

PROSECUTION MANAGEMENT IN MICHIGAN

2001

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PROSECUTION MANAGEMENT IN MICHIGAN, 2001

INTRODUCTION

Michigan has 83 counties and 55 judicial circuit court districts serving a population of almost 10 million. The largest county is Wayne County (Detroit) with 160 appropriated assistant prosecuting attorney positions. There are 11 offices that have no assistant prosecuting attorney. The median office has two assistants.

Prosecuting attorneys have jurisdiction over felonies, misdemeanors, juvenile and civil cases. Civil jurisdiction, excluding child support enforcement, may at the county's option be handled by county civil attorneys although the prosecuting attorney is the first civil attorney. All prosecuting attorneys are elected to four-year terms. Some serve full-time, others are part-time. There is no class of prosecutors by statute. Part-time status is based on the prosecutor's choice negotiated with the county board and the level of compensation that is available.

Prosecuting attorneys are located in the executive branch of government. They are locally funded with some state supplements to implement the victims right act and child support enforcement.

The court system is not unified. It is composed of a circuit court for felonies, a district court for misdemeanors, and civil disputes less than \$25,000. The family court includes a juvenile division. The circuit court is divided into 55 judicial circuits served by the 83 prosecuting attorneys. Some district court judges may take guilty pleas to felonies, although this varies by court.

In 2001 the Jefferson Institute conducted a management survey for the Prosecuting Attorneys Coordinating Council (PACC) and the Prosecuting Attorneys Association of Michigan (PAAM). PACC is an autonomous state agency funded by the state and located in the Department of the Attorney General. Its governing board is composed of four prosecutors (selected by the prosecutors) and the attorney general. Its executive secretary is Thomas Robertson. PACC's mission is to provide continuing education, computer

services and other technical assistance to make local prosecutors of state laws more uniform and efficient in the delivery of prosecution services.

PACC provides services in cooperation with PAAM which is a voluntary non-profit, 501C3 association funded by grants, dues and investments. Child support enforcement constitutes the largest single grant administered by PAAM. PACC serves as core staff to both agencies and coordinates services.

It is important to maintain offices at reasonable staffing levels. However, when resources are strained, it is more important to manage them efficiently and effectively. Although good management is a goal for all prosecutors, it raises a set of questions. What is good management and how does one know when it has been achieved? If management needs to be improved, then how is this diagnosed and what are the performance measures that should be used? Finally, is there a need for additional funding and other resources to bring the management of prosecutors' offices up to an acceptable level? Some answers may be obtained by surveying prosecutors to identify the existence of good management practices throughout the state.

The survey was conducted in 2001 by the Jefferson Institute as part of its BJA funded program to Promote Innovation in Prosecution (Grant No. 97-DD-BX-0006). The results of the survey have been compiled in this report to provide information to the Prosecuting Attorneys Coordinating Council and to serve as a baseline for determining the status to prosecution management statewide in Michigan. It also will be used as part of a larger effort to develop tools that can evaluate the management needs of prosecution statewide.

The results of the survey demonstrate that the nature of prosecution management varies among the districts across the state. The results also provide the Prosecuting Attorneys Coordinating Council with another source of information that can be used to determine where additional resources are needed and of what type.

PURPOSE AND OBJECTIVES

The purpose of this report is to describe the state of prosecution management in Michigan and establish a baseline for future studies to monitor the management needs of prosecutors in the state.

METHODOLOGY

The assessment is based on a survey of prosecutors and their descriptions of the organization, management and operations of their offices. It describes their policies and how they are being implemented. Fifty-six (or 67 percent) of the 83 prosecuting attorney's offices responded to the survey. The responses were representative of the population distribution of the jurisdictions in the state.

The survey responses were compared to generally accepted management principles and the percent of offices that indicated they use good management practices was calculated. The results produce a picture of the strengths and weaknesses of prosecution management statewide and note areas that may need attention.

The survey focused on five basic management issues confronting every prosecutor's office regardless of size or type. They are:

1. Police-prosecutor interface
2. Intake and screening
3. Case management
4. Organization and administration
5. Space, equipment and automation

The focus of this report is the status of prosecution management statewide and the identification of areas where improvements are most feasible and may yield the greatest savings in the delivery of prosecution services.

ORGANIZATION OF THE REPORT

The report is divided into three sections.

In Section one, the criteria used to evaluate prosecution management are described. These criteria are stated in the form of generally accepted management principles. They represent goals for the essential functions of prosecution and allow the reader to identify practices that enhance or support these goals.

Section two summarizes the results of the survey statewide and highlights management strengths and weaknesses within each of the five areas.

Section three presents the detailed results of the practices used within each management area.

Appendix A contains a copy of the survey instrument.

I. CRITERIA FOR EVALUATING PROSECUTION MANAGEMENT

Assessing the delivery of services to the public requires standards and performance measures that can serve as a baseline against which actual operations are compared. Assessing the delivery of prosecution services is no different. What is needed are standards or principles against which prosecution practices can be compared.

A set of Generally Accepted Prosecution Management Principles (GAPMAP) has emerged over time from commissions such as the *National Advisory Commission on Criminal Justice Standards and Goals: Courts* (1973), professional organizations such as the American Bar Association *Standards for Criminal Justice for Prosecution Function and Defense Function*, National District Attorneys Association's *National Prosecution Standards, Second Edition* (1991).

They also stem from generally accepted management principles as espoused by the American Society of Public Administration, and as observed in practice by criminal justice researchers including the staff of the Jefferson Institute and its teams of experts and practitioners. Many prosecution management principles may also be found in the *Prosecutor's Guides to Intake and Screening* (1998), *Case Management* (1999), *Management Information* (1999) and *Police-Prosecutor Relations* (1999) developed by the Jefferson Institute for Justice Studies as part of the Promoting Innovation in Prosecution project. A discussion of performance management issues is also published in *Basic Issues in Prosecution and Public Defender Performance* (1982).

GAPMAP is merely a compilation of some of the management principles that have been tested over time and found to be reliable.

The value of management principles lies in their ability to:

1. Relate prosecutor goals and objectives to the basic functions of prosecution - intake, adjudication, post-conviction activity and the interface with law enforcement
2. Establish a baseline for assessing the level of prosecution management in an office or statewide
3. Identify functional areas that are in compliance with management principles and note areas that are deficient
4. Assist in the development of prosecution programs and plans that increase compliance with GAPMAP.

GAPMAP sets forth principles for prosecution management and operations in the following areas:

- * The police/prosecutor interface
- * Intake and screening
- * Case management
- * Organization and administration
- * Space, equipment and automation

Management principles are rules or codes of conduct that enable prosecutors to deliver prosecution services efficiently, effectively, and equitably. They are implemented by policies and practices. Compliance with management principles may be measured by the number of policies and practices that are used which support or enhance the principles.

For example, prosecutors' offices that have written guidelines for the types of cases that should be declined or conditions when further investigations should be ordered are more likely to have better control over what is accepted for prosecution than offices with *ad hoc* procedures.¹

To test compliance with generally accepted management principles, a set of practices were identified for each of the five areas. These practices serve as indicators of conditions that are consistent with the management principles. If the practices are not in evidence, then the principle being examined is noted

¹ Some prosecutors may caution that although management principles represent laudable goals, they are not achievable because they lack resources or have little or no control over the inefficient practices of others. Quite the opposite is true. Good management increases the productivity of the office and strong leadership influences the practices of others.

as being deficient. If they are in existence, then we assume that there is compliance.

For example, if the chief prosecutor and the heads of the law enforcement agencies meet regularly, then this practice is consistent with the GAPMAP principle that supports regular open communication between the prosecutor and law enforcement agencies at the policymaking level. As the number of practices that are consistent with a principle increases, so does the strength of the compliance.

In this assessment each GAPMAP area was represented by a number of practices or indicators of good management. They are distributed as follows:

<u>Management area</u>	<u>Number of practices</u>
Police-prosecutor interface	29
Intake and screening	20
Case management	17
Organization & Administration	15
<u>Space, equipment & automation</u>	<u>9</u>
Total	90

The statewide scope of the survey examines the delivery of prosecution services at the state level. For example, one practice that strengthens intake and charging decisions is using experienced trial attorneys for review and charging. The statewide examination looks at the percent of offices that use this practice. A high percent of use reflects the acceptance of a good management practice statewide. On the other hand, if most offices allow any assistant to review cases and make charging decisions, then the Prosecuting Attorney's Council might consider developing workshops or communications to assist prosecutors in reviewing their practices in this area.

The long-range purpose of a statewide assessment is to identify strengths and weaknesses in the delivery of prosecution services. The reader may use this knowledge to make long-term improvements using a variety of techniques such as training, workshops, technical assistance, demonstration projects and developing new materials and statewide management guidelines.

GENERALLY ACCEPTED PROSECUTION MANAGEMENT PRINCIPLES

The following are the management principles that were used for each of the assessment areas and the policies and/or practices that reflect them.

Police-Prosecutor Interface

Prosecutors should use practices that enhance and support communication, coordination and collaboration between law enforcement agencies and the prosecutor's activities. These practices may include:

1. Regularly scheduled communication with law enforcement about policy and priorities
2. Timely, complete and responsive investigative reports
3. Availability of prosecutors to law enforcement
4. Close coordination and joint programs between investigators and prosecutors
5. Law enforcement involvement in case processing and outcomes
6. Efficient use of prosecution and law enforcement time

Intake and Screening

Prosecutors should use practices that enhance and support the ability of the office to make decisions about acceptance and charging that are uniform and consistent with office policy, are based on complete investigative information and are made in a timely manner. These practices may include:

1. Charging and declination policies communicated to all interested parties
2. Charging decisions uniformly made consistent with policy
3. Felony and misdemeanor cases reviewed prior to filing in the court or at the earliest possible time
4. Charging decisions made by experienced trial attorneys - no assistant shopping

5. Procedures that monitor requests for additional information
6. Citizen complaints screened initially by law enforcement, not magistrate or prosecutor

Case Management

Prosecutors should use practices that support the ability of the prosecutor to dispose of cases with acceptable sanctions or outcomes in a timely manner and with the least use of resources. These practices may include:

1. The concept of differentiated case management²
2. The use of alternatives to criminal prosecution
3. Administrative not adversarial prosecution
4. Reductions in case processing time
5. Accountability in the decision making process
6. Uniform and consistent plea negotiation and dismissal policies

Organization and Administration

Prosecutors should use practices that increase productivity, encourage problem-solving, support accountability, and increase innovation and change. Practices may include:

1. Leadership and openness to change
2. Availability and use of management information
3. Management and operations by teams if feasible
4. Accountability
5. Use of alternative funding sources
6. Community involvement

² For a complete discussion of the DCM concept, see the Special Issue "Swift and Effective Justice: New Approaches to Drug Cases in the States" of *the Justice System Journal*, Vol. 17/1, 1994 National Center for State Courts, Williamsburg VA

Space, Equipment and Automation

Prosecutors should have sufficient space, adequate equipment and up-to-date technology to enable them to work comfortably, safely and productively.

