence on the sentencing process than other researchers have previously assumed.

32. The cases include all those in which any incarceration was imposed, including those in which the sentence was suspended and the defendant placed on probation.

33. It should be taken into consideration, however, that many of the offenses being considered were relatively minor. In a number of welfare fraud cases, for example, the defendants pled guilty to misdemeanors rather than felonies.

34. In a study of 100 district attorney's offices in 41 states, Teitelbaum found that the vast majority (74%) participate in the sentencing process in some fashion. William J. Teitelbaum, "The Prosecutor's
CHAPTER 6. CONCLUSIONS AND IMPLICATIONS

In this chapter the major findings of the dissertation will be examined. The aim is to describe the ECU within an organizational framework, emphasizing its structure, context, tasks, goals, and effectiveness. A number of implications of the research also will be discussed. These include implications for future studies of economic crime investigation and prosecution, for the general sociological literature on the role of prosecutors, for the economic and white-collar crime literature, and for policy and planning in the area of economic crime investigation and prosecution.

THE ECU AS AN ORGANIZATION

The ECU is not an organization in its own right, but rather a subdivision of a larger organization, the Prosecutor's Office. Nevertheless, the ECU displays certain organizational characteristics in that it has boundaries, members, goals, and engages in some type of concerted activity. In this section, the discussion will focus on the ECU as an organization, first giving special attention to its structure and context.

Structure and Context

The ECU is a subdivision within a larger social control agency, the County Prosecutor's Office. As part of a larger organization, the unit
reaps certain benefits, primarily in the form of resources needed to carry on its work. The Prosecutor's Office supplies office space, facilities, secretarial and clerical personnel, and salaries for the unit's members. Thus, the very existence of the ECU depends upon the continued support of the Prosecutor's Office. In return for this support, the ECU contributes to the larger organization by winning cases and by supplying additional personnel and time to the regular criminal trial staff when needed.

The ECU does have some autonomy and freedom to exercise discretion within the Prosecutor's Office. The unit makes its own decisions with respect to the appropriate course of action in most cases. Prosecutor's Office administrators are kept informed of the unit's progress on larger cases, but specific direction from above appears to be a deciding factor only with respect to major cases which have publicity potential for the Prosecutor's Office as a whole, especially large-scale public corruption cases.

The ECU interacts with a variety of other organizations and individuals, both outside and within the criminal justice system. Traditionally, the unit has received most of its cases from government or public agencies outside the criminal justice system. In addition, these agencies have supplied passive investigative assistance to the ECU in the form of information and evidence.

The ECU is somewhat unique among prosecutorial agencies in that it does not receive many cases from law enforcement agencies, such as police departments. Recently, however, the ECU has begun to rely more heavily on the police department's White-Collar Crime Squad for
investigative assistance as well as case referrals.

For the most part, interagency cooperation and assistance between the ECU and other agencies is reported as adequate at the local and state levels, but generally lacking between the ECU and federal agencies. The staff blame this lack of cooperation on the "feds" propensity to expect information and assistance from local agencies without providing anything in return.

Examination of the quality of interaction between the ECU and certain other agencies suggests that ECU prosecution of economic crime often is given low priority by outsiders. Most local police and law enforcement agencies do not regard economic crime as "real crime." Instead, they emphasize the more dramatic or sensational aspects of their work and divert resources away from "paper crimes." The White-Collar Crime Squad, for example, often is diverted from its work with the ECU in order to investigate various types of "normal" criminal activities.

In a similar vein, the ECU's interaction with certain key figures within the local court system, such as judges, lends further support to the notion that the unit's activities are not seen as important by outsiders. ECU staff complain that many judges do not appreciate the seriousness of the economic crime problem. Judges reportedly believe that many of the ECU's cases are civil not criminal matters, viewing them as disputes rather than crimes.

Even within the Prosecutor's Office, the ECU's tasks reportedly are viewed with some disdain. The head of the criminal trial division is said to dislike the fact that three trial attorneys and one investigator spend most of their time on cases just barely criminal in nature. The
ECU staff routinely are diverted from their economic crime cases to assist the regular criminal trial staff with "real work."

Similarly, individuals who come in contact with the ECU also frequently act in a manner which downplays the significance of the unit's mission. Private citizens who bring complaints to the unit often do so as a last resort, attempting to use the ECU to secure financial remuneration. Private attorneys also send some clients to the ECU after exhausting all possible alternatives. Such "attorney-reject victims" are referred to the ECU only after their attorneys come to believe that they cannot recover enough money to make the effort worthwhile. Finally, members of juries are seen by ECU staff as generally unsympathetic to the prosecution of economic crime. One of the most challenging aspects of proving an ECU case to a jury is convincing the jurors that the behavior in question constitutes a crime.

In sum: the ECU exists within a relatively hostile context. It receives only minimal support for its mission. Those outside the ECU often interact with the unit in a manner which downgrades the importance of the job it is doing.

Tasks

The tasks of the ECU center on its three major functions of discovering, investigating, and prosecuting cases of economic crime.

The ECU does not proactively develop cases on its own except in rare circumstances. The vast majority of cases are discovered by means of agency referrals. A significant segment also are brought to the ECU's attention through complaints by private citizens or attorneys. Only a
small number of cases are initiated by the ECU staff on a proactive basis. Thus, the ECU is primarily a reactive social control agency.

Unlike many other prosecutorial agencies, the ECU generally does not receive cases which have already been investigated. In fact, instead of merely reviewing cases and evaluating them for possible prosecution, ECU attorneys actively participate in the investigative phase of "making a case." Katz,¹ who made a similar observation with respect to federal white-collar crime prosecutors, suggests that grand jury subpoena power, legal expertise, and grants of immunity are three elements which make prosecutorial participation a requirement for successful case building. It has been suggested here that these factors may be operating to some extent within the ECU, but two additional factors also contribute to the prosecutors' investigative roles. One is the complexity of some economic crime cases which require prosecutors to remain as close to the evidence as possible from the beginning of a case. The second factor is the relative lack of active investigative resources at the ECU's disposal. One investigator cannot supply three attorneys with all the assistance they require, and the unit cannot as yet count on the availability or expertise of the White-Collar Crime Squad to fill the gap. The prosecutors are forced to take up some of the investigative slack in order to process their cases through the criminal justice system with reasonable speed and efficiency.

Prosecution of economic crime cases is the major task of the ECU. It also is the stage at which the unit's control over the outcome of a case diminishes significantly. Once an indictment has been obtained, the prosecutors must deal with a variety of others who participate in the
control over the final outcome of a case.

Plea bargaining with defense attorneys occurs in two-thirds of the ECU's prosecuted cases. While both sides view an easy and quick settlement of a case as advantageous, neither side wishes to give up too much in order to reach that point. As Alschuler\(^2\) has noted, defense attorneys often employ delaying tactics in the form of a multitude of pre-trial motions as a means of increasing pressure on prosecutors to settle their cases speedily and accept more lenient plea agreements. The ECU prosecutors acknowledge that current caseload pressures and the priority of a case in terms of their overall caseload enter decisions regarding what constitutes a reasonable plea bargain in any given case.

The judge also enters ECU prosecutors' decisions regarding pleas. Some judges "instruct" young prosecutors in the art of plea bargaining by attempting to intimidate them. Others enter the process in a more indirect manner in the form of the prosecutor's anticipations or predictions about the likely sentence in a case for a certain plea. ECU prosecutors also feel pressured to settle cases out of court which are too weak to win at trial, fearing that the judge's disfavor will be incurred by typing up the courtroom for several days or weeks with a marginal case.

In cases which go to trial instead of being settled with a plea, the prosecutor and defense attorney both must consider another set of participants, the jury. According to ECU staff, however, the jury poses more problems for the prosecution than for the defense. Any confusion, ignorance, or misunderstanding on the part of jurors is interpreted by them as reasonable doubt and grounds for acquittal. ECU prosecutors work to overcome such doubt by instructing the jury about the nature of
the case during jury selection, presenting detailed opening statements, and carefully coaching expert witnesses in the appropriate language to use in their testimony.

The impression made on the jury may be irrelevant, however, if the prosecutors fail to convince the judge that there is sufficient evidence in the case to prove the defendant's guilt. On several occasions ECU cases have been dropped or dismissed because the unit failed to demonstrate its case to the judge's satisfaction.

Like most other prosecutors, those in the ECU follow their cases to the point of sentencing. However, the prosecutor's role is limited to making recommendations to others who have greater control over the final outcome. In spite of the explicitly prescribed minimum and maximum punishments in the statutes, judges have wide latitude when it comes to determining the exact disposition for a particular convicted defendant. Prosecutors are not without influence in judicial decisions, but their influence is countervailed by that of the probation department which reportedly recommends light sentences for many economic crime defendants. Although the ECU claims to prefer incarceration for its convicted defendants, the courts have been more inclined to order restitution.

As the preceding discussion indicates, the ECU's tasks include case screening, investigation, filing charges, plea negotiations, trial presentation, and making sentence recommendations. At the beginning of this sequence, the ECU staff exercise a great deal of discretion over the course of action taken with respect to any given case. After a case has been formally filed, however, the unit's control over its final
outcome diminishes rapidly as other actors within the criminal justice system play a more prominent role in directing these outcomes.

Goals

According to Hall, "an organizational goal is a desired state of affairs which the organization attempts to realize." As Hall also points out, most organizations have multiple goals, not all of which are compatible with one another. The ECU is no exception to this statement. Some of the unit's goals are set for it by outside organizations or agents. Others are developed internally and informally as the unit goes about its work.

One of the outside organizations which has established goals not only for this ECU, but for all others throughout the United States, is the national Economic Crime Project. The primary goal of the Economic Crime Project has been to "increase the capability of the prosecutor to investigate and prosecute the full spectrum of economic offenses." In the early years of the Project, its administrators gave repair swindles and merchandising swindles top priority. Optional priorities were the energy crisis, health, medical, and welfare frauds, and housing, real estate, construction, and land frauds. However, the Project also urged local units to stick to whatever they could do successfully, saying "do the 'doable' and seek redress for the most flagrant and pervasive local economic crime offenses no matter how modest those offenses might be." Additional Project guidelines encouraged local ECU's to seek felony prosecutions wherever possible; prosecute crimes involving multiple offenders or multiple victims (major impact cases); prosecute
the easiest cases first to achieve quick results; and favor disadvantaged victims (those, such as the elderly, poor, and minorities, least capable of protecting themselves and most likely to be injured by economic crime).^6

By achieving the primary goal, vigorous local prosecution of economic crime schemes, the Project's sponsors also hoped to promote a secondary interest, the building of renewed public respect for law enforcement agencies and the criminal justice system as a whole. The rationale was the the local ECU's would fulfill a pressing need in their communities for some agency to deal systematically with local frauds and swindles. For successfully combatting economic crime, the ECU's would receive public support within their communities. As a halo effect, citizens also would view the local criminal justice system as a whole as responsive to their needs.

In addition to the goals set for the ECU by its parent Economic Crime Project, a general goal set for the ECU by the Prosecutor's Office is to secure convictions in its cases. As Reiss and Alschuler^7 have noted, one effect of electing local prosecutors is that conviction rates become measures of success within the office. Local prosecutors seeking reelection run on their records of accomplishments which generally are translated into conviction rates.

As the organizational literature points out, however, elections and politics may not be the only reasons for an emphasis on conviction rates within prosecutors' offices. Hall notes that official organizational goals often are displaced by more easily quantifiable activities or tasks. As a result, these quantifiable tasks begin to take on the
appearance of official goals. In the prosecutor's office, the official primary task is to assist the court in the determination of guilt or innocence. However, the fact that conviction statistics are measurable aspects of this task appears to lead to goal displacement so that conviction itself becomes the goal.

Both political and organizational dynamics probably play a part in establishing conviction as a goal within the Prosecutor's Office. The important point is that there is an expectation, perceived by the ECU staff, that the unit will contribute to the overall goals of the Prosecutor's Office by winning more of its cases than it loses, or at least by winning the big ones.

The major goal the ECU sets for itself is deterrence. The staff are not satisfied with mere convictions of economic crime defendants, but seek to achieve what they regard as an appropriate level of deterrence in dealing with defendants. By putting defendants through formal arrest procedures, having them spend some time in pre-trial detention, seeking prison or jail terms for those convicted, and encouraging media attention to their cases, the staff believe they successfully deter further economic crime.

Additional goals set for the ECU by its members center on the types of cases the unit seeks to investigate and prosecute. The staff prefer to accept only the most serious and complex cases of economic crime. In gauging the seriousness of an offense the staff state that they do not like to accept cases for investigation unless the amount of loss exceeds $10,000. In addition, they prefer cases involving multiple victims, and they select cases reflecting offenses which they believe are
currently prevalent within the community. With respect to the complexity of a case, the staff believe that their skills and expertise are wasted on simple thefts. They prefer leaving such cases to the regular trial staff, freeing the ECU to tackle cases involving convoluted "paper trails" or extensive deception.

**Effectiveness**

Effectiveness refers to the "degree to which an organization realizes its goals."\(^9\) In the case of the ECU, effectiveness can be assessed in terms of three goal sets described above: 1) goals established for the ECU by its own members; 2) goals established for the unit by the Prosecutor's Office; and 3) goals established by the parent Economic Crime Project.

With respect to the goal of gaining convictions, the ECU's conviction rate over the past six years has been approximately 88 percent, a figure with which unit personnel seem satisfied.

Unfortunately, it is not possible to assess the extent to which the unit has achieved its goal of deterring both specific offenders and the general public from committing various types of economic offenses. The data used for the dissertation do not provide any indication of the prevalence of economic crime within the County independently of the ECU's official statistics. The staff claim to be satisfied with the extent to which their efforts promote deterrence, noting, however, that increased personnel and resources could enhance the unit's capabilities along this dimension.
The ECU also sets for itself the goal of investigating and prosecuting the most serious and complex cases of economic crime. In terms of seriousness, the staff state a preference for investigating cases in which the amount of loss exceeds $10,000, multiple victims are involved, or the crime is especially prevalent within the community. Although no data were available to assess the criterion of prevalence, the criteria of loss and number of victims were examined. As the case folder data indicated, the ECU has not been very effective in meeting either of these self-imposed goals. Nearly two-thirds of the cases investigated by the unit over the past six years have been below the $10,000 minimum loss figure and nearly three-fourths of the cases have involved only one victim. The 1979 data indicate that the ECU is currently adhering more closely to the multiple victim criterion, but no data are available to indicate a comparable change with respect to amount of loss.

The seriousness as well as complexity of the cases investigated by the ECU is further called into question when it is recalled that the unit investigated and prosecuted a large number of welfare fraud cases. Many of these cases were relatively straightforward instances of a person receiving and cashing two welfare checks for the same month by claiming one had been lost or stolen. Others involved low-level state employees who received welfare benefits in addition to their payroll checks by falsely claiming no employment on welfare eligibility forms. Welfare frauds were investigated thoroughly by the welfare department before being sent to the ECU, leaving the unit with little to do besides determine their prosecutability. Thus, the ECU's conviction record has
been quite good over the years, but many of its cases have not met the criteria of seriousness or complexity.

The major goal set for the ECU by the Prosecutor's Office is to secure convictions. As indicated above, the unit has been quite successful in this regard with an 88 percent conviction rate. However, one is left with the distinct impression that this statistic may be the result of some very judicious case selection on the part of the unit. The ECU staff assert that the major factor influencing the decision to prosecute is an assessment of the probability of proving the case before a jury. They are extremely reluctant to seek indictments in cases which they do not believe can be prosecuted successfully. The high conviction rate, therefore, reflects the staff's accuracy of judgment with respect to which cases can be proved in court and which cannot. Moreover, with the operation of the plea bargaining system, the vast majority of ECU cases do not actually go to trial but are settled by a defendant's guilty or no contest plea. Thus, ECU staff judgments are not tested in court, but rather by the defense attorneys with whom they bargain. This is not to deny that the ECU may build very tight cases against its defendants. However, it does suggest that the strength of the evidence in any given case is generally assessed by only one or two people instead of twelve.

Achieving convictions also is one of the goals set for the ECU by its parent Economic Crime Project (ECP). However, there are several additional ECP goals which the unit has been more or less effective in meeting. In its early years, for example, the ECP urged local units to give top priority to repair swindles and merchandising swindles.
Although several other ECU's did adopt a consumer protection orientation, sales and repair frauds have not been given top priority within this ECU. Only 15% of the ECU's investigations over the past six years have involved sales and repair frauds, and most of these cases were deemed nonprosecutable by the unit. It should be noted, however, that consumer protection has been the statutorily defined province of the attorney general's office since the ECU's inception.

Having been effectively closed out of the consumer protection business, the ECU turned to other types of offenses and the protection of other types of victims. Welfare fraud became the major offense prosecuted by the ECU for several years, especially 1976 through 1978. Instead of protecting individual consumers, the ECU protected the interests of public agencies and the state. Since relinquishing its responsibility for prosecuting welfare fraud at the end of 1978, the unit has been concentrating its efforts on offenses of public corruption, abuse of trust, or theft and has begun to protect the interests of individuals and private organizations to a greater extent than was true previously.

Although organizations have been victims in a number of ECU cases, they are very rarely defendants. The ECU has investigated a number of organizations but prosecuted very few. Even after the elimination of welfare fraud, organizational defendants have been conspicuous by their absence. The reasons suggested by the staff's comments are that organizations are not "real" actors or that the unit is not equipped to handle such formidable adversaries. While both reasons may provide a partial explanation, a more satisfactory one relates to the unit's goal of
obtaining convictions. The difficulties in proving requisite intent are much greater in the case of organizational defendants, making it harder to secure convictions. Since the ECU does not like to prosecute cases which it does not anticipate winning, organizational suspects are less likely than individual suspects to become defendants.

In addition to urging ECU's to prosecute certain types of offenses, the ECP has encouraged units to seek felony prosecutions; to prosecute crimes involving multiple offenders or victims; to prosecute the easiest cases first; and to favor disadvantaged victims. The ECU has been quite effective in achieving some of these goals and not as effective in achieving others.

The vast majority of cases prosecuted by the ECU have begun as felonies. Through plea bargaining, however, many of the convictions have ended as misdemeanors.

According to the case folder sample, most of the ECU's cases over the past six years did not involve either multiple offenders or multiple victims. The 1979 data indicate that the unit still does not prosecute many cases involving multiple offenders, but the number of cases involving multiple victims is increasing.

By prosecuting a large number of welfare fraud cases, the ECU adhered to the ECU's guideline of prosecuting the easiest cases first. Welfare fraud cases produced quick results because they were very straightforward, with most of the evidence already compiled by another agency.

Perhaps the most glaring divergence from ECP goals has been the unit's tendency not to favor members of disadvantaged groups but to
prosecute them. Many of the ECU's defendants were black welfare mothers who tried to pilfer an extra check or two from the system. What they did was indeed criminal, but after examining the folders one cannot help but wonder if there were no bigger cases for the ECU to try.

Thus, the ECU has effectively achieved some of the ECP's goals but not others. The difference appears to be in the degree of compatibility between Economic Crime Project goals and Prosecutor's Office goals. It appears that ECP goals which are compatible with gaining convictions have been readily achieved by the unit, whereas those not as compatible have not been achieved. For example, it is easier to convict a black welfare mother whose attorney is from Legal Aid than it is to convict an organization whose counsel is an entire law firm. The pressures and exigencies of the ECU's immediate environment appear to have displaced at least one of the goals of the larger ECP.

By viewing the ECU within an organizational framework, one can see how the unit's immediate environment influences the manner in which certain goals are met while others are altered or subverted. The unit's position within the Prosecutor's Office has influenced the types of offenses investigated and prosecuted by the unit, types of victims whose interests have been protected, and types of suspects selected for processing through the criminal justice system.

IMPLICATIONS

Four sets of implication stemming from these findings and conclusions now will be discussed. The dissertation has implications for future studies of economic crime investigation and prosecution, for the
general sociological literature on the role of prosecutors, for the economic and white-collar crime literature, and for policy and planning in the area of economic crime investigation and prosecution.

Studies of Economic Crime Investigation and Prosecution

The dissertation's primary contribution to future research on economic crime investigation and prosecution is its provision of a general sociological orientation to this type of social control activity. The findings of the dissertation, in combination with some of the existing literature, pose several intriguing questions for future study. For example, in contrast to the situation Vaughan\textsuperscript{11} studied in which a focused network of agencies emerged to deal with a major case of organizational crime, the present research examined the routine operations of a single agency across a variety of cases. Very little evidence of a network response was found in this situation.\textsuperscript{12} The ECU appeared to be almost totally dependent upon its own internal investigative resources for most day-to-day investigations. Except for a small cadre of local police officers, no other agencies provided more than passive investigative support in the form of bits and pieces of information.

Similar to Katz\textsuperscript{13} finding in a U. S. Attorney's Office, economic crime investigation and prosecution in the ECU are closely related tasks. ECU prosecutors, unlike regular criminal prosecutors, actively participate in investigations. Except for welfare fraud cases, they do not merely receive pre-investigated cases for evaluation as do their regular criminal trial staff counterparts.
Based upon this discussion, recommended topics for future research include examining the frequency with which economic crime investigation and prosecution are conducted by networks of agencies versus single isolated units. As Vaughan suggests, networks may emerge in major cases of white-collar crime when the resources of one agency would be vastly overburdened, such as with an organizational suspect. On the other hand, network responses may be routine procedures in certain jurisdictions. Future research also could explore the merging of investigative and prosecutive tasks in other economic and white-collar crime agencies. If this phenomenon is found in economic and white-collar crime enforcement across a number of different agencies, it would present a contrast to the separation of these functions in regular criminal law enforcement. It also might suggest that Katz is correct in his assessment that the nature of white-collar crime requires special procedures. On the other hand, it may turn out that lack of adequate investigative resources provides a more adequate explanation of the phenomenon.