Sufficiency includes:

1. Space to support all the activities of the office including:
Reception/waiting, conferences and interviews, legal research, staff amenities, work stations for support staff, investigators and victim-witness services, case preparation and training.
2. Adequate equipment including:
Up-to-date copiers, fax machines, telephone answering systems, pagers, cell phones, personal computers for each employee with Internet and e-mail access.
3. Management information systems
Integrated with law enforcement and court systems, and other specialized activities, e.g. juveniles, child support enforcement, etc.
Satisfying the management and operational information needs of prosecutors.

II. SUMMARY OF FINDINGS

In this section we present a summary of the survey results. The findings are organized into the five management areas: police-prosecutor interface; intake and screening; case management; organization and administration; and, space, equipment and automation.

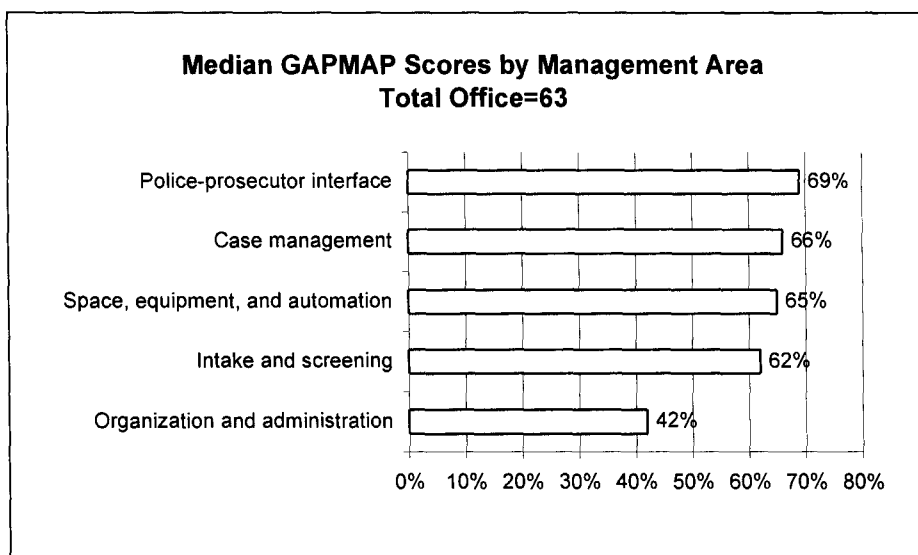
We assess compliance with GAPMAP by recording the percent of offices that have practices that conform to generally accepted management principles within each of the five management areas and then weight the practices by their relative importance to the establishment of good management in each area.

For example, if 23 percent of the offices state that they have regularly scheduled meetings with the chiefs of law enforcement agencies and 63 percent state they have meetings as needed, the 23 percent is the score that is recorded for the assessment because it is in conformance with the principle.

Summary of levels of compliance

Statewide, the median level of compliance is 63. The highest levels of management compliance are for the police-prosecutor interface (69 percent) followed by case management (66 percent), space, equipment and automation (65 percent) and intake and screening (63 percent). The lowest score is for organization and administration at 42 percent. (Figure 1).

Of great interest is the uniformly high levels of compliance in all areas except organization and administration.



The questions that the reader should ask are: are these results adequate; how high can compliance levels be raised; and, how can it be accomplished. Answers may be found by looking at each of the management areas and identifying where strengths and weaknesses appear to exist.

In the following sections, we describe the results of the prosecutors' survey completed by 55 offices for each of the five GAPMAP areas. Generally, the findings are stated either as the percent of offices responding to each question, or as the median of a distribution.

The findings follow a standard format. First there is a statement about the importance of each practice to GAPMAP principles. The statement describes the value of the practice and why it is an indicator of the management principle being discussed. Then the results of the Michigan survey are presented either as the percent of offices responding to each question or as the median of the distribution of responses.

The responses are generally presented as graphs. The bottom left hand corner identifies the question in the survey. The bottom right hand corner identifies the number (n) of responses.

III. COMPLIANCE LEVELS IN EACH MANAGEMENT AREA

POLICE-PROSECUTOR INTERFACE

Prosecutor offices were examined for their use of practices that enhance and support the interface between law enforcement agencies and the prosecutor's activities. These practices include:

1. Regularly scheduled communication with law enforcement about policy and priorities
2. Timely, complete and responsive investigative reports
3. Availability of prosecutors to law enforcement
4. Close coordination and joint programs between investigators and prosecutors
5. Law enforcement involvement in case processing and outcomes
6. Efficient utilization of prosecution and law enforcement time

Summary of Statewide Compliance Levels

The median state level of compliance for the police-prosecutor interface is 69 percent. The range of scores among individual offices is between 92 percent and 17 percent. This wide variation suggests that there is a real opportunity to improve parts of the police-prosecutor interface and thereby improve communication, coordination, and collaboration. It appears that there are many positive working relations among the departments and the prosecutor but the interface suggests some weaknesses in the areas of coordinating at the policy making levels and the availability of prosecutor to help or train law enforcement.

Strengths

In Michigan prosecutors have to authorize charges before they are filed. This provides a strong foundation for good police-prosecutor relations. Practices that tend to conform to generally accepted management principles are

predominately located in the timeliness of police reporting (roughly 95 to 98 percent of the offices reported receiving police reports in 10 days or less), and almost all offices (92 percent) reported that law enforcement agencies used prosecutor-designed forms. Almost all offices (82 percent) are actively involved in drafting and certifying search warrants. These practices suggest that prosecutors generally have a good foundation for conducting intake and screening activities.

The quality of police reports submitted by the largest law enforcement agencies in the jurisdiction was described as good to excellent. The quality of police reports was graded A or B by 75 percent of the prosecutors. The quality of evidence collection was graded A or B by 76 percent of the offices.

There is also a high level of joint police and prosecutor participation in programs (73 percent) that strengthens the interface between the two agencies.

Weaknesses

The major weaknesses in this interface appear to focus on the policy making level. Only 38 percent of the prosecutors reported having regularly scheduled meetings with police chiefs and only 27 percent regularly notify the chief of case dispositions although 66 percent of the offices notify the police officer or detectives.

Although there are high levels of coordination with police in the areas of assisting in preparing search warrants (87 percent) and in notifying police about new legislation (60 percent), other activities do not score as well. Few prosecutors assist law enforcement in report writing (19 percent) and in evidence protection (20 percent). Only 51 percent reported few problems with the availability of law enforcement as witnesses.

The survey suggests that the smaller law enforcement agencies need more assistance in report writing and evidence collection. Fifty-six percent of the offices rated them A or B.

In the next sections, we examine each of the practices and report the survey results.

1. Regularly scheduled communication with law enforcement policymakers



Prosecutors typically deal with multiple law enforcement agencies, a condition that increases the need for good communication and coordination at the highest policy levels as well as operationally.

Multiple law enforcement agencies require extra emphasis on communication and coordination. The median number of agencies referring cases is 6.

In Michigan,



The median number of law enforcement agencies referring cases to a prosecutor's office is 6.



The fewest number of agencies is 2, the largest is 44.

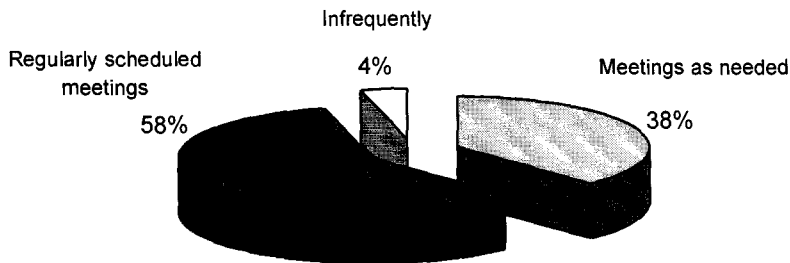
QB1



Communication and coordination are key factors in improving the interface between police and prosecutors. Regularly scheduled meetings with the chief policy makers in law enforcement and the prosecutor allow the two parts of the criminal justice system to exchange ideas, discuss issues and establish policies that are more likely to succeed when implemented.

58 % of prosecutors hold regularly scheduled meetings with the chiefs of local law enforcement agencies to discuss mutual problems and priorities.

Percent of Offices by Frequency of Meetings with Law Enforcement



QB11

n=53

2. Timely, complete and responsive investigative reports

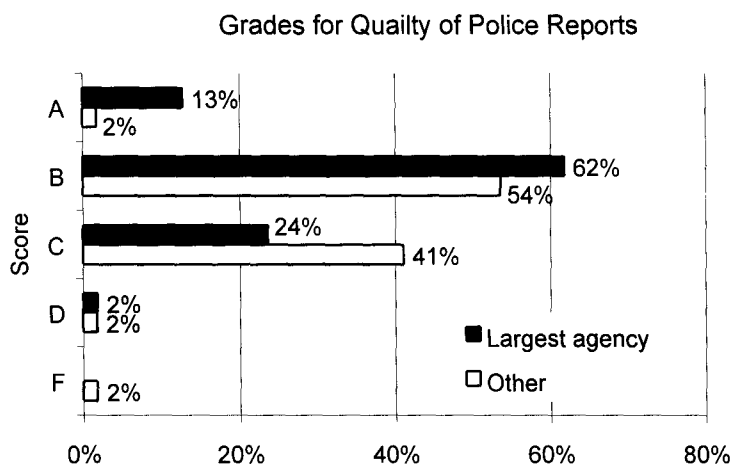


When prosecutors have multiple law enforcement agencies in their jurisdictions, they encounter wide variations in the quality of reports, evidence collection and handling because of differences in employment criteria, training, and pay. Many of the problems associated with multiple agencies are reduced if one agency supplies most of the caseload to the office. Generally prosecutors receive higher quality reports from large departments than from smaller ones.

The median grade for the quality of police reports is B regardless of the size of the agency.

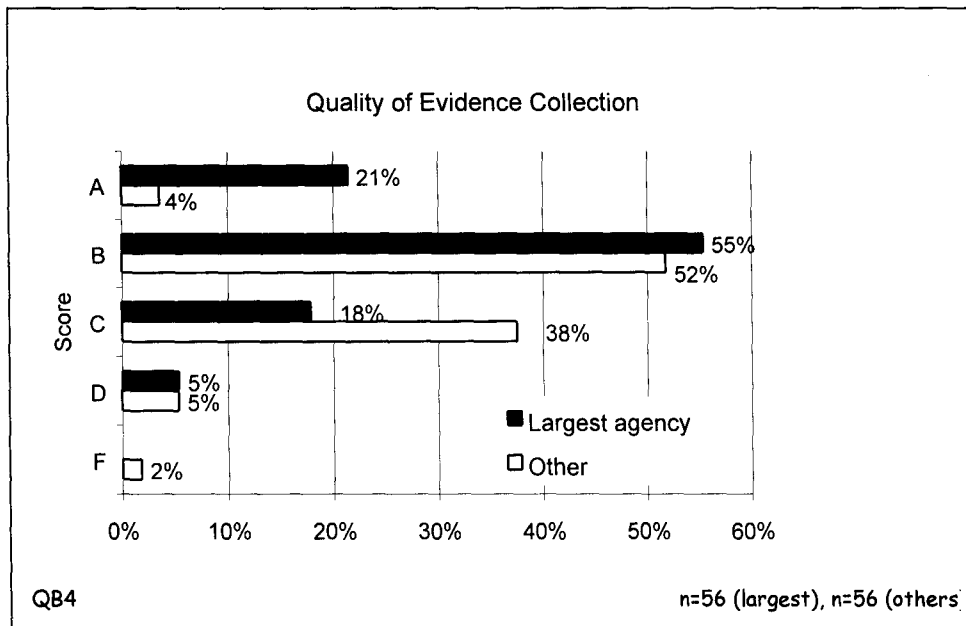


Large departments do not typically supply the majority of cases to the prosecutor. The median percent of cases referred by the largest agency is 40 percent of all cases.