Sociological Literature on the Role of Prosecutors

The sociological literature on the prosecutor's role in the criminal justice system suggests that the prosecutor occupies a central position within the criminal justice system, but it does not provide a complete picture of what this position entails. Researchers have documented the prosecutor's discretionary power over the charging decision. In addition, the plea bargaining process has been cited as another activity over which the prosecutor has extensive and unscrutinized control. While recognizing the extensive discretion associated with these two
aspects of the prosecutor's role, such studies have failed to document the structural limitations on prosecutorial discretion. Prosecutors' positions within the criminal justice system and their relationships with other participants confine their choices to a certain range of alternatives. ECU prosecutors appear to have a great deal of discretion during the discovery and investigative stages, but during prosecution this control is shared with other participants, including defense attorneys, juries, and especially judges.

Future research should focus greater attention on the prosecutor's positional interrelationships within the criminal justice system. In addition, it should follow the activities of prosecutors over the entire course of their contact with cases, from initial intake and screening to final disposition in order to ascertain the boundaries of prosecutorial discretion.

Sociological Literature on Economic Crime

The sociological literature on economic and white-collar crime has relied heavily on social control agencies to provide accounts of economic crime incidents and their incidence. However, with few exceptions sociologists have not had the opportunity to observe these enforcement operations directly. They use the definitions of economic and white-collar crime implied in the statistics, but they have very little first-hand information about how these definitions are operationalized and how the statistics are generated. The present study is a significant first step in the direction of observing the processes as well as the products of such agencies. It provides a glimpse into the
defining and decision-making processes which characterize the routine operations of an Economic Crime Unit. It appears that what gets labeled "economic crime" is, to a large extent, what the ECU staff believe they can prove in court.

Future studies can go beyond this effort to include other economic crime enforcement agencies at different governmental levels. In this way sociologists can begin to assign greater meaning to the figures they collect from such agencies. These studies also may provide useful case materials upon which to base refinements of sociological concepts and theories in the economic/white-collar crime area. Sociologists may choose not to define the terms economic and white-collar crime in the same manner as enforcement agencies, but they should at least know what these definitions are and how they are used.

Policy and Planning Implications

It is not possible to evaluate an entire program on the basis of research on only one of its units. However, the findings of this study do raise certain issues which future researchers will want to examine. One issue is whether there is sufficient overlap of enforcement efforts among local, state, and federal agencies to ensure that certain cases are not being neglected because they do not come within anyone's jurisdiction. For example, the ECU rarely prosecutes organizations and, according to Clinard and his associates, the federal government only prosecutes large corporations. The question is whether the smaller organizations are being picked up at the state level or are slipping away because of gaps in the enforcement system.
Another issue raised by the dissertation centers on the question, "what is economic crime?" The definition supplied by the Economic Crime Project, "non-violent illegal act(s) to obtain money/property for personal use or to avoid paying money," is extremely broad and encompassing. The list of specific offenses considered to fall within this definition is long and contains a wide variety of activities (see Table 2, Appendix G). The one thing which most of the offenses have in common is the element of fraud or deception. However, the dissertation points out that there are different types of frauds, depending upon who is the perpetrator and who is the victim. Throughout its history the ECU has tended to investigate and prosecute cases in which the perpetrators have been individuals and the victims have been government or public agencies. By focusing largely on welfare frauds for several years, the ECU protected the interests of the state (and perhaps indirectly, one could argue, the interests of taxpayers). Now it appears that the unit is starting to protect the interests of individuals and private organizations.

The point of this discussion is that when an ECU selects certain offenses to receive the label "economic crime," the choice has larger implications with respect to whose interests are being protected. Depending upon the choices, the ECU can be working for the state, for consumers, or for the private sector. An awareness of these implications is needed if the activities of ECU's are to be directed along a path other than the one of easiest convictions.

A final significant issue raised by this study concerns the importance assigned to the investigation and prosecution of economic crime both within the larger criminal justice system and within society
White-collar and economic crimes have traditionally been low priority items within most criminal justice agencies. This study indicates that this is definitely the case with respect to the agencies which comprise the ECU's milieu. Neither the police nor the courts nor the Prosecutor's Office itself appears to take the investigation and prosecution of economic crime very seriously. The police do not overwhelm the ECU with investigative support. The courts dismiss some of the unit's cases at trial and sentence its convicted defendants lightly. The Prosecutor's Office frequently diverts ECU personnel away from their economic crime cases to work on "real crime." In order to maintain itself as a viable segment of the Prosecutor's Office, the unit has resorted to focusing on those types of cases which will maximize its chances for success, small-scale, simple, straightforward offenses such as welfare fraud. Potentially more complex and difficult cases to prove, those involving organizational defendants, are not pursued vigorously by the ECU, except on rare occasions. This pattern of activity lends further support to the common perception that what the ECU does is unimportant or not "real criminal prosecution." The cycle becomes one of self-fulfilling prophecy in which the ECU is expected to handle only the most marginal criminal cases, therefore is provided with only minimal resources, and thus does handle only minor criminal cases.

The relative lack of interest displayed within the criminal justice system toward economic crime prosecution also is mirrored in a lack of concern over these issues among the general public. As Sutherland pointed out thirty years ago, part of the reason for the differential
implementation of the law as it applies to white-collar crime is "the relatively unorganized resentment of the public against white-collar crimes." More recently, Jeffrey Reiman has noted that the public's view of the "Typical Crime is one-on-one harm--where harm means either physical injury or loss of something valuable or both." In many cases of economic or white-collar crime, especially those involving organizational actors, the harm inflicted is more indirect and diffuse, making it more difficult to locate responsibility in a single individual. As a result, such activities more often receive the label "accident," "disaster" or "bad business decision" instead of "crime."

Both Sutherland and Reiman indicate that the lack of public concern over the crimes of the wealthy probably stems from the control which this segment of society exerts over the formation of public opinion through the media. Whatever its source, the fact remains that there is little public support available for the kind of work economic and white-collar crime units were set up to do.

The lack of support for economic and white-collar crime investigation and prosecution among the criminal justice system and the general public has implications for the type of economic support such efforts can expect to receive. Viewed as essentially unimportant or nonessential activities, such programs will undoubtedly be subject to the ebb and flow of economic surpluses and recessions. Policy-makers and planners must be prepared to argue their case for the continuation of such programs in front of generally unsympathetic or apathetic audiences.
Notes on Chapter 6


4. The Prosecutor, 13, 2, p. 121.


8. Hall, Organizations.


12. Of course, the ECU rarely prosecutes organizations. It may be that the staff would be reluctant to participate routinely in a network response in which they would be forced to relinquish much of their autonomy.


17. See, for example, Clinard, *The Black Market."

18. Clinard et. al., *Illegal Corporate Behavior.*

20. With the elimination of welfare fraud cases, there has been some indication that the ECU may be pursuing more serious offenses such as insurance fraud, large embezzlements, and public corruption cases. However, the unit still does not appear to be tackling cases involving organizational defendants.


APPENDIX A. ECU CASE FOLDER MATERIAL
FIGURE 1. PROSECUTOR'S OFFICE CASE FOLDER COVER
CODE SHEET FOR ECU CASE FOLDERS

1. Code Number
2. Social Security Number (SSN)
3. Defendant's Address
4. Type of Defendant: Person _____ Organization _____
   Both _____
5. Date of Arrest
6. Co-defendant(s): (1) SSN Code No. (if file exists)
   (2) SSN Code No.
   (2) SSN Code No.
7. Date of Birth
8. Sex
9. Race
10. Criminal Court Case Number CR
11. ECU Case Number FR
12. Charge
13. Judge
14. True-Billed (Date)
15. Defense Counsel
16. Investigating Detective
17. Released
18. Amount of Bond
19. Nature of Bond
20. Plea
21. Indictment ____________________________________________

22. Jury waived __________________________________________

23. Jury trial ____________________________________________

24. No contest plea ________________________________________

25. Guilty plea ____________________________________________

26. Guilty verdict or plea as to: _____________________________
   Date ______________________ Prosecutor ____________________

27. Not guilty verdict, dismissal, or nolleprosequi as to: ______
   Date ______________________ Prosecutor ____________________

28. Present sentence orders by court _________________________

29. Probation investigation _________________________________

30. Psychiatric examination ________________________________

31. Drug-dependency examination ____________________________

32. Disposition ___________________________________________

33. Brief description of particulars of case _________________

34. Victim(s) ____________________________________________
   Person ____________ Organization ________________

35. No. of witnesses on subpoena list: Indictment _______ Trial _______

36. Checklist for file contents:
   ___ a) final disposition report
b) attorney's overview of case
c) handwriting comparison
d) indictment: no. of counts ______
e) subpoena order
f) subpoena list
g) excerpt of trial transcript
h) defendant's bank account records
i) FBI identification
j) Other: ______________________________

37. ECU Work Sheet: Present ______ Absent ______

38. Prosecutor ________________________________

39. Date Opened ______________________________

40. Source ________________________________

41. Fact Pattern ______________________________

42. Investigation Closed
   a) No Case
   b) Case

43. Investigation Closed with NO Case Filed
   a) Date closed: ______________________________
   b) Investigative results turned over to:
      ______________________________
(c) Case deemed without merit to prosecute
(d) Case deemed too expensive to prosecute
(e) Financial recovery obtained: $___________
(f) Press release issued
(g) Recommendations made as to civil action
(h) Other: _______________________________________

44. Investigation Closed with Case Filed
   (a) Date filed: ________________________________
   (b) Indictment returned _____________________
   (c) Bill of Information filed ______________
   (d) Affidavit filed __________________________
   (e) Press release filed _____________________

45. Trial date ______________________________________

46. Judge _______________________________________________

47. Plea ____________________________________________

48. Disposition _______________________________________

49. Notes ______________________________________________
APPENDIX B. CASE FOLDER SAMPLING PROCEDURE
When the research began in the ECU, the goal was to examine each and every one of the 1004 cases processed by the ECU over its six-year history. After examining approximately 15 very thick indicted case folders, however, it became apparent that the time involved would be prohibitive. The examination of all case folders would severely impede the gathering of observations within the unit. Thus, it was decided to draw a random sample of the folders.

The decision to stratify the sample on the basis of whether the cases were indicted (prosecuted) or nonindicted (not prosecuted) was based upon three considerations. First, from the ECU's perspective the two categories of cases require different resource allocations. Indicted cases require that efforts be directed toward trial preparation, plea bargaining, or an actual trial after the investigative phase is concluded. Second, the two types of cases involve different consequences for the suspects involved. Indicted suspects experience more of the criminal justice system than nonindicted suspects. Third, because of the system of numbering the two types of cases differently, they were easily identifiable in the ECU's case notebook.

Before the sample could be stratified, it was necessary to determine the proportions of indicted and nonindicted cases in the population. In order to do this, the population had to be enumerated. The only difficulty in enumeration was an occasional discrepancy in the treatment of cases with multiple suspects. In some indicted cases multiple suspects were treated as co-defendants in a single case. In other indicted cases they were treated as separate defendants in separate cases, all of which originated from one large ECU investigation. It was decided
to follow the ECU's system and enumerate cases rather than suspects. A case involving several co-defendants was counted as a single case. Cases involving multiple suspects treated separately were counted as separate cases. This method of enumeration produced a total of 1004 case folders, 357 (36%) of which were indicted and 647 (64%) of which were nonindicted.

The next step was to determine the appropriate sample size. A formula for calculating the sample size was found in Philip J. McCarthy's Sampling: Elementary Principles (Ithaca, New York: New York State School of Industrial and Labor Relations, 1970). The formula is

$$n = \frac{(1.96)^2 \cdot p \cdot q}{d^2 \cdot \frac{N-1}{N} + \frac{(1.96)^2 \cdot p \cdot q}{N}}$$

where

- $n$ = sample size
- $p$ = proportion of individuals in the population possessing a certain characteristic
- $q = 1 - p$
- $d$ = one-half the total desired width of the 95% confidence interval around $p$
- $N$ = population size

In this case the value of "$p$" is unknown. The most conservative estimate for "$p$" .5, was used. The value selected for $d$ was .05, as suggested by Lazewitz in Blalock and Blalock's Methodology in Social Research. Using these values in the formula produced a sample size of 278. Stratifying the sample proportionately on the indicted/nonindicted dimension yielded a subsample size of 100 for the indicted cases and 178 for the nonindicted cases.
The final step was to select the case folders in each subsample. The cases in each stratum were listed in the order in which they were found in the ECU's caselist notebook. Using a table of random numbers, a sample of 100 indicted case folders and 178 nonindicted case folders was drawn.
APPENDIX C. VALUES OF CASE FOLDER AND 1979 MONTHLY REPORT VARIABLES
### C.1. VALUES OF CASE FOLDER VARIABLES

1. **Case Code Number**
   - three-digit number identifying the case for purposes of keeping computer cards in order.

2. **Defendant Code Number**
   - **(for multiple defendant cases)**
   - 0 = not applicable (N/A), single defendant
   - 1 = first defendant
   - 2 = second defendant
   - :  = nth defendant
   - 8 = summary card for multiple defendants

3. **Case File Status**
   - 1 = nonindicted
   - 2 = indicted

4. **Defendant's Address**
   - 1 = within city limits
   - 2 = within state
   - 3 = out of state
   - 4 = mixed (multiple defendants)
   - 5 = unknown

5. **Type of Defendant**
   - 1 = individual
   - 2 = organization
   - 3 = individual doing business as organization
   - 4 = other
   - 5 = mixed (multiple defendants)
   - 6 = government agency
   - 8 = unknown

6. **Number of Co-defendants**
   - One-digit number indicating number of co-defendants
   - 0 = N/A (single defendant)

7. **Age of Defendant**
   - Two-digit number representing age in years when case opened
   - 00 = unknown

8. **Gender of Defendant**
   - 0 = N/A (defendant is organization)
   - 1 = female
   - 2 = male
   - 3 = males and females (co-defendants)
   - 8 = unknown

9. **Race of Defendant**
   - 0 = N/A (defendant is organization)
   - 1 = white
   - 2 = black
   - 3 = Native American
<table>
<thead>
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<th>Column</th>
<th>Description</th>
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</thead>
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<tr>
<td>10.</td>
<td>Court Case Number</td>
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<tr>
<td>11.</td>
<td>ECU Case Number</td>
</tr>
<tr>
<td>12.</td>
<td>Charge</td>
</tr>
<tr>
<td>13.</td>
<td>Trial Judge</td>
</tr>
<tr>
<td>14.</td>
<td>Disposition Judge</td>
</tr>
<tr>
<td>15.</td>
<td>Method of Filing Case</td>
</tr>
<tr>
<td>16.</td>
<td>Defendant Arrested</td>
</tr>
<tr>
<td>17.</td>
<td>Bond Set for Defendants</td>
</tr>
</tbody>
</table>

**Court Case Number:**
- six-digit "CR" numbers for the indicted ECU cases
- 000000 = N/A (case not indicted)

**ECU Case Number:**
- five-digit "FR" numbers for all cases

**Charge:**
- 0 = N/A (no charges filed)
- 1 = theft in office
- 2 = theft by deception
- 3 = passing bad checks
- 4 = forgery
- 5 = larceny by trick
- 6 = sale of unregistered securities
- 7 = tampering with records
- 8 = unknown
- 9 = falsification
- 10 = fraud
- 11 = combination of charges
- 12 = grand theft
- 13 = misdemeanor theft
- 14 = obstructing justice
- 15 = receiving stolen property

**Trial Judge:**
- two-digit number indicating identity of trial judge

**Disposition Judge:**
- two-digit number indicating identity of disposition judge

**Method of Filing Case:**
- 0 = N/A (no case filed)
- 1 = direct indictment
- 2 = bindover indictment
- 3 = bill of information

**Defendant Arrested:**
- 0 = N/A (no case filed)
- 1 = yes
- 2 = no
- 3 = defendant is organization
- 4 = mixed (multiple defendants)
- 8 = unknown

**Bond Set for Defendants:**
- 0 = N/A
- 1 = yes
- 2 = no
- 3 = defendant is organization
- 4 = mixed (multiple defendants)
- 8 = unknown

4 = mixed (individual and organizational co-defendants)
8 = unknown
<table>
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<th>Field</th>
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<td>five-digit number indicating amount of bond</td>
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<td>00000 = N/A</td>
</tr>
<tr>
<td></td>
<td>00008 = unknown</td>
</tr>
<tr>
<td></td>
<td>multiple defendants = average bond</td>
</tr>
<tr>
<td>19. Nature of Bond</td>
<td>0 = N/A</td>
</tr>
<tr>
<td></td>
<td>1 = recognizance</td>
</tr>
<tr>
<td></td>
<td>2 = appearance</td>
</tr>
<tr>
<td></td>
<td>3 = surety</td>
</tr>
<tr>
<td></td>
<td>4 = combination</td>
</tr>
<tr>
<td></td>
<td>8 = unknown</td>
</tr>
<tr>
<td>20. Number of Counts in</td>
<td>two-digit number indicating number of counts in the indictment</td>
</tr>
<tr>
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<td></td>
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</tr>
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<td>21. Method of Settlement of</td>
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<tr>
<td>Case</td>
<td>1 = defendant not apprehended</td>
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<td>2 = guilty plea</td>
</tr>
<tr>
<td></td>
<td>3 = no contest plea</td>
</tr>
<tr>
<td></td>
<td>4 = trial by judge</td>
</tr>
<tr>
<td></td>
<td>5 = charges dropped or dismissed</td>
</tr>
<tr>
<td></td>
<td>6 = trial by jury</td>
</tr>
<tr>
<td></td>
<td>7 = mixed (multiple defendants)</td>
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<td>22. Outcome of Case</td>
<td>0 = N/A</td>
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<tr>
<td></td>
<td>1 = guilty as charged</td>
</tr>
<tr>
<td></td>
<td>2 = guilty of lesser included offense</td>
</tr>
<tr>
<td></td>
<td>3 = guilty of fewer counts</td>
</tr>
<tr>
<td></td>
<td>4 = not guilty</td>
</tr>
<tr>
<td></td>
<td>5 = dismissal</td>
</tr>
<tr>
<td></td>
<td>6 = charges dropped</td>
</tr>
<tr>
<td></td>
<td>7 = guilty of lesser offense and fewer counts</td>
</tr>
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<td>8 = unknown</td>
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<tr>
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<td>9 = mixed</td>
</tr>
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<td>23. Prosecutor</td>
<td>one-digit number indicating identity of prosecutor in charge of case</td>
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<td>24. Pre-sentence investigation ordered</td>
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<tr>
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</tr>
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<td>2 = no</td>
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<tr>
<td></td>
<td>3 = mixed (multiple defendants)</td>
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### Disposition

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<td>Probation</td>
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<tr>
<td>3</td>
<td>Probation plus jailtime</td>
</tr>
<tr>
<td>4</td>
<td>Probation plus restitution</td>
</tr>
<tr>
<td>5</td>
<td>Probation plus jailtime plus restitution</td>
</tr>
<tr>
<td>6</td>
<td>Jailtime plus fine and/or restitution</td>
</tr>
<tr>
<td>7</td>
<td>Mixed</td>
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<tr>
<td>8</td>
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<td>9</td>
<td>Fine</td>
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### Nature of Offense

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<tr>
<td>1</td>
<td>Embezzlement</td>
</tr>
<tr>
<td>2</td>
<td>Business opportunity fraud</td>
</tr>
<tr>
<td>3</td>
<td>Political corruption</td>
</tr>
<tr>
<td>4</td>
<td>Magazine solicitation scheme</td>
</tr>
<tr>
<td>5</td>
<td>Passing bad checks</td>
</tr>
<tr>
<td>6</td>
<td>Home repair fraud</td>
</tr>
<tr>
<td>7</td>
<td>Welfare fraud</td>
</tr>
<tr>
<td>8</td>
<td>Unknown</td>
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<tr>
<td>9</td>
<td>Securities fraud</td>
</tr>
<tr>
<td>10</td>
<td>Medicaid fraud</td>
</tr>
<tr>
<td>11</td>
<td>Theft of equipment/services/money</td>
</tr>
<tr>
<td>12</td>
<td>Failure to complete contract</td>
</tr>
<tr>
<td>13</td>
<td>Bait-and-switch advertising</td>
</tr>
<tr>
<td>14</td>
<td>Contrived product shortage</td>
</tr>
<tr>
<td>15</td>
<td>Other</td>
</tr>
<tr>
<td>16</td>
<td>Consumer product quality</td>
</tr>
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<td>Land sales scheme</td>
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### Type of Victim

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<td>1</td>
<td>Individual</td>
</tr>
<tr>
<td>2</td>
<td>Organization</td>
</tr>
<tr>
<td>3</td>
<td>Government agency or state</td>
</tr>
<tr>
<td>4</td>
<td>Combination</td>
</tr>
<tr>
<td>5</td>
<td>Individual doing business as organization</td>
</tr>
<tr>
<td>8</td>
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</table>

### Number of Victims

Three-digit number indicating number of victims. Unknown if 0.

### Defendant's Prior Record

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<tbody>
<tr>
<td>1</td>
<td>No prior record</td>
</tr>
<tr>
<td>2</td>
<td>Prior record</td>
</tr>
<tr>
<td>8</td>
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</tr>
</tbody>
</table>

### Amount of Loss

Seven-digit number indicating amount of loss. Unknown if 0.