QB3

n=55 (largest), n=56 (others)



The median grade for the quality of evidence collection is B regardless of the size of agency.



Investigative reports are the foundation upon which prosecution builds its cases. They should contain sufficient information for prosecution. If prosecutors develop forms for law enforcement use, they increase their chances of obtaining needed information.

87 percent of prosecutors have designed report forms for law enforcement use. They are used regularly by law enforcement almost all the time (92 percent).

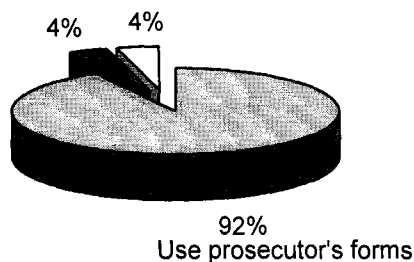


87 percent of prosecutors have designed forms for police use.

And,

**Percent of Use by Law Enforcement of Forms
Designed by Prosecutor's Offices, by Frequency**

Use forms sometimes Do not use forms



QB14

n=49



Timely reports from law enforcement are important for proper charging decisions. Delays in submitting reports produce delays in charging that may provoke other problems. One may be unnecessary cost to the public if pretrial detention is ordered and the case is ultimately declined or dismissed. Another may be the release of defendants who should be detained. Charging decisions should be made before cases are given formal status in the court system. Prosecutors should control the gate to the court. Their ability to do so is weakened if reports are not submitted in a timely fashion after an arrest.

In Michigan,

Median Number of Days to Receive Felony Reports for:

Violent Crimes	1
Property crimes	1
Drug crimes	1

Percent of Offices Receiving Reports in 10 Days or Less for:

Violent Crimes	98%
Property crimes	98%
Drug crimes	94%

QB7

With few exceptions, prosecutors indicate that police reports are being forwarded to them in a timely fashion.



Misdemeanor cases and serious traffic offenses usually comprise the largest proportion of cases in an office. It is important that the "assembly-line" procedures established for processing these cases ensure that information is complete and timely. This means that law enforcement agencies should provide the defendants' records to the prosecutor and that these records be available before the first court appearance. In this manner, appropriate plea offers can be made and unnecessary delay can be reduced.

In Michigan,

No offices reported that law enforcement routinely submits the defendant's misdemeanor and serious traffic case records for misdemeanor and serious traffic cases. Likewise, no offices reported routinely receiving this information before the first court date.

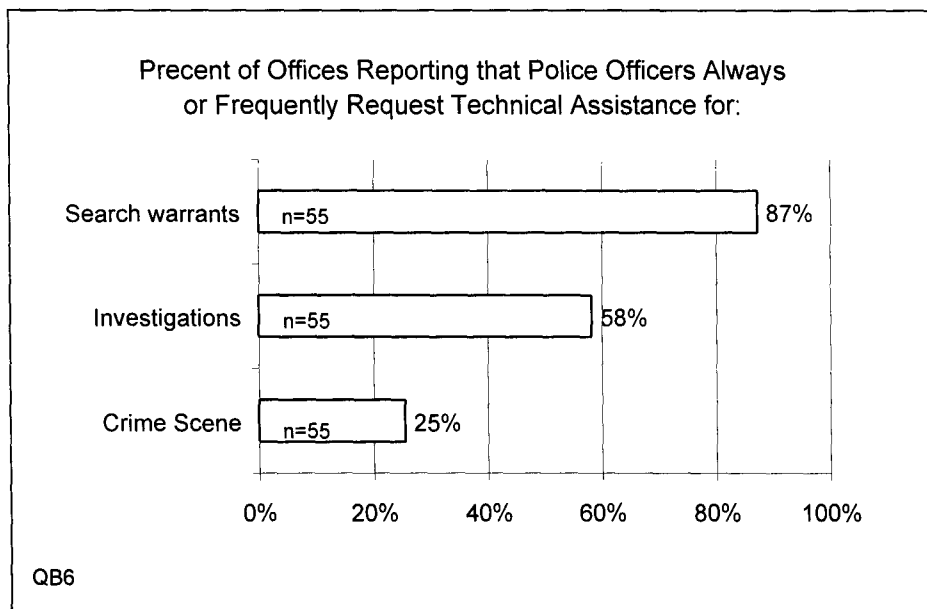
QB16 & QB17

3. Availability of prosecutors to law enforcement



The police-prosecutor interface is strengthened by teamwork.

A team approach improves working relationships and helps prosecutors obtain appropriate dispositions. When team concepts are operational, there are high levels of communication and interaction. One indicator of teamwork is the frequency with which investigators seek advice and assistance from prosecutors about investigations, activity at the crime scene or search warrants.



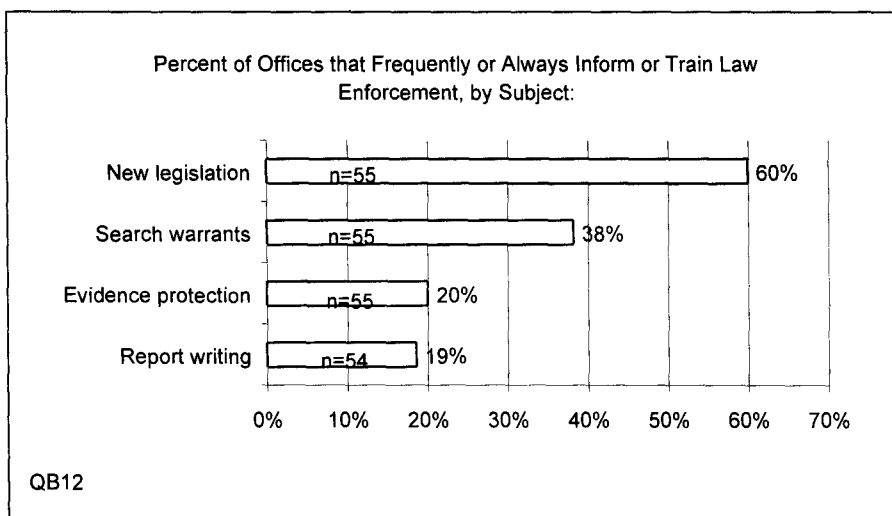
Prosecutors are more likely to interact with law enforcement when preparing search warrants (87 percent) and during investigations (58 percent) than at crime scenes (25 percent).



Police-prosecutor relationships are a two way street.

Prosecutors should keep police informed about new legislation and assist departments that need additional training or help in the basic areas of report writing, evidence protection or search warrants. Even small prosecutor offices can provide information or on-the-job training to law enforcement. If agencies work as a team, sharing common goals, we would expect to find high levels of communication and training. The frequency with which information and training are provided to law enforcement indicates the level of interaction between the two agencies.

Statewide, three out of five prosecutors frequently provide law enforcement with information about changes in legislation. Few prosecutors provide information about report writing, evidence protection or search warrants.



The advantages of close working relations between law enforcement agencies and prosecutors are many, including:

- Prosecutors can provide informal on-the-job training to police
- Both agencies, law enforcement and prosecutors, gain an understanding of the needs and demands faced by each other
- Police are more responsive to prosecutors' requests and accountability is increased in both agencies
- Coordinating with law enforcement on mutually agreed upon priorities can expand the relatively limited resources of prosecutors



The prosecutor's participation in joint programs is one

indicator of the level of police-prosecutor coordination. Joint programs with law enforcement may include career criminal programs, violent offender prosecution programs, domestic violence, child sexual abuse and drug programs. Grant funding agencies have played a major role in fostering coordination with increases in funding opportunities and emphasis on joint police-prosecutor programs.

Almost three out of four prosecutors (73 percent) have taken advantage of joint police/prosecutor programs and their benefits.

In Michigan,



73 percent of prosecuting attorneys' offices have joint programs with law enforcement.



The median number of programs in these offices is two.



The most prevalent programs focus on domestic violence (61 percent), child sex abuse (46 percent) and drugs (38 percent).

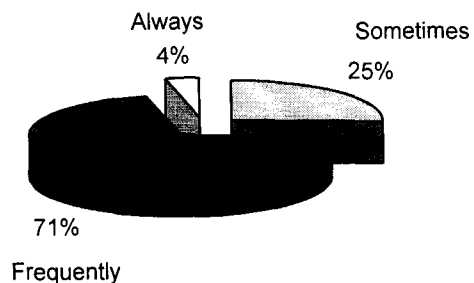
QB5

5. Involve law enforcement in case processing and outcomes



The more police become vested in the outcomes of cases, the stronger is the prosecutor's case. Vesting officers and investigators with knowledge about prosecution strategies and plans implies high levels of trust and confidence between the two agencies. One indicator of law enforcement involvement in case dispositions is the frequency of joint discussions about felony cases before charges are filed by the prosecutor and after the case has been accepted for prosecution. The frequency of police and prosecutor discussions about the strength of cases and the additional information or evidence that may be needed before charging decisions suggests the quality of police-prosecutor relationships that may exist later in the trial process.

Percent of Offices Discussing Felony Cases with Law Enforcement Before Charges Are Filed, by Frequency



QB8

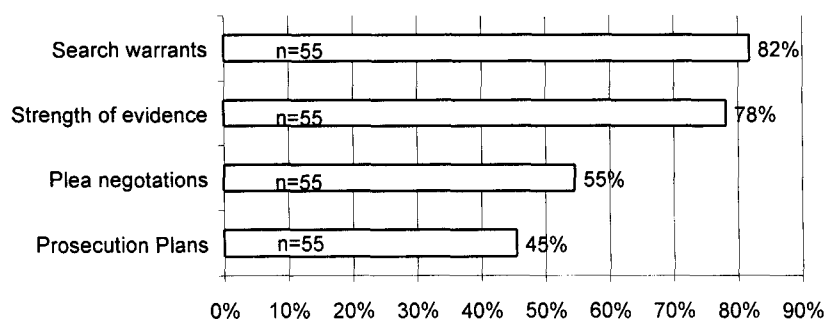
n=55

The results indicate that three out of four offices always or frequently discuss felony cases with police before charges are filed.



After charges have been filed, the level of communication between law enforcement agencies and prosecutors is another indicator of working relations and the degree of police interest in case outcomes. Prosecutors who work closely with law enforcement frequently discuss felony cases and specifically, such issues as the strength of the evidence, plea negotiation, the prosecution plan and search warrants.