00000000 = Unknown
### 31. Number of Months Case Open
- **two-digit number indicating number of months case open**
  - 00 = less than one month
  - 98 = unknown
  - 99 = case still open

### 32. Source of Case
- **1 = private citizen complaint**
- **2 = private attorney complaint**
- **3 = agency referral**
- **4 = proactive investigation**
- **5 = private citizen and attorney complaint**
- **8 = unknown**

### 33. Reason for Closing Case
- **0 = N/A**
- **1 = referred to another agency**
- **2 = without merit to prosecute**
- **3 = two expensive to prosecute**
- **4 = financial recovery obtained**
- **5 = recommended civil action**
- **6 = lack of victim and/or witness cooperation**
- **7 = case "no-billed" by grand jury**
- **8 = unknown**
- **9 = combination**
- **10 = lack of evidence**
- **11 = lack of evidence for criminal case, recommended civil action**
- **12 = out of jurisdiction**
- **13 = amount of loss too small**
- **14 = defendant convicted on another case**
- **15 = defendant ceased activity**
- **16 = defendant deceased**

### 34. Prison Sentence Length
- **0 = N/A**
- **1 = six months or less (jail)**
- **2 = six months to five years (prison)**
- **3 = one year to five years**
- **4 = one and one-half to five years**
- **5 = two to five years**
- **6 = more than two to five years**
- **7 = mixed**
- **8 = unknown**

### 35. Length of Probation
- **one-digit number indicating number of years of probation**
- **0 = N/A**
- **8 = unknown**
- **9 = shock parole or probation**

### 36. Amount of Restitution
- **six-digit number indicating amount of restitution ordered**
- **000000 = none**
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<th>Description</th>
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</thead>
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<td>Discovery Motion in Folder</td>
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<td></td>
<td>0 = N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 = yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 = no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>38.</td>
<td>Handwriting Comparison in Folder</td>
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<td>0 = N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 = yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 = no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>39.</td>
<td>Indictment or Bill of Information in Folder</td>
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<td></td>
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<tr>
<td></td>
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<td>0 = N/A</td>
<td></td>
<td></td>
</tr>
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<td></td>
<td></td>
<td>1 = yes</td>
<td></td>
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<td></td>
<td>2 = no</td>
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<td>40.</td>
<td>Defendants' Bank Records in Folder</td>
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<td></td>
<td>1 = yes</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>2 = no</td>
<td></td>
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<td>Defendant Appealed Case</td>
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<td>0 = N/A</td>
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<td></td>
<td>1 = yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 = no</td>
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<td>42.</td>
<td>Outcome of Appeal in County Appeals Court</td>
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<tr>
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<td></td>
<td>0 = N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 = decision of lower court affirmed</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 = decision of lower court overturned</td>
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<td>43.</td>
<td>Outcome of Appeal in State Supreme Court</td>
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<td>0 = N/A</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>1 = decision of lower court affirmed</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 = decision of lower court overturned</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 = case refused--no constitutional question involved</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td>8 = unknown</td>
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<td></td>
</tr>
</tbody>
</table>
## C.2. VALUES OF 1979 MONTHLY REPORT VARIABLES

1. **Case Code Number**
   - three-digit number identifying case for purposes of keeping computer cards in order
   - 0 = N/A
   - 1 = first defendant
   - 2 = second defendant
   - : 
   - n = nth defendant
   - 8 = summary card for multiple defendants

2. **Defendant Number**
   - 0 = N/A
   - 1 = first defendant
   - 2 = second defendant
   - : 
   - n = nth defendant

3. **Case Status**
   - 1 = investigation open
   - 2 = investigation closed
   - 3 = case filed
   - 4 = case closed

4. **ECU Case Number**
   - five-digit number assigned to the case by the ECU

5. **Type of Offense**
   - four-digit number corresponding to Economic Crime Project Offense Codes (Appendix G, Table 2)
   - 8888 = unknown
   - 1000 = combination

6. **Number of Individuals Under Investigation**
   - two-digit number indicating number of individuals under investigation
   - 98 = unknown
   - 99 = N/A

7. **Number of Businesses or Institutions Under Investigation**
   - two-digit number indicating number of businesses or institutions under investigation
   - 98 = unknown
   - 99 = N/A

8. **Number of Individual Victims**
   - two-digit number indicating number of individual victims identified at time of investigation
   - 98 = unknown
   - 99 = N/A

9. **Number of Business or Institutional Victims**
   - two-digit number indicating number of business or institutional victims identified at time of investigation
   - 98 = unknown
   - 99 = N/A
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<th></th>
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<th>Values</th>
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<td>Two-digit number indicating number of government agency victims at time of investigation</td>
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<td>98 = unknown</td>
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<tr>
<td></td>
<td></td>
<td>99 = N/A</td>
</tr>
<tr>
<td>11.</td>
<td>Source of Investigation</td>
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<tr>
<td></td>
<td></td>
<td>2 = proactive investigation</td>
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<tr>
<td></td>
<td></td>
<td>3 = agency referral</td>
</tr>
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<tr>
<td>12.</td>
<td>Type of Agency which referred case</td>
<td>1 = state consumer protection agency</td>
</tr>
<tr>
<td></td>
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<td>2 = local consumer protection agency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 = nongovernment consumer protection agency</td>
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<td>4 = federal regulatory agency</td>
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<td>6 = local regulatory agency</td>
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<td></td>
<td>7 = federal law enforcement agency</td>
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<td>8 = state law enforcement agency</td>
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<tr>
<td></td>
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<td>9 = local law enforcement agency</td>
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<td></td>
<td></td>
<td>10 = federal United States attorney</td>
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<td></td>
<td>11 = state attorney general consumer protection division</td>
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<td>12 = state attorney general—other division</td>
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<td></td>
<td></td>
<td>13 = local government attorney</td>
</tr>
<tr>
<td></td>
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<td>14 = legal services or private attorney</td>
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<td>15 = small claims court</td>
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<td></td>
<td></td>
<td>16 = trade association</td>
</tr>
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<td></td>
<td></td>
<td>17 = other</td>
</tr>
<tr>
<td></td>
<td></td>
<td>18 = other local prosecutor</td>
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<td></td>
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<td>19 = Economic Crime Project headquarters</td>
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<td>If Restitution, Amount</td>
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<td>If Referred, Agency Type</td>
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<tr>
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<td>If Case Filed, Type</td>
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<td>1 = felony</td>
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<td>2 = misdemeanor</td>
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<td>4 = combination</td>
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<td>Number of Individual Defendants</td>
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<td>two-digit number indicating number of individuals against whom charges were</td>
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<td>Number of Business or Institutional Defendants</td>
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<td>two-digit number indicating number of businesses or institutions against</td>
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<td>whom charges were filed</td>
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<td>Number of Individual Victims</td>
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<td>two-digit number indicating number of individual victims for prosecution</td>
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<td>99 = N/A</td>
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<td>20.</td>
<td>Number of Business or Institutional Victims</td>
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</tr>
<tr>
<td></td>
<td>two-digit number indicating number of business or institutional victims for</td>
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</tr>
<tr>
<td></td>
<td>prosecution purposes</td>
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</tr>
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</tr>
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<td>99 = N/A</td>
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<td>Number of Governmental Victims</td>
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<tr>
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<td>two-digit number indicating number of government agency victims for</td>
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<td>prosecution purposes</td>
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<td>Type of Proceeding</td>
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</tr>
<tr>
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</tr>
<tr>
<td></td>
<td>1 = none (no trial)</td>
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</tr>
<tr>
<td></td>
<td>2 = negotiation (no trial)</td>
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</tr>
<tr>
<td></td>
<td>3 = non-jury trial</td>
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</tr>
<tr>
<td></td>
<td>4 = jury trial</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8 = unknown</td>
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</tr>
<tr>
<td></td>
<td>9 = mixed</td>
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<td>Result of Proceeding</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>1 = negotiated plea</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 = negotiated settlement/stipulated judgment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 = felony conviction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4 = misdemeanor conviction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 = acquittal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6 = dismissed/dropped</td>
<td></td>
</tr>
<tr>
<td>Field</td>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>------------------------------</td>
<td>--------</td>
<td>-------------------------------------------------------</td>
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<tr>
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<tr>
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<tr>
<td></td>
<td>3</td>
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</tr>
<tr>
<td></td>
<td>4</td>
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</tr>
<tr>
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<td>5</td>
<td>civil judgment</td>
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<tr>
<td></td>
<td>6</td>
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<td>restitution--court ordered</td>
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<td>8</td>
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<td>9</td>
<td>prison and restitution--court ordered</td>
</tr>
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</tr>
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<td></td>
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</tr>
<tr>
<td>25. Amount of Financial</td>
<td></td>
<td>five-digit number indicating the amount of the financial penalty or remedy</td>
</tr>
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</tr>
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<td>26. Type of Suspect</td>
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</tr>
<tr>
<td></td>
<td>2</td>
<td>organization</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>individual and organization</td>
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<tr>
<td></td>
<td>8</td>
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<tr>
<td></td>
<td>9</td>
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</tr>
<tr>
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<td>1</td>
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</tr>
<tr>
<td></td>
<td>2</td>
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</tr>
<tr>
<td></td>
<td>8</td>
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</tr>
<tr>
<td></td>
<td>9</td>
<td>N/A</td>
</tr>
<tr>
<td>28. Type of Victim</td>
<td>1</td>
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</tr>
<tr>
<td></td>
<td>2</td>
<td>organization</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>government agency</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>individual and organization</td>
</tr>
<tr>
<td></td>
<td>5</td>
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<tr>
<td></td>
<td>6</td>
<td>individual and government agency</td>
</tr>
<tr>
<td></td>
<td>8</td>
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<tr>
<td>29. Number of Victims</td>
<td></td>
<td>three-digit number indicating number of victims</td>
</tr>
<tr>
<td></td>
<td>888</td>
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</tr>
<tr>
<td>30. Number of Suspects</td>
<td></td>
<td>two-digit number indicating number of suspects</td>
</tr>
<tr>
<td></td>
<td>98</td>
<td>unknown</td>
</tr>
<tr>
<td>31. Number of Defendants</td>
<td></td>
<td>two-digit number indicating number of defendants</td>
</tr>
</tbody>
</table>
Subject: Pay Range Change - Budget Analyst

Date: August 20, 1980

From: Thomas Y. Conger

To: Don Groom

Per your request I submit the following information concerning our ability to attract and retain qualified people for the budget analyst position as it now stands in pay range 60.

We currently have two budget analyst positions filled in addition to the one in question. The one to be filled is replacing a Senior Budget Analyst that has been with the University for 12 years. However, I feel our ability to recruit and retain budget analysts has been less than successful due to the pay range limitations.

During much of the last four years we have hired G.A.A.'s due to our inability to hire qualified full-time budget analysts:

1. Laura Yaussy - got her accounting B.S. and was promoted from Account Clerk to Budget Analyst; she left to attend Law School several months later.