Percent of Offices Frequently Discussing Felony Cases with Law Enforcement, by Subject



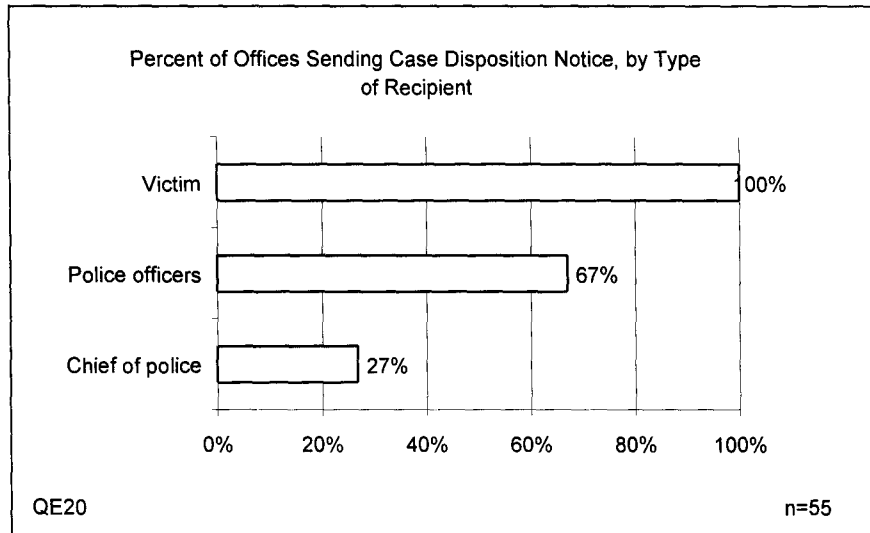
QB15

Prosecutors are more likely to discuss search warrants (82 percent) and evidentiary tactics (78 percent) with police than prosecution tactics such as plea negotiations (55 percent) and prosecution plans (45 percent).



The recent emphasis placed on notifying victims about hearings and the status of cases highlights the importance of notifying *all parties* involved in the adjudication process, especially law enforcement agencies. The benefits are improved police-prosecutor relations, more efficient scheduling and reduced overtime costs. By keeping law enforcement personnel informed about case status and dispositions, their vested interest in the case beyond just the arrest may be increased. Additionally routinely providing chiefs of police with case disposition reports keeps them informed about how their department is performing. Prosecutors should be able to extend the notification process to law enforcement by modifying existing victim notification procedures.

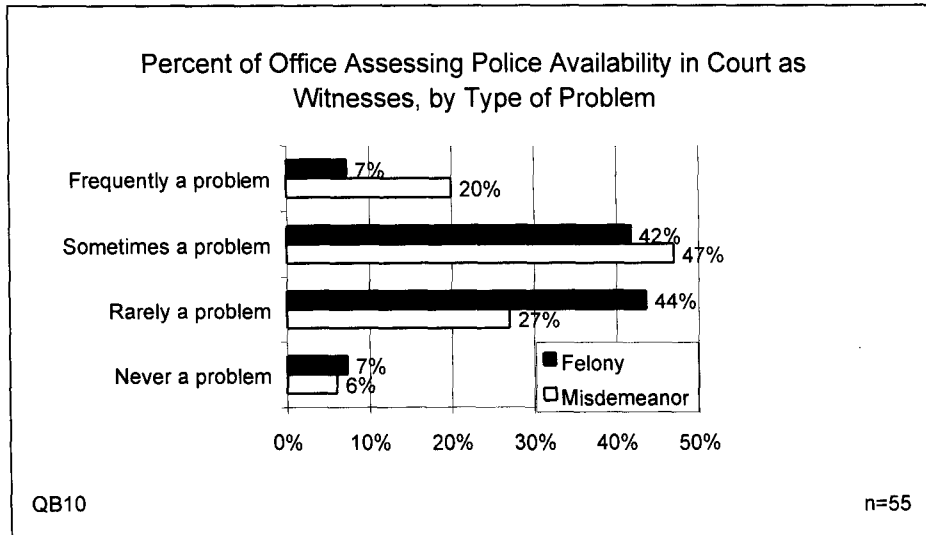
Case disposition notices are routinely provided to victims (100 percent) but less often to police officers (67 percent) and chiefs of police (27 percent).



6. Efficient use of prosecution and law enforcement time



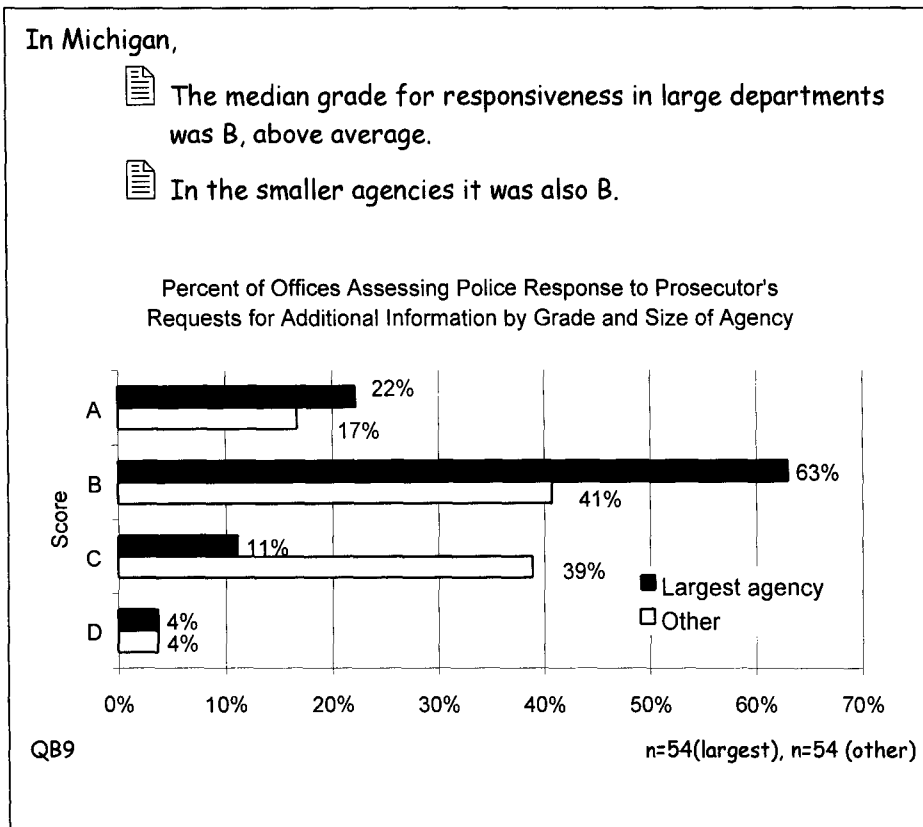
Law enforcement availability in court has a significant effect on the prosecutor's ability to bring cases to disposition in a timely and acceptable fashion. The worse scenario is to have cases dismissed because the officer was not present. It is important that prosecutors develop simple procedures that reduce situations impeding police availability. These can take the form of using pagers or call backs for court scheduling, making appointments for police and prosecutors, and establishing single points of contact for the receipt of notices.



One out of every two offices report few problems with police availability for court appearances for felony court. For misdemeanor court, only one third of the offices reported few problems with police availability.



Law enforcement's responsiveness to prosecutors' requests for additional information is another indicator of police-prosecutor working relationships. If officers understand the prosecutor's need for sufficient evidence to support a conviction, they tend to be more responsive. Delays in responding to prosecutor requests increase the pile of "pending cases" and interfere with the ability of the prosecutor's office to make timely decisions.



85 percent of offices view law enforcement's responsiveness to prosecutors' requests for additional information as excellent or good in the largest agencies. 58 percent view law enforcement's responsiveness as excellent or good in smaller agencies.

Intake and Screening

Prosecutor offices were examined for practices that enhance and support the ability of the office to make decisions about acceptance and charging that are uniform and consistent with office policy, are based on complete investigative information, and are made in a timely manner. These practices include:

1. Felony and misdemeanor cases reviewed prior to filing in the court or at the earliest possible time
2. Charging and declination policies communicated to all interested parties
3. Charging decisions made by experienced trial attorneys based on adequate information
4. Citizen complaints screened by law enforcement, not magistrates or prosecutors
5. Programs are available as alternatives to prosecution

Intake and screening is that part of the prosecution process where decisions are made about what charges to file and at what level. It may occur under three conditions: pre-arrest, when complaints or warrants are authorized by prosecutors; post-arrest, when police reports are forwarded to the prosecutor's offices for review and charging; or after charges have been filed in the court.

This part of the adjudication process activates one of the most important elements of prosecution, namely, the unreviewable discretionary power of the prosecutor to accept or decline prosecution and to set the charge. The prosecutor controls the gate to the courts. How well this control is exercised and managed makes the difference between accepting prosecutable cases or supporting the GIGO principle (Garbage In, Garbage Out).

State statutes or court rules may limit the ability of the prosecutor to exercise charging discretion until after arrests are made and cases are filed in the court. In these instances, it is all the more important that case review be conducted at the earliest possible point in the adjudication process. Even if statutory authority does not exist to provide for case review before filing,

some prosecutors have introduced screening through cooperative agreements with law enforcement agencies.

Statewide Compliance with GAPMAP

The median state level of compliance for intake and screening is 63 percent. The range of scores among individual offices is between 84 percent and 18 percent. Of all management areas, intake and screening is the most important since it represents the "gate" to the adjudication process.

The fact that cases must be reviewed and authorized before they are filed provides prosecutors with an opportunity to exercise control over the gate and establish policies and practices that support uniform and consistent decisionmaking.

Strengths.

As expected, all of the offices reported that they reviewed felony cases before they were filed. Of great interest is the high percentage of offices (92 percent) that reviewed misdemeanor cases. Also supporting the screening process is the fact that most officers receive files that routinely contain reports about the offense, arrest and criminal history. Prosecutors in Michigan have the tools and the opportunity to conduct good screening.

Weaknesses

Much of the variation among offices occurs in the scope of the supplemental reports provided by law enforcement agencies. Some offices routinely receive written summaries of witness testimony, property sheets, medical reports etc. Others do not.

Few offices report that they have access to programs that serve as alternatives to prosecution such as mediation and dispute resolution programs.

With a good intake environment based on timely and complete police reports, prosecutors can afford to apply more restrictive acceptance standards to cases. But 21 percent accept cases if they are legally sufficient and only 41 percent use a standard that assesses whether they can be sustained at trial.

Finally it appears that there may be a need to focus on the development of policy guidelines for charging declinations and dismissals. Only about one half of the offices report that they have guidelines in these areas.

In the next section we examine each of the practices and report the survey results.

1. Felony and misdemeanor cases reviewed prior to filing in the court or at the earliest possible time



The efficiency of the court is directly affected by the use and timing of prosecutorial review. Some states require prosecutors to review and authorize complaints before cases are filed. In other states, the statutes are silent about this practice. Prosecutorial review of cases is essential to our system of checks and balances in criminal justice. Case review for charging decisions is the defining characteristic of the American prosecutor and from a management view, it is the door to the adjudication process.

In Michigan,



Thirteen percent of offices *authorize* felony charges before arrest.



All offices *review* felony cases before charges are filed in the court.



Ninety-two percent of offices review misdemeanor cases before charges are filed.