2. Jennifer Miles - was a graduate student in Public Administration, when she graduated we offered her a permanent budget analyst position; she took it on a temporary basis until she got a job with NCR in Dayton.

3. Dora Hill - was a graduate student in Public Administration, when she graduated, we offered her a permanent budget analyst position, she had gotten offers of a very similar nature from both the state and city governments at about $15,000 and she accepted the one with the city.

4. Rebecca Leng - was a graduate student in accounting, we approached her about a permanent position as a budget analyst, however the salary was not close to the salaries being offered to her, she took a job with an auditing firm.

The last time we posted a budget analyst position, we received three internal candidates, two didn't meet the job qualifications, and the third was a good candidate who was hired, but only because his situation dictated that he was willing to accept a lateral move with no salary increase.

The posting before that we received two applications, one was not willing to accept the position, the reason wasn't given but we assumed it was our inability to go above the first quartile amount. The other applicant was hired and was willing to start at the minimum because she was temporarily a clerk in Registration Services.

Even though both our budget analysts have been with us less than a year and a half, we have felt that the low pay range and hence low salary was going to cause us to lose these individuals. We sought and received equity adjustments for these individuals in this year's budget because we felt that they were below their peers both at the University and otherwise. In fact, I understand one of these people is a finalist for a fiscal officer job that would pay several thousand dollars more than they are currently making even with the equity increase.
I have talked to both Administrative Sciences and Industrial Engineering on several occasions recently and I have concluded that the first quartile of pay range 60 would not allow us to successfully recruit bright graduates from either college.

During the past several years, Finance & Planning has received dozens of unsolicited applications from people outside the University; mostly state government workers, however their current salaries with one or two years experience after college is too high for us even to talk to them about jobs in pay range 60.

In summary, it appears to me that we would be fortunate to attract qualified candidates for these important positions if the pay range remained at 60, and even more devastating to our effort, we would probably lose these individuals within a year or two to other areas in the University where the University Budget experience would be most important.

Thank you for your consideration in this matter. If I can provide further information of any kind, please do not hesitate to call me.

TYC/sr-225
cc: William E. Vandament
    Judith B. Washburn
98 = unknown
99 = N/A
APPENDIX D. ECONOMIC CRIME PROJECT MONTHLY REPORT FORMS
ECONOMIC CRIME PROJECT REPORTING SYSTEM

Complaints, Inquiries, and Complaint Resolution Procedures Reporting Form

<table>
<thead>
<tr>
<th>ECP Unit:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period Covered:</td>
</tr>
<tr>
<td>Date Filled Out:</td>
</tr>
<tr>
<td>Filled Out by:</td>
</tr>
</tbody>
</table>

Complaints and Inquiries

Number of Complaints, Inquiries, or Other Initial Contacts with office .................................................. Number: _________________

Office Complaint Resolution Procedures

Number of Matters Involving Complaint Resolution Procedures begun this month ........ Number: _________________

Number of Voluntary Restitutions ................................................. Number: _________________

Restitution Amount in Dollars .................................................. $ _________________

Number of Referrals to Other Agencies ................................................. Number: _________________

FIGURE 2. ECU COMPLAINT RECORDING FORM
FIGURE 3. ECU INVESTIGATION AND CASE INFORMATION REPORTING FORM
APPENDIX E. PROSECUTOR'S OFFICE PHYSICAL PLANT
FIGURE 4. PROSECUTOR'S OFFICE PHYSICAL PLANT
APPENDIX F. ECU INTERVIEW GUIDE
Introduction.

I would like to ask you some general questions about your experience with and views on the investigation and prosecution of economic crime. I know we have discussed some of these issues in previous conversations, but I wanted an opportunity to discuss them with you in a more formal systematic manner. Before we get started, you should know that our discussion will be confidential. I will not discuss what you say with any other member of this organization. In addition, I will not connect your statements with your name in any written material produced as a result of this study. Unless you have any questions, I will proceed with mine.

1. How long have you been on the staff of the ECU? Were you involved in the investigation and/or prosecution of economic crime prior to joining this particular ECU? Please describe.

2. How do cases come to the ECU? From what sources?

3. Who assigns cases to the prosecutors and on what basis?

4. What criteria are important in deciding whether or not to investigate a case? Please give me some idea of the order of priority? Probe: Does the city attorney handle all misdemeanor cases?

5. What criteria are used in deciding whether or not to prosecute a case? Please give me some idea of the order of priority? Probe: Does the amount of money involved influence whether a case is taken on or not by the ECU?
6. What are the important steps in preparing a case for prosecution? Do you generally meet with the victim in all economic crime cases? Co you generally meet with the suspect? 
Probe: Distinction between believing that a crime has been committed and proving it in court.

7. What types of evidence are presented to the Grand Jury? Under what circumstances is the ECU more likely to use a bill of information than an indictment?

8. What factors are important in negotiating a plea? Are there any guidelines for plea bargaining?

9. Are the factors considered in jury selection any different in economic crime cases than in regular criminal cases?

10. Is the judge a significant factor in sentencing with respect to economic crimes? Are some judges consistently lenient or harsh, or do they vary their response depending upon the nature of the crime?

11. Can you summarize some of the most significant differences between prosecuting economic crimes versus regular crimes?
Probe: What are the special problems associated with prosecuting economic crime? How do you overcome them?

12. What organizations or agencies do you work closely with outside the Prosecutor's Office?
Probe: What is the relationship between the ECU and other agencies
which prosecute economic or white-collar crime at the municipal, state, and federal levels? Is there a formal or informal division of labor? Is the division of labor adequate?

13. What kinds of special problems are encountered in prosecuting cases of political corruption?

14. In what ways do some of the state laws influence the types of cases you investigate and the manner in which you prosecute them? Are there any changes you would like to see in these laws? What are they?

15. In most cases I have seen or examined, the ECU has prosecuted individuals. What are the differences when an organization, such as a business or corporation is involved as the defendant?

16. Are there any types of economic crime which you would like to see the ECU become more active in prosecuting? Less active in prosecuting? Why or why not?

17. Do you think the ECU needs more attorneys and/or investigators? What sorts of things would the unit do with increased personnel or resources that it does not do now?

18. What types of cases were too "sensitive" for me to know very much about them?

19. How do you feel about having to prosecute regular criminal cases
periodically? Does this happen very often?

20. What factors are important in deterring economic crime?

21. What special characteristics/skills does an attorney/investigator need in prosecuting/investigating economic crime?

22. What is involved in orienting a new ECU member?

23. Does the fact that the positions within the office are tied to the elected Chief Prosecutor hurt the continuity of the ECU's work?

24. What is the relationship between the ECU and the local news media? Can media coverage be used to promote deterrence?
   Probe: Are there limits on the information your unit gives to the media?

25. Can and should the ECU play a role in the prevention of economic crime by educating the public or businesses on how to detect it and how to protect themselves from being victims of it?

26. What does the future hold for this ECU? Is there anything about its present direction or purpose which you would like to see altered?

27. What do you see as the future of local economic crime units in general? What role can local ECU's play with respect to state and federal agencies which are also investigating and prosecuting this type of crime?

28. Is there anything we have not covered which you feel is important to mention?
Thank you for your time and cooperation. May I feel free to call on you in the future if I have any additional questions?
APPENDIX G

CASES INVESTIGATED BY ECU:

OFFENSE AND SUSPECT CHARACTERISTICS
TABLE 3.8 TYPES OF OFFENSES\textsuperscript{a}  
(case folder data)

<table>
<thead>
<tr>
<th>Offense</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investments</td>
<td>14</td>
<td>(7)</td>
</tr>
<tr>
<td>Financing, Credit, Banking</td>
<td>6</td>
<td>(3)</td>
</tr>
<tr>
<td>Corrupting, Abuse of Trust, Theft</td>
<td>38</td>
<td>(18)</td>
</tr>
<tr>
<td>Fraud Against Government, Public Agencies, Utilities</td>
<td>90</td>
<td>(43)</td>
</tr>
<tr>
<td>Trade Practices</td>
<td>2</td>
<td>(1)</td>
</tr>
<tr>
<td>Housing, Land, Real Estate</td>
<td>9</td>
<td>(4)</td>
</tr>
<tr>
<td>Sales and Repairs</td>
<td>30</td>
<td>(15)</td>
</tr>
<tr>
<td>Other</td>
<td>11</td>
<td>(6)</td>
</tr>
<tr>
<td>Unknown</td>
<td>7</td>
<td>(3)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>207</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

\textsuperscript{a} - The categories for this variable are based upon the economic crime codes employed by the Economic Crime Project. Table 2 in this appendix presents the Project's offense classification system.
TABLE 3.9 ECONOMIC CRIME PROJECT
REPORTING SYSTEM
List of Economic Crime Codes

**Investments**

1.1 Advanced fee schemes
1.2 Business opportunity schemes (including franchises, vending machines, chain referral, and pyramid schemes)
1.3 Ponzi schemes
1.4 Securities
1.5 Commodities
1.6 Precious metals, jewelry, and gems
1.7 Other investment schemes—general

**Financing, Credit, and Banking**

2.1 Bad checks, check kiting
2.2 Bankruptcy
2.3 Inheritance frauds
2.4 Credit cards
2.5 Debt collection
2.6 Debt consolidation
2.7 Usury
2.8 Loans (including mortgages)
2.9 Installment purchases

**Computer Related**

3.1 Electronic Funds Transfer System (EFTS)
3.2 Computer abuse and fraud

**Insurance**

4.1 Arson-for-profit
4.2 Life
4.3 Accident/casualty
4.4 Other insurance fraud

**Corruption, Abuse of Trust, and Theft (see also 6.7—Theft of utility services, energy)**

5.1 Bribery of government employees (including kickbacks)
5.2 Commercial bribery (including kickbacks)
5.3 Conflict-of-interest
5.4 Misuse of confidential information, trade secret theft
5.5 Embezzlement
5.6 Larceny (including by false pretenses and by trick)
5.7 Misappropriation of funds
5.8 Forgery
Fraud Against Government, Public Agencies, Utilities

6.1 Licensing violations
6.2 Regulatory violations
6.3 Revenue violations: income tax
6.4 Revenue violations: sales and use tax
6.5 Welfare
6.6 Medicaid
6.7 Theft of utility services, energy
6.8 Procurement fraud

Trade Practices (see also 2.9--Installment purchases)

7.1 Advertising: bait-and-switch
7.2 Advertising: general
7.3 Weights and measures
7.4 Antitrust and restraint of trade, price-fixing
7.5 Deceptive trade practices--general (including misdescription of goods/services, pricing, packaging, and warranty frauds)
7.6 Coupon redemption frauds
7.7 Other trade-related frauds

Housing, Land, Real Estate, and Construction

8.1 Home improvement
8.2 Construction
8.3 Landlord-tenant
8.4 Mobile home
8.5 Real estate/land
8.6 Title law
8.7 Rental locator