QC1& C2

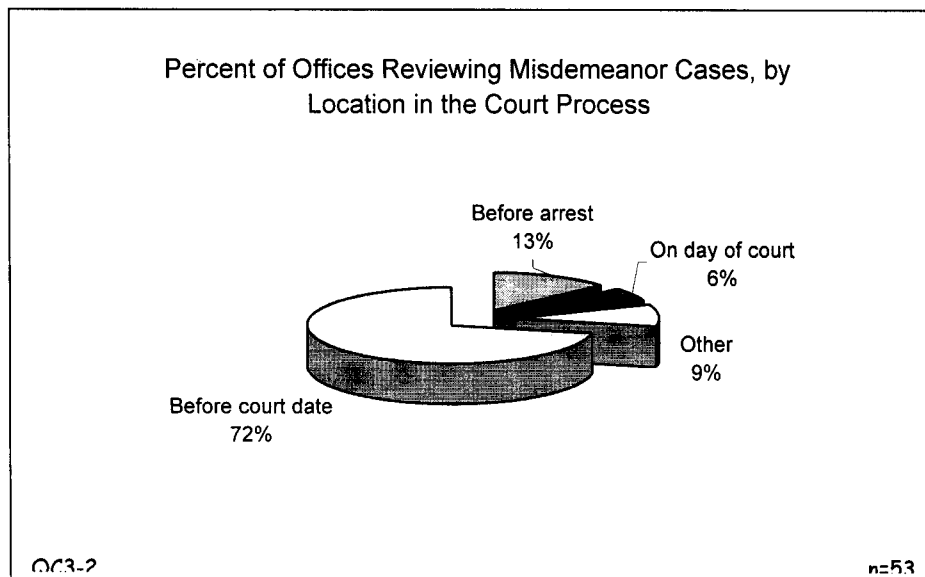
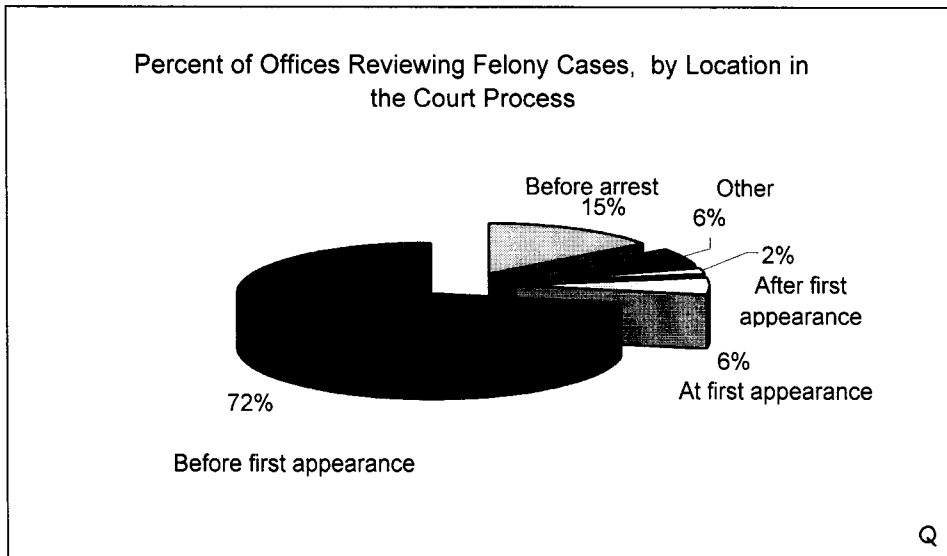
By statute, all offices review felony cases before charges are filed in court. 92 percent of offices review misdemeanor cases before filing charges



The later in the process prosecutorial review occurs, the more likely it is that the court will process cases that should have been declined, could have been better investigated or more appropriately charged. The effect of delayed screening is to increase workload for all parties and add to court delay. The principle of early review before filing is an important one and many prosecutors are able to work

around post-filing practices by informal means and mutual agreements between police and the prosecutor. The standard for early case review and screening applies equally to misdemeanors whose high volume requires screening to keep it under control.

87 percent of offices review felony cases before the first appearance.



85 percent of offices review misdemeanor cases before their scheduled court date.



To reduce delays in charging, especially if the offender is detained, courts may set limits on the amount of time the prosecutor has to file charges. Limits vary by state and court rule. Sometimes charges must be filed within 24 hours, sometimes 30 days may be

acceptable if the offender is not detained. When charges have to be filed within 24 hours, the quality and completeness of police reports become urgent. When charges can be delayed for 30 days, the need for case management becomes critical.

67 percent of offices have 24 hours or less to indict or file a bill of information, increasing the need for complete police reports.

In Michigan,



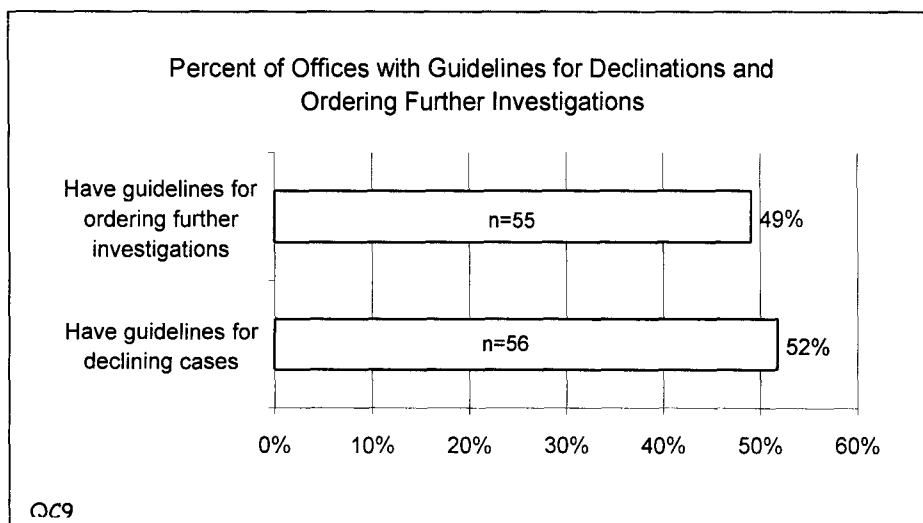
67 percent of prosecutors must indict or file a bill of information in 24 hours or less after pretrial detention.

2. Charging and declination policies communicated to all interested parties



Uniform charging and declination policies are essential to all offices regardless of size. If charging decisions are to be made uniformly by attorneys, prosecutors should define what cases will not be prosecuted in addition to those that will be. Attorneys conducting intake review also need clear policy about when further investigations for certain types of cases should be requested and under what circumstances, cases should be abandoned. Declination guidelines are as important as acceptance guidelines. They need not be complicated or overly complex. What is important is that they exist, and exist in writing.

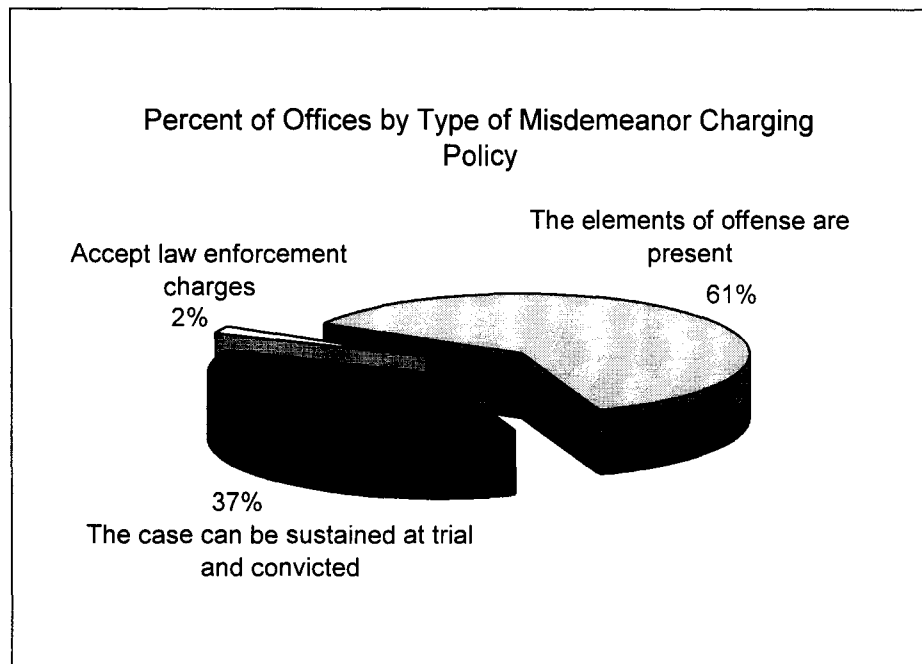
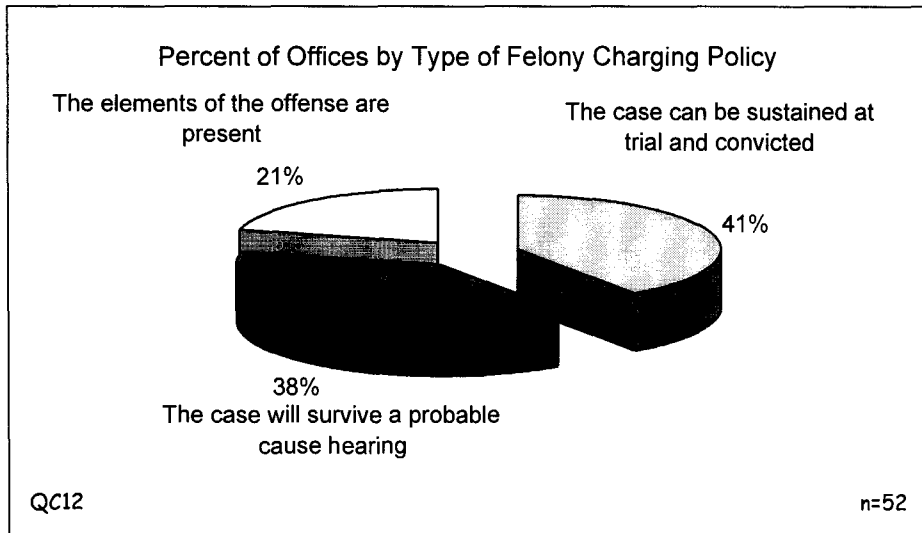
About one out of two offices have guidelines for declinations or further investigations





In addition to exercising control over case entry into the court, the prosecutors' charging policies affect disposition patterns. For example, if no screening is conducted and all cases referred by police are accepted, then we would expect high dismissal rates. On the other hand, if screening attorneys accept only those cases that can be sustained at trial, then more cases should be declined at intake and fewer cases should be dismissed for legal insufficiency.

Statewide, prosecutors use a variety of acceptance standards. Most offices (59 percent) have acceptance standards that are less restrictive than accepting only cases that can be sustained at trial (41 percent).