Health and Medical Care (see also 6.6--Medicaid)

9.1 Medical treatments by professionals (services--doctors, dentists, nurses)
9.2 Medical supplies and devices (products--hearing aids, drugs, cosmetics)
9.3 Nursing homes
9.4 General health care services (laboratory, hospital care)
9.5 Health and safety standards (including buildings, institutions, environments)

Sales and Repairs (see also 7.1 and 7.2--Advertising)

10.1 Appliance repaid fraud
10.2 Automobile sales (including automotive parts)
10.3 Automobile repairs
10.4 Other products: sales
10.5 Other products: repairs
Personal and Professional Services (see also 1.2--Business opportunity schemes; 9.1--Medical professional services)

11.1 School/training frauds: career/employment opportunity
11.2 School/training frauds: personal improvement or benefit
11.3 Personal improvement schemes--general (including club memberships)
11.4 Contest frauds
11.5 Travel and vacations
11.6 Transportation
11.7 Charity frauds
11.8 Attorneys' professional services

Other

999 "Other"--use this category only if NO other category applies and if the nature of the investigation/case is explained under "Comments."
<table>
<thead>
<tr>
<th>Offense</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
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<tr>
<td>Investments</td>
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<td>(11)</td>
</tr>
<tr>
<td>Financing, Credit, Banking</td>
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<td>(11)</td>
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<tr>
<td>Insurance</td>
<td>9</td>
<td>(9)</td>
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<tr>
<td>Corruption, Abuse of Trust, Theft</td>
<td>43</td>
<td>(39)</td>
</tr>
<tr>
<td>Fraud Against Government, Public Agencies, Utilities</td>
<td>12</td>
<td>(11)</td>
</tr>
<tr>
<td>Trade Practices</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Housing, Land, Real Estate</td>
<td>7</td>
<td>(6)</td>
</tr>
<tr>
<td>Health and Medical Care</td>
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<td>(2)</td>
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<tr>
<td>Other</td>
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<table>
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<td>(31)</td>
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<td>Organization</td>
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<td>(13)</td>
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<td>Government Agency or State</td>
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<td>(51)</td>
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<tr>
<td>Combination</td>
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**TABLE 3.12 TYPE OF VICTIM**  
(1979 monthly report data)

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<tr>
<th>Victim</th>
<th>Frequency</th>
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<td>(30)</td>
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<td>Organization</td>
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<td>(32)</td>
</tr>
<tr>
<td>Government Agency or State</td>
<td>22</td>
<td>(20)</td>
</tr>
<tr>
<td>Combination</td>
<td>13</td>
<td>(12)</td>
</tr>
<tr>
<td>Unknown</td>
<td>6</td>
<td>(6)</td>
</tr>
<tr>
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<td><strong>(100)</strong></td>
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</tbody>
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**TABLE 3.13 TYPE OF SUSPECT**  
(case folder data)

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<th>Suspect Type</th>
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<th>(Percent)</th>
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<tr>
<td>Organization</td>
<td>39</td>
<td>(19)</td>
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<tr>
<td>Individual doing business as an Organization</td>
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<td>(8)</td>
</tr>
<tr>
<td>Government Agency</td>
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<td>(1)</td>
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<tr>
<td>Combination</td>
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<tr>
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**TABLE 3.14 TYPE OF SUSPECT**  
(1979 monthly report data)

<table>
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<th>(Percent)</th>
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<tr>
<td>Organization</td>
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<td>(9)</td>
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<tr>
<td>Individuals and Organizations</td>
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<tr>
<td>Unknown</td>
<td>4</td>
<td>(4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
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<td><strong>(100)</strong></td>
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TABLE 3.15 AGE OF SUSPECT  
(case folder data)

<table>
<thead>
<tr>
<th>Age</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
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<td>18-25</td>
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<td>(19)</td>
<td>(27)</td>
</tr>
<tr>
<td>26-44</td>
<td>77</td>
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<td>(67)</td>
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<td>45 and older</td>
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<td>(4)</td>
<td>(6)</td>
</tr>
<tr>
<td>Unknown</td>
<td>51</td>
<td>(31)</td>
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</tr>
<tr>
<td>Totals</td>
<td>166(^a)</td>
<td>(100)</td>
<td>(100)</td>
</tr>
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</table>

\(^a\) - remaining cases after 41 involving only organizational or government agency suspects were eliminated.

TABLE 3.16 GENDER OF SUSPECT  
(case folder data)

<table>
<thead>
<tr>
<th>Gender</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>86</td>
<td>(52)</td>
<td>(54)</td>
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<tr>
<td>Male</td>
<td>69</td>
<td>(42)</td>
<td>(43)</td>
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<tr>
<td>Male and Female Co-suspects</td>
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<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>7</td>
<td>(4)</td>
<td>N/A</td>
</tr>
<tr>
<td>Totals</td>
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<td>(100)</td>
<td>(100)</td>
</tr>
</tbody>
</table>

\(^a\) - remaining cases after 41 involving only organizational or government agency suspects were eliminated.
<table>
<thead>
<tr>
<th>Race</th>
<th>Frequency</th>
<th>(Percent)</th>
<th>(Percent of known cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>52</td>
<td>(31)</td>
<td>(59)</td>
</tr>
<tr>
<td>White</td>
<td>35</td>
<td>(21)</td>
<td>(40)</td>
</tr>
<tr>
<td>Native American</td>
<td>1</td>
<td>(1)</td>
<td>(1)</td>
</tr>
<tr>
<td>Unknown</td>
<td>78</td>
<td>(47)</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>166(^a)</strong></td>
<td><strong>(100)</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>

\(^a\) remaining cases after 41 involving only organizational or government agency suspects were eliminated.
APPENDIX H. ECU FACTUAL SYNOPSIS SHEET
FACTUAL SYNOPSIS

The Victim

1. Name and address of victim-company.

2. Description of business (e.g., retail, service); how organized (if other than corporate, list names of principals.)

3. Name, address, title and telephone number of company representative(s) who will serve as liaison with our office during preparation and prosecution of case.

4. Name, address and telephone number of company attorney.

The Alleged Crime

1. Supply a three or four paragraph synopsis of the alleged crime and include:
   a.) when and how discovered; by whom;
   b.) a list and description of all available supporting documentary evidence, where kept, by whom, how prepared, etc.;
   c.) the amount of loss, over what period and what portion may be indemnified under bond;
   d.) what actions have been taken since discovery of loss (e.g., interviewing the suspect, reporting to police, etc.)

2. Supply a summary of any statements made or actions taken by the suspect, whether or not he was confronted with the evidence (e.g., just left company, supplied a written confession, asked for a transfer, etc.)

3. Supply a list of available specimens of suspect's handwriting, when and where obtained, by whom and where presently kept.

The Suspect(s)

1. Supply a complete biographical background; name, address, phone number, social security number, date of birth, physical description (sex, race, height, weight, color of hair and eyes), marital status, banking or other financial institutions used, present suspected location; names, addresses and telephone numbers of close associates or relatives.

2. Supply a complete employment history:
   a.) names and addresses of companies where formally employed, dates, salary;
   b.) at your company: when hired, all job descriptions, titles and responsibilities, salary, any problems; names and responsibilities of suspect's supervisors and key co-employees.

FIGURE 5. ECU FACTUAL SYNOPSIS SHEET
APPENDIX I. CASES DEEMED PROSECUTABLE AND NONPROSECUTABLE

BY THE ECU: OFFENSE AND OFFENDER CHARACTERISTICS
TABLE 4.1 TYPE OF OFFENSE BY CASE STATUS
(case folder data)

<table>
<thead>
<tr>
<th>Offense Type</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>(Percent)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Frequency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Percent)</td>
</tr>
<tr>
<td>Investments</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Financing, Credit, Banking</td>
<td>4</td>
<td>(4)</td>
</tr>
<tr>
<td>Corruption, Abuse of Trust, Theft</td>
<td>27</td>
<td>(28)</td>
</tr>
<tr>
<td>Fraud Against Government/Public Agencies &amp; Utilities</td>
<td>62</td>
<td>(63)</td>
</tr>
<tr>
<td>Trade Practices</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Housing, Land</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Sales, Repairs</td>
<td>2</td>
<td>(2)</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Totals</td>
<td>98&lt;sup&gt;a&lt;/sup&gt;</td>
<td>(100)</td>
</tr>
<tr>
<td></td>
<td>109</td>
<td>(100)</td>
</tr>
</tbody>
</table>

<sup>a</sup> - the total number of cases for all tables in this appendix is 98 for the prosecutable cases, which consists of all 96 cases in the indicted subsample plus 2 cases in the nonindicted subsample which were intended for prosecution but were turned down by the grand jury.
TABLE 4.2 TYPE OF OFFENSE BY CASE STUDIES
(1979 monthly report data)

<table>
<thead>
<tr>
<th>Offense Type</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency (Percent)</td>
<td>Frequency (Percent)</td>
</tr>
<tr>
<td>Investments</td>
<td>1 (4)</td>
<td>5 (10)</td>
</tr>
<tr>
<td>Financing, Credit, Banking</td>
<td>3 (11)</td>
<td>6 (11)</td>
</tr>
<tr>
<td>Insurance</td>
<td>3 (11)</td>
<td>3 (6)</td>
</tr>
<tr>
<td>Corruption, Abuse of Trust, Theft</td>
<td>13 (50)</td>
<td>13 (25)</td>
</tr>
<tr>
<td>Fraud Against Government/Public Agencies, &amp; Utilities</td>
<td>2 (8)</td>
<td>9 (18)</td>
</tr>
<tr>
<td>Trade Practices</td>
<td>0 (0)</td>
<td>3 (6)</td>
</tr>
<tr>
<td>Housing, Land, Real Estate</td>
<td>2 (8)</td>
<td>3 (6)</td>
</tr>
<tr>
<td>Health and Medical Care</td>
<td>0 (0)</td>
<td>2 (4)</td>
</tr>
<tr>
<td>Other</td>
<td>2 (8)</td>
<td>5 (10)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0 (0)</td>
<td>2 (4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>26 (100)</strong></td>
<td><strong>51 (100)</strong></td>
</tr>
</tbody>
</table>

a - Throughout this appendix, prosecutable cases consist of "cases filed" and "cases closed" in the 1979 monthly report data.

b - Throughout this appendix, nonprosecutable cases consist of investigations closed with no case filed in the 1979 monthly report data.
### TABLE 4.3 TYPE OF VICTIM BY CASE STATUS
*(case folder data)*

<table>
<thead>
<tr>
<th>Victim Type</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency (Percent)</td>
<td>Frequency (Percent)</td>
</tr>
<tr>
<td>Individual</td>
<td>4 (4)</td>
<td>58 (53)</td>
</tr>
<tr>
<td>Organization</td>
<td>17 (17)</td>
<td>10 (9)</td>
</tr>
<tr>
<td>Government Agency/State</td>
<td>75 (77)</td>
<td>31 (28)</td>
</tr>
<tr>
<td>Combination</td>
<td>2 (2)</td>
<td>4 (4)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0 (0)</td>
<td>6 (6)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>98 (100)</strong></td>
<td><strong>109 (100)</strong></td>
</tr>
</tbody>
</table>