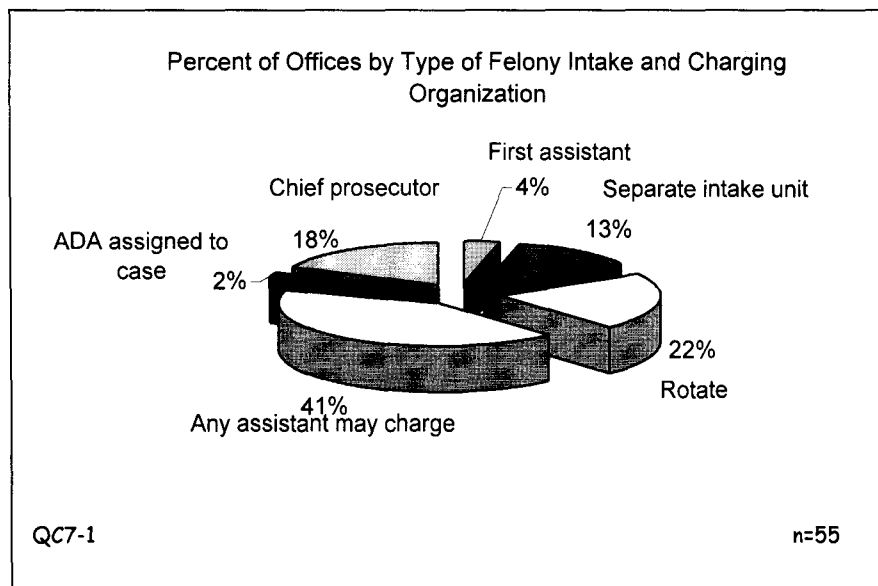


For misdemeanors, 37 percent of the offices use the more restrictive sustained at trial standard. Only 2 percent accept law enforcement charges

3. Charging decisions made by experienced trial attorneys based on complete information



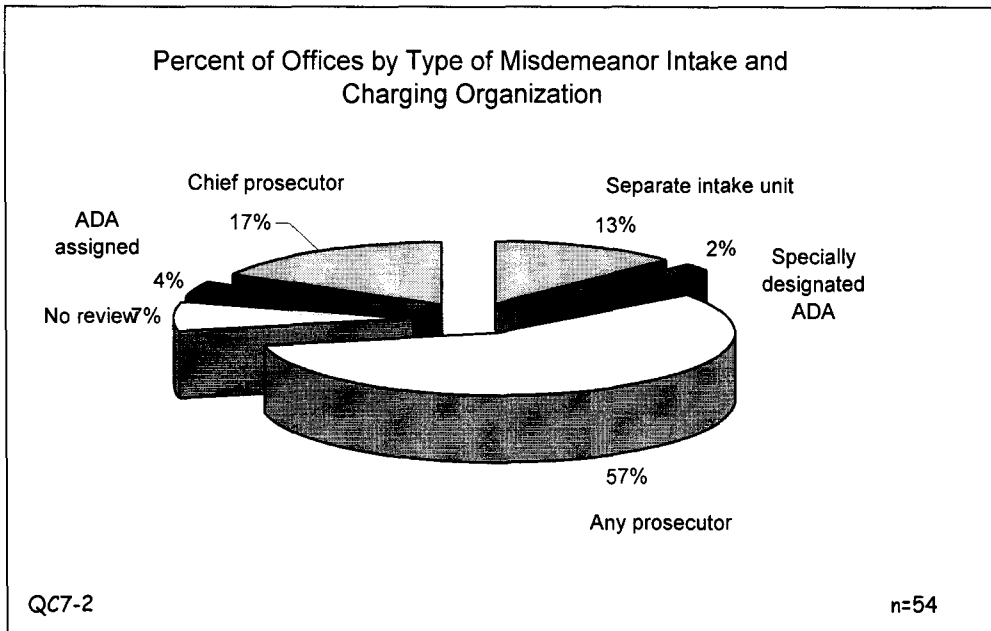
One indicator of policy and management control over the intake process can be seen in its organization. In small offices, screening is usually performed by one person, the prosecutor, the first assistant or some specially designated attorney. As the volume of work increases, prosecutors create intake units or teams to handle the work. Two situations need to be avoided. The first is "assistant shopping", the second is the use of inexperienced prosecutors to make charging decisions. Assistant shopping occurs when any assistant in the office is allowed to make charging decisions. Police tend to seek out attorneys who are more likely to accept cases they want to bring forward. The effect is a lack of uniformity in charging.



59 percent of the offices have felony intake and charging organizations that increase accountability in decisionmaking and support uniformity in the charging process. organizations throughout the state.



Misdemeanor charging policies depend primarily on the information available to the prosecutor, the prosecutor's priorities and the type of intake and screening established to implement the priorities. A well managed misdemeanor intake process has charging recommendations and plea offers reviewed and approved by experienced attorneys based on sufficient information and established priorities for prosecution.

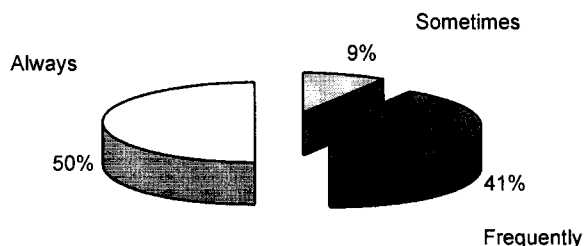


43 percent of offices have misdemeanor intake and charging organizations that support uniform decisionmaking.



An important indicator of quality screening is the experience level of the attorneys assigned to the task. Experienced trial attorneys are essential to the charging process. Assigning inexperienced assistants to intake reduces the ability of prosecutors to evaluate the strength of the case and its likely dispositional route. Trial experience supports good judgments about which cases are likely to be convicted, which are likely to plead guilty and which are likely to be dismissed. This knowledge is valuable for case management. Although it is frequently difficult to attract experienced attorneys to case screening and review, various strategies have been successfully adopted. Most typically, attorneys are rotated through the intake desk. Those assigned first tend to be trial attorneys who are “burnt out”. Rotation schedules should be flexible and be tailored to the characteristics of the personnel involved.

Percent of Offices Assigning Assistants with Prior Felony Trial Experience to Review Felony Cases, by Frequency



QC8

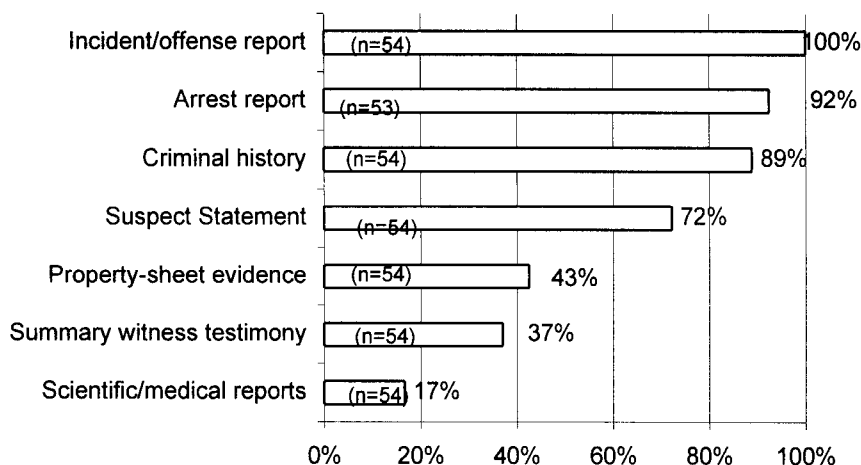
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Half of all offices always use attorneys with prior felony experience to review felony cases.



The foundation upon which charging decisions are made is a written record of the facts surrounding a case. The more complete the information, the better are the decisions of the intake and screening attorneys. Reports from law enforcement agencies should contain information about the incident, the arrest, a criminal history, the suspect's written statement, a written summary of witness testimony, property sheets for physical evidence and written scientific or medical reports. Missing or incomplete reports may result in inappropriate decisions. An indicator of the quality of charging decisions is the extent to which the above information is routinely provided to prosecutors.

Percent of Offices that "Mostly" Receive Information in Police Investigative Reports, by Type of Information

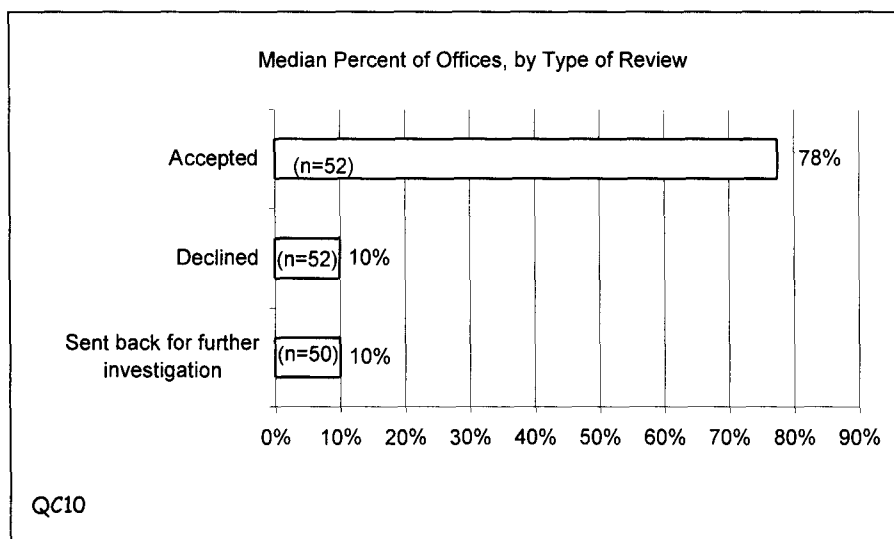


QC11

Most offices receive police investigative files that contain information about the offense (100%), arrest (92%), and the suspect's criminal record (89%). Fewer offices receive information containing property sheet evidence (43%), the suspect's written statement (37%), witness testimony (37%), and scientific or medical reports (17%) at the time of charging.



The percent of cases accepted for prosecution, declined or sent back for further investigation provides insight into both law enforcement activities and the charging policies of prosecutors. If the acceptance rate is very high, e.g. 90 percent, and the declination rate is low relative to cases being accepted, two conclusions are possible. One is that the police agencies bring over strong cases that do not have to be declined; the other is that the prosecutor is not screening cases very well and is probably accepting a lot of cases that should be declined or investigated further. One way to distinguish between the two conditions is to look at the average grade given by prosecutors to the quality of police reports. If it is low, then it is more likely that prosecutors are not screening intensively.



Statewide the median post-filing screening pattern shows a relatively high acceptance rate (78 percent) and a relatively low declination rate (10 percent). Referrals for further investigation are relatively low (10 percent) which also suggests fairly complete police reporting. Only 13 percent of the offices decline more than 20 percent of their felony cases.