### TABLE 4.4 TYPE OF VICTIM BY CASE STATUS
*(1979 monthly report data)*

<table>
<thead>
<tr>
<th>Victim Type</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency (Percent)</td>
<td>Frequency (Percent)</td>
</tr>
<tr>
<td>Individual</td>
<td>6 (27)</td>
<td>18 (35)</td>
</tr>
<tr>
<td>Organization</td>
<td>12 (46)</td>
<td>10 (20)</td>
</tr>
<tr>
<td>Government Agency</td>
<td>3 (12)</td>
<td>15 (29)</td>
</tr>
<tr>
<td>Combination</td>
<td>4 (15)</td>
<td>6 (12)</td>
</tr>
<tr>
<td>Unknown</td>
<td>1 (4)</td>
<td>2 (4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>26 (100)</strong></td>
<td><strong>51 (100)</strong></td>
</tr>
</tbody>
</table>
### Table 4.5 Number of Victims by Case Status
*(Case folder data)*

<table>
<thead>
<tr>
<th>Number of Victims</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency (Percent)</td>
<td>Frequency (Percent)</td>
</tr>
<tr>
<td>One</td>
<td>72 (73.5)</td>
<td>77 (71)</td>
</tr>
<tr>
<td>Two to Nine</td>
<td>24 (24.5)</td>
<td>8 (7)</td>
</tr>
<tr>
<td>Ten or More</td>
<td>2 (2.0)</td>
<td>8 (7)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0 (0.0)</td>
<td>16 (15)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>98 (100.0)</td>
<td>109 (100)</td>
</tr>
</tbody>
</table>

### Table 4.6 Number of Victims by Case Status
*(1979 monthly report data)*

<table>
<thead>
<tr>
<th>Number of Victims</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency (Percent)</td>
<td>Frequency (Percent)</td>
</tr>
<tr>
<td>One</td>
<td>10 (38)</td>
<td>30 (59)</td>
</tr>
<tr>
<td>Two to Nine</td>
<td>9 (35)</td>
<td>10 (20)</td>
</tr>
<tr>
<td>Ten or More</td>
<td>5 (19)</td>
<td>3 (6)</td>
</tr>
<tr>
<td>Unknown</td>
<td>2 (8)</td>
<td>8 (15)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>26 (100)</td>
<td>51 (100)</td>
</tr>
</tbody>
</table>
### TABLE 4.7 CASE SOURCE BY CASE STATUS  
*(case folder data)*

<table>
<thead>
<tr>
<th>Source</th>
<th>Prosecutable Cases</th>
<th>Frequency</th>
<th>Percent</th>
<th>Nonprosecutable Cases</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint/Inquiry</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>50</td>
<td>46</td>
<td>46</td>
</tr>
<tr>
<td>Agency Referral</td>
<td>80</td>
<td>82</td>
<td>82</td>
<td>40</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>Proactive</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Unknown</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>16</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>98</strong></td>
<td><strong>100</strong></td>
<td><strong>98</strong></td>
<td><strong>109</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

### TABLE 4.8 CASE SOURCE BY CASE STATUS  
*(1979 monthly report data)*

<table>
<thead>
<tr>
<th>Source</th>
<th>Prosecutable Cases</th>
<th>Frequency</th>
<th>Percent</th>
<th>Nonprosecutable Cases</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint/Inquiry</td>
<td>12</td>
<td>46</td>
<td>12</td>
<td>24</td>
<td>47</td>
<td>47</td>
</tr>
<tr>
<td>Agency Referral</td>
<td>11</td>
<td>42</td>
<td>11</td>
<td>21</td>
<td>41</td>
<td>41</td>
</tr>
<tr>
<td>Proactive</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Unknown</td>
<td>3</td>
<td>12</td>
<td>3</td>
<td>3</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>26</strong></td>
<td><strong>100</strong></td>
<td><strong>26</strong></td>
<td><strong>51</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
TABLE 4.9 AMOUNT OF LOSS BY CASE STATUS
(case folder data)

<table>
<thead>
<tr>
<th>Amount of Loss</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>(Percent of known cases)</td>
</tr>
<tr>
<td>Less than $150</td>
<td>4</td>
<td>(4)</td>
</tr>
<tr>
<td>$150 - 4,999</td>
<td>55</td>
<td>(60)</td>
</tr>
<tr>
<td>$5,000 - 9,999</td>
<td>14</td>
<td>(15.5)</td>
</tr>
<tr>
<td>$10,000 - 99,999</td>
<td>16</td>
<td>(17.5)</td>
</tr>
<tr>
<td>$100,000 and above</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>6</td>
<td>N/A</td>
</tr>
<tr>
<td>Totals</td>
<td>98</td>
<td>(100)</td>
</tr>
</tbody>
</table>

*Because of the large number of unknown cases (39) in the nonprosecutable category, adjusted percentages have been computed based upon the number of cases for which the amount of loss is known.*
### TABLE 4.10 TYPE OF SUSPECT BY CASE STATUS
(case folder data)

<table>
<thead>
<tr>
<th>Type of Suspect</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>89 (91)</td>
<td>54 (50)</td>
</tr>
<tr>
<td>Organization</td>
<td>0 (0)</td>
<td>39 (36)</td>
</tr>
<tr>
<td>Individual doing business as organization</td>
<td>1 (1)</td>
<td>11 (10)</td>
</tr>
<tr>
<td>Other</td>
<td>8 (8)</td>
<td>5 (4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>98 (100)</strong></td>
<td><strong>109 (100)</strong></td>
</tr>
</tbody>
</table>

### TABLE 4.11 TYPE OF SUSPECT BY CASE STATUS
(1979 monthly report data)

<table>
<thead>
<tr>
<th>Type of Suspect</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>17 (65)</td>
<td>25 (49)</td>
</tr>
<tr>
<td>Organization</td>
<td>0 (0)</td>
<td>8 (16)</td>
</tr>
<tr>
<td>Both</td>
<td>6 (23)</td>
<td>16 (31)</td>
</tr>
<tr>
<td>Unknown</td>
<td>3 (12)</td>
<td>2 (4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>26 (100)</strong></td>
<td><strong>51 (100)</strong></td>
</tr>
</tbody>
</table>

### TABLE 4.12 TYPES OF DEFENDANTS IN INDICTED CASES IN 1979

<table>
<thead>
<tr>
<th>Type of Defendant</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>25</td>
<td>(96)</td>
</tr>
<tr>
<td>Organization</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Both</td>
<td>1</td>
<td>(4)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>26</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>
### TABLE 4.13 TYPE OF OFFENSE IN 39 ORGANIZATIONAL CASES
(case folder data)

<table>
<thead>
<tr>
<th>Type of Offense</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to fulfill terms of contract</td>
<td>13</td>
<td>(33.5)</td>
</tr>
<tr>
<td>Consumer protection offenses</td>
<td>7</td>
<td>(18.0)</td>
</tr>
<tr>
<td>Business opportunity fraud</td>
<td>5</td>
<td>(13.0)</td>
</tr>
<tr>
<td>Magazine solicitation schemes</td>
<td>2</td>
<td>(5.5)</td>
</tr>
<tr>
<td>Medicaid fraud</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Land fraud</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Securities fraud</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Home repair fraud</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>(10.0)</td>
</tr>
<tr>
<td>Unknown</td>
<td>4</td>
<td>(10.0)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>39</strong></td>
<td><strong>(100.0)</strong></td>
</tr>
</tbody>
</table>

### TABLE 4.14 REASON FOR CLOSING IN 39 ORGANIZATIONAL CASES
(case folder data)

<table>
<thead>
<tr>
<th>Reason for Closing</th>
<th>Frequency</th>
<th>(Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Referred to another agency</td>
<td>10</td>
<td>(26)</td>
</tr>
<tr>
<td>Without merit to prosecute</td>
<td>9</td>
<td>(23)</td>
</tr>
<tr>
<td>Lack of victim/witness cooperation</td>
<td>5</td>
<td>(13)</td>
</tr>
<tr>
<td>Civil action recommended</td>
<td>4</td>
<td>(10)</td>
</tr>
<tr>
<td>Financial recovery obtained</td>
<td>2</td>
<td>(5.5)</td>
</tr>
<tr>
<td>Outside ECU's jurisdiction</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Too expensive to prosecute</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Combination of reasons</td>
<td>1</td>
<td>(2.5)</td>
</tr>
<tr>
<td>Unknown</td>
<td>6</td>
<td>(15)</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>39</strong></td>
<td><strong>(100)</strong></td>
</tr>
</tbody>
</table>
TABLE 4.15 AGE OF SUSPECT BY CASE STATUS  
(case folder data)

<table>
<thead>
<tr>
<th>Age</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>(Percent of known cases)</td>
</tr>
<tr>
<td>18-25</td>
<td>24</td>
<td>(28)</td>
</tr>
<tr>
<td>26-44</td>
<td>55</td>
<td>(65)</td>
</tr>
<tr>
<td>45 and older</td>
<td>6</td>
<td>(7)</td>
</tr>
<tr>
<td>Unknown</td>
<td>13</td>
<td>N/A</td>
</tr>
<tr>
<td>Totals</td>
<td>98</td>
<td>(100)</td>
</tr>
</tbody>
</table>

a - forty-one of the nonprosecutable cases involved organizations or government agencies as suspects.

TABLE 4.16 GENDER OF SUSPECT BY CASE STATUS  
(case folder data)

<table>
<thead>
<tr>
<th>Gender</th>
<th>Prosecutable Cases</th>
<th>Nonprosecutable Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>(Percent)</td>
</tr>
<tr>
<td>Female</td>
<td>62</td>
<td>(63)</td>
</tr>
<tr>
<td>Male</td>
<td>32</td>
<td>(33)</td>
</tr>
<tr>
<td>Both (multiple co-suspects)</td>
<td>3</td>
<td>(3)</td>
</tr>
<tr>
<td>Individuals and Organizations</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>(0)</td>
</tr>
<tr>
<td>Totals</td>
<td>98</td>
<td>(100)</td>
</tr>
<tr>
<td>Race</td>
<td>Prosecutable Cases</td>
<td></td>
</tr>
<tr>
<td>-----------------------</td>
<td>--------------------</td>
<td>----------------</td>
</tr>
<tr>
<td></td>
<td>Frequency</td>
<td>(Percent of known cases)</td>
</tr>
<tr>
<td>Black</td>
<td>47</td>
<td>(60)</td>
</tr>
<tr>
<td>White</td>
<td>29</td>
<td>(37)</td>
</tr>
<tr>
<td>Native American</td>
<td>1</td>
<td>(1.5)</td>
</tr>
<tr>
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