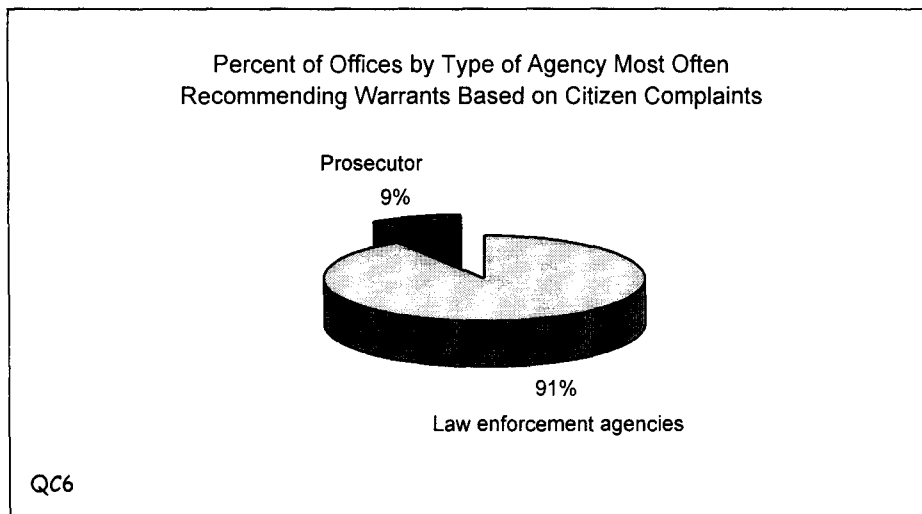
4. Citizen complaints screened by law enforcement, not magistrate or prosecutor



A troubling issue involves citizen complaints and the entity responsible for reviewing complaints and recommending warrants. If the review is conducted by magistrates who are not required to be attorneys and may have limited knowledge of the law, prosecutors may receive a high volume of insufficient or inappropriate cases. If prosecutors conduct citizen complaint hearings, their knowledge of

the facts will be based on one-sided, emotional and biased testimony. With little or no resources to investigate situations, prosecutors potentially are in real danger of making the wrong decision with fatal results. If law enforcement agencies conduct the initial reviews, they bring investigative skills and training, established procedures, and resources to resolve complaints.

Ideally prosecutors should review cases for legal sufficiency after law enforcement agencies have investigated them, and then make recommendations for warrants based on this review.



Almost all (91 percent) citizen complaints are investigated by law enforcement agencies before warrants are recommended.

5. Programs available as alternatives to prosecution



If prosecutors exercise control over the gate to the courts, part of their discretionary authority includes declining cases or deferring prosecution. Not all cases referred for prosecution necessarily need it. It may be more appropriate to refer some cases to other alternatives. These alternatives may include deferred prosecution, mediation, or diversion. Sometimes, cases may better be resolved through the use of treatment programs, restitution or community service. As the number of alternatives to prosecution increases, the results may be more cost effective than formal criminal justice case processing. One indicator of the availability of alternatives is the use of mediation or dispute resolution.

In Michigan,



Only 20 percent of offices reported the use of mediation or dispute resolution. 13% of offices used mediation-type programs for citizen complaints, 5% for juvenile and traffic cases, 4% for some misdemeanor cases, and 2% for felony cases

QC5

Only 20 percent of the offices reported using mediation or dispute resolution for cases or citizen complaints.

Case Management

Prosecutor offices were examined for practices that support the ability of the prosecutor to dispose of cases with acceptable sanctions or outcomes in a timely manner and with the least use of resources. These practices include:

1. Applying the concept of differentiated case management
2. Reductions in case processing time
3. Uniform and consistent plea negotiation and dismissal policies
4. Victim-witness activities

Statewide Compliance with GAPMAP

The median state level of compliance for case management is 66 percent. The range of scores among individual offices is between 97 percent and 10 percent. This wide difference suggests that opportunities for improvements may be found in some offices that could be transferred to other offices.

Once cases have been accepted for prosecution efficiency becomes the goal and acceptable dispositions measures the performance of the office.

Strengths

Michigan has a court environment that supports case management and allows prosecutors to implement sound management practices. The state has a relatively low felony jury trial rate, few courts are backlogged and most courts use individual docketing systems.

The majority of offices reported extensive use of informal discovery early in the process. The court routinely conducts pretrial conferences and the prosecutors have plea negotiation and dismissal guidelines. All of these circumstances lend themselves to efficient and uniform case management practices.

Weaknesses

Two major weaknesses are suggested. First the prosecutor does not play a strong role in making recommendations about offenders who may be eligible for diversion or treatment programs. Secondly, 46 percent of the offices give plea negotiation discretion to the assistants without supervisory controls. This may lead to inconsistencies in prosecutions and should be monitored or controlled.

1. The nature of the court environment



Just as relationships between law enforcement agencies and prosecutors influence the type of prosecutorial screening, so do court environments affect case management. Therefore, before tests for compliance with case management principles are made, certain characteristics about the court should be obtained since they indicate areas in the court environment that may either enhance or restrict the prosecutors' ability to manage cases.



Judge availability and jurisdiction

The number of judges available for criminal cases limits the number of jury trials that can be held in one year. We use an approximation of 25 jury trials per judge per year. That is an average of about two jury trials per judge per month.

If judges have a mixed docket of civil and criminal cases, then the number of court days available for criminal prosecution annually are reduced by the number of days set for civil cases annually.

If lower court judges cannot routinely take guilty pleas to felony cases, then prosecutors lose an important dispositional outlet in this court. Conversely, *trials de novo* increase the higher court's workload.

Changes or improvements to the adjudication process are more effective if chief judges have administrative authority over the bench.

If the felony courts are backlogged, then this suggests that either there is either a lack of court capacity or inefficient case processing procedures, or both.



Court calendaring and organizational responses

If the court uses a master calendar assignment system, then prosecutors cannot use vertical prosecution (the assignment of cases to individual attorneys who are solely responsible for their prosecution) without creating scheduling conflicts and ultimately backlog. If the office has enough attorneys, the use of trial teams is an appropriate response.

Managing cases






Scheduling and managing case flow is best controlled when either prosecutors or individual judges set the dockets. Accountability is increased, knowledge about the circumstances of the case is improved, and court settings are more likely to result in the case moving forward.

Case management should extend to misdemeanor cases in addition to felonies. One indicator of case management is the designation of special days or sessions for disposing misdemeanor and/or traffic and moving violation cases. This type of practice gives recognition to the need to control high volume caseloads and speed up dispositions for non-contested cases.


The availability of alternatives to prosecution such as treatment programs, diversion programs, drug courts and their use tend to reflect progressive court systems that are willing to use alternatives to criminal adjudication. If prosecutors are actively involved in the referral and selection process of defendants, they record higher levels of satisfaction with alternative programs and their uses.

In Michigan,

The court system statewide has the following characteristics:

-  It is typically small.
The median number of judges in a prosecutorial district is 4.
Typically 2 judges regularly hear felony cases, 2 hear misdemeanor cases, 2 hear juvenile cases and 2 hear traffic cases.
-  In 96% of the reporting jurisdictions, judges carry a mixed docket of criminal and civil cases, 2% carry a mixed docket sometimes, and 2% do not have mixed dockets.
-  More than half of all judges ride the circuit. 56 percent of offices reported that felony judges "ride circuit" i.e. reside in different courthouse for a specified period of time. 44 percent said felony judges do not sit in any other jurisdictions.
-  The practice of taking guilty pleas to felonies in district court varies.
56 percent of the offices said lower court judges can take pleas to felonies,
33 percent said judges will not take pleas, and
11 percent said judges took pleas to felonies "some of the time".³
-  68 percent of the jurisdictions reported the court used individual docketing systems.
30 percent used a master calendar system.
2 percent used a master calendar until trial and then switched to individual dockets.

³ These responses may be due to different interpretations of the question.

 Jurisdictions vary in the organization used for calendaring felonies.


44 percent used the clerk of court.

40 percent used the court administrator.

10 percent used the judge.


4 percent used prosecutor.


2 percent used other means.

 Almost two thirds of the offices (65 percent) reported that the chief judges had extensive administrative authority.

23 percent of the offices reported the chief judge exercised specific administrative authority.


The rest of the offices (12 percent) reported that the chief judge had either limited administrative authority (4%) or authority was based on consensus only (8%).


 The majority of prosecutors (70 percent) reported no backlog in felony case processing. 65 percent of the offices reported no backlogs in misdemeanor case processing

 More than two thirds of the jurisdictions have expedited practices for lower court cases.

78 percent of the offices reported having disposition times for misdemeanor court.

67 percent had disposition times for traffic court.

 Many offices reported using alternatives to prosecution and adjudication (69 percent).


 When alternatives are available, prosecutors appear to be actively involved in making decisions or recommendations about participation in treatment or diversion programs,

47 percent of the prosecutors stated that they *always* or *frequently* reviewed felony cases for eligibility,

56 percent reviewed misdemeanor cases *always* or *frequently* for eligibility.

32 percent *rarely* or *never* reviewed felony cases for eligibility.

23 percent *rarely* or *never* review misdemeanor cases.

 35% of the offices reported the use of trials *de novo* but none reported it as causing and substantial problems

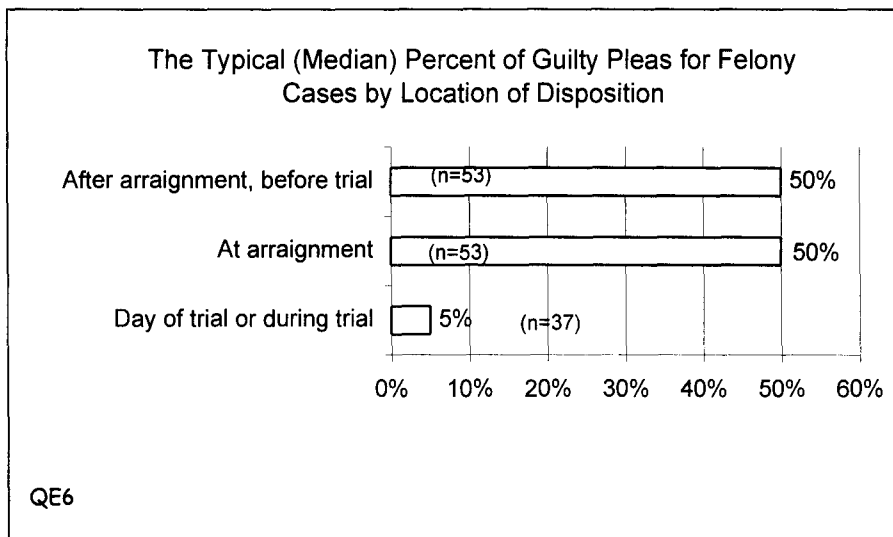
2. Applying the concept of differentiated case management



Differentiated case management (DCM) is a strategy that prepares cases according to their likely dispositional route. The goal of DCM is to dispose of those cases that are most likely to plead guilty or be dismissed at the earliest possible time and identify those that are likely to go to trial so they can be specially prepared. DCM uses resources efficiently. The allocation of attorney and staff time is based on *how* cases will be disposed. DCM promotes a pure trial docket and seeks to dispose of non-trial cases as quickly as possible, as long as acceptable sanctions are obtained. Like triage, it identifies likely dispositions at intake and screening and identifies procedures to assist in their speedy disposition.

Pure trial dockets minimize the number of cases disposed on the day of or during trial. An indicator of how close offices have come to having pure trial dockets is the percent of cases that plead guilty on the day of trial or during trial. A low percent indicates movement towards a pure trial docket.

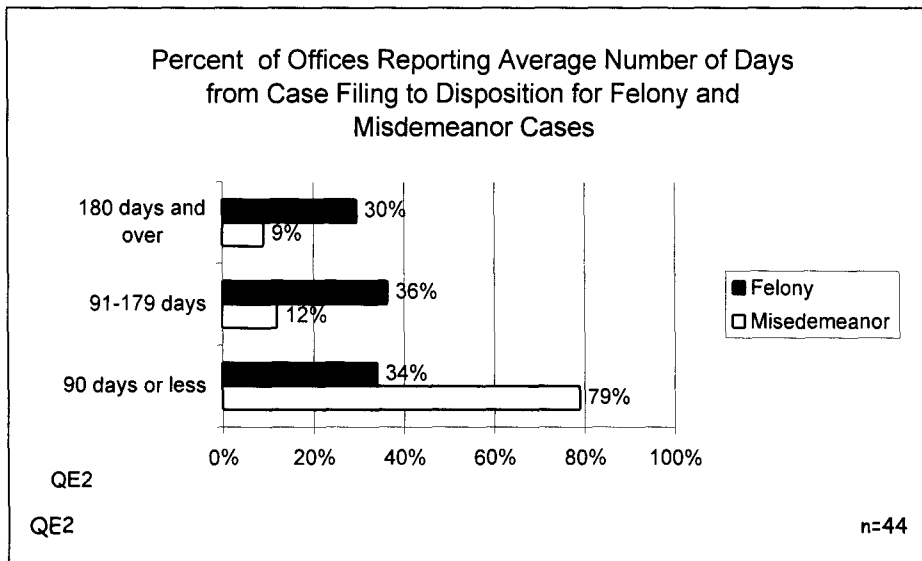
The concept of DCM and one of its goals, that of achieving a pure trial docket, is generally supported statewide. The fact that only 5 percent of dispositions occur on the day of trial or during the trial supports this finding. 50 percent of guilty pleas occur at arraignment.



3. Reductions in case processing times



Court systems frequently are characterized as either being slow or fast. Usually this judgment is based on the number of days from filing to disposition. The speed of the court may be affected by court rules or procedures. The more complex court procedures, the slower the court. For example, adding additional steps in the accusatory process so that cases flow from probable cause hearing to bind over for grand jury indictment and then to arraignment, tends to increase the number of case processing days. Eliminating or combining some steps tends to decrease case processing times. Another benchmark used to assess delay in case processing is the “speedy trial rule” of 180 days from filing to disposition.



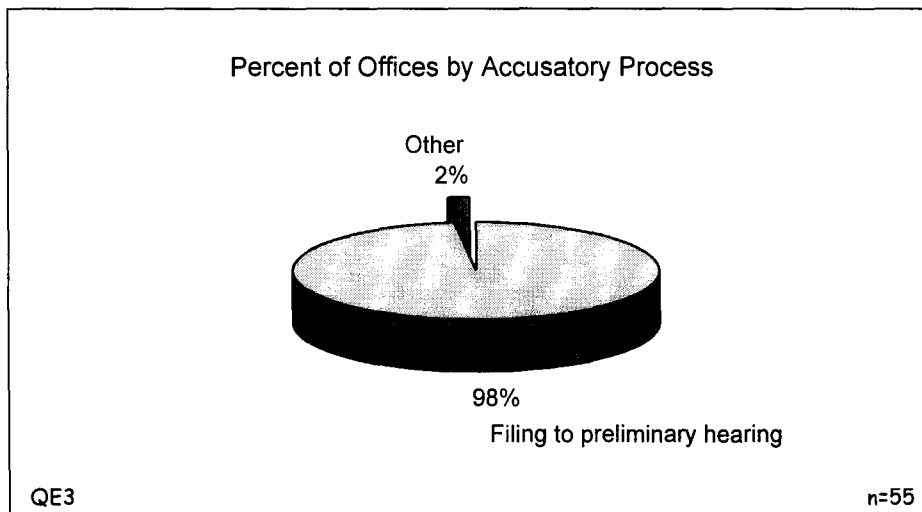
Statewide, the median number of days from filing to disposition for felony cases is 120. Thirty percent reported average days to disposition as 180 days and over. The median for misdemeanors is 60 days. 5 percent reported average days over 180.



There are three primary ways to obtain an accusatory instrument: grand jury indictment, preliminary hearing or a preliminary hearing with a bind over to grand jury. The difference between them is the number of opportunities prosecutors have to assess the strength of cases. However, the opportunities need to be balanced against the extra work that is involved.

For example, prosecutors who screen cases before filing, then present them at preliminary hearing before they are bound over to grand jury have more opportunities for case assessment than

prosecutors who do not screen cases, only use the grand jury for indictment and, in some instances, may be excluded from the grand jury room. Even probable cause hearings vary by the amount and type of information presented. For example, if hearsay is permitted, the process moves faster but the examination of the facts is less comprehensive. The out-of-court work associated with each step should be examined to determine whether the information in the additional steps strengthens cases and improves their likelihood for satisfactory dispositions.



Statewide, almost all offices (98 percent) use a preliminary hearing for their accusatory instrument.



Jury trials are the most work intensive tasks for prosecutors.

But they are limited by the number of judges who regularly hear criminal felony cases. If too many cases are set for trial exceeding the court's capacity, then the court is backlogged and prosecutors are forced to dispose of these cases by other means. One indicator of trial capacity is the number of felony trials conducted annually per judge. Past research suggests that the average number of felony trials per judge is about 25 a year, i.e. about 2 jury trials a month.

The survey indicates that the court has ample capacity for conducting felony jury trials. The median is 4 felony jury trials per judge annually..

In Michigan,



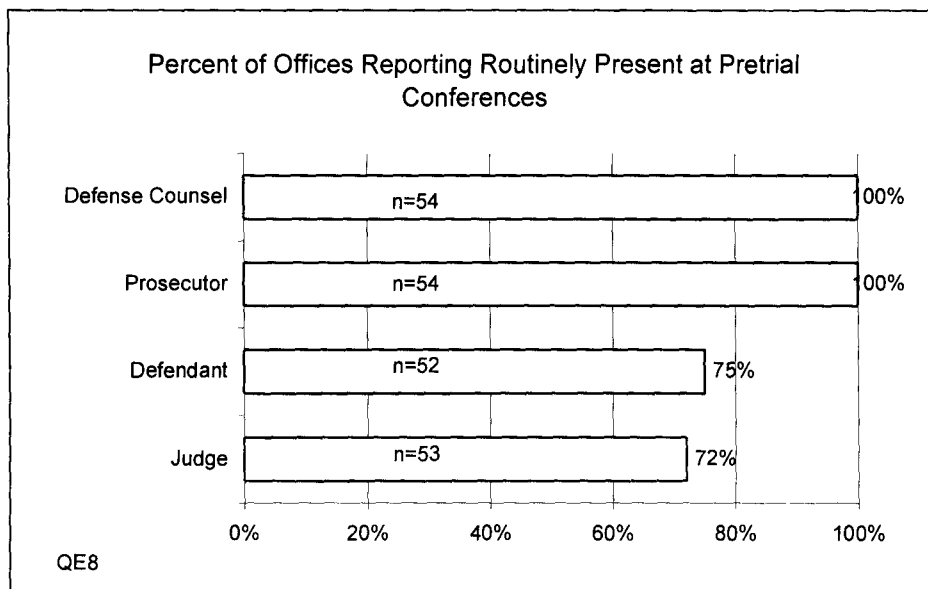
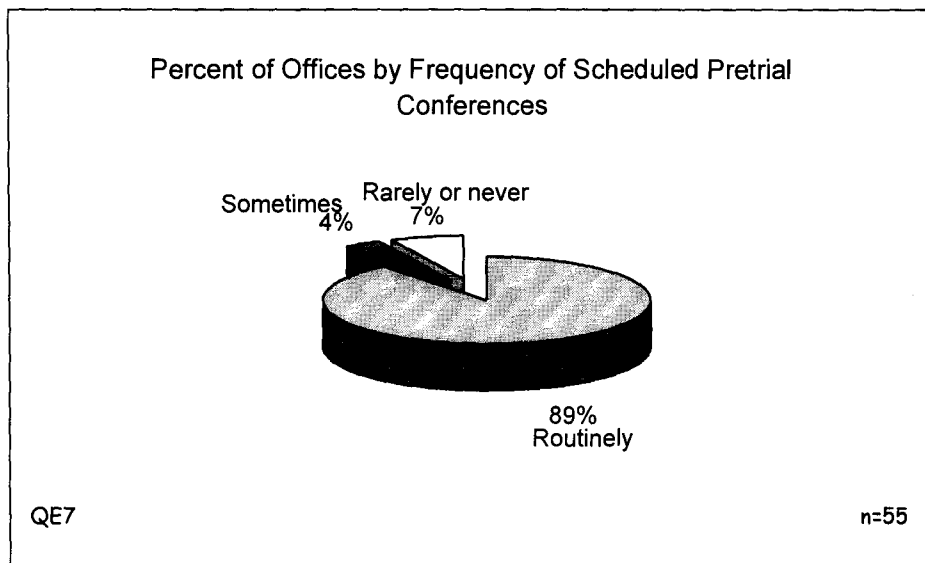
100 percent of offices report that felony judges conduct less than 25 jury trials per year.



Inefficiency in court practices may also contribute to delay.

Some of these practices are indicated by excessive continuances, no pretrial conferences and no separate hearings for pretrial motions. Pretrial conferences are designed to expedite motions and dispositions, and to ensure communication between defense counsel, defendants and prosecutors. If pretrial conferences are not regularly scheduled, the negotiation and disposition process tends to become inefficient.

Statewide, 89 percent of offices reported that pretrial conferences were routinely scheduled.



Prosecutors and defense counsel are present at all pretrial conferences. 75 percent of the offices indicate that the defendant is routinely present. 72 percent indicate that the judge is routinely present.



Experience has demonstrated that providing informal discovery to defense counsel expedites case dispositions. Giving defense counsel all appropriate case information at the earliest possible time coupled with follow-up communication increases the likelihood that dispositions will occur earlier rather than later. The benefits are fewer cases clogging dockets and better chances for a pure trial docket.

The earlier discovery is made available, the earlier dispositions should be obtained. Discovery provided immediately after the charging decision has been made is the earliest point. If it is provided before the accusatory instrument has been issued then the number of pleas taken at arraignment should increase. Because the use of informal discovery is at the prosecutor's discretion, we would expect to find wide variations in its use although it is consistent with efficient case management principles.

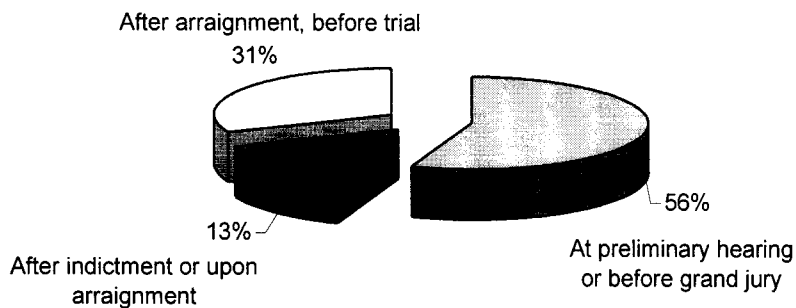
96 percent of offices reported they provide informal discovery to defense counsel. 69 percent reported they provided discovery at or before arraignment.

In Michigan,



96 percent of prosecutors reported providing informal discovery to defense counsel.

Percent of Offices Providing Informal Discovery to Defense Counsel, by Location



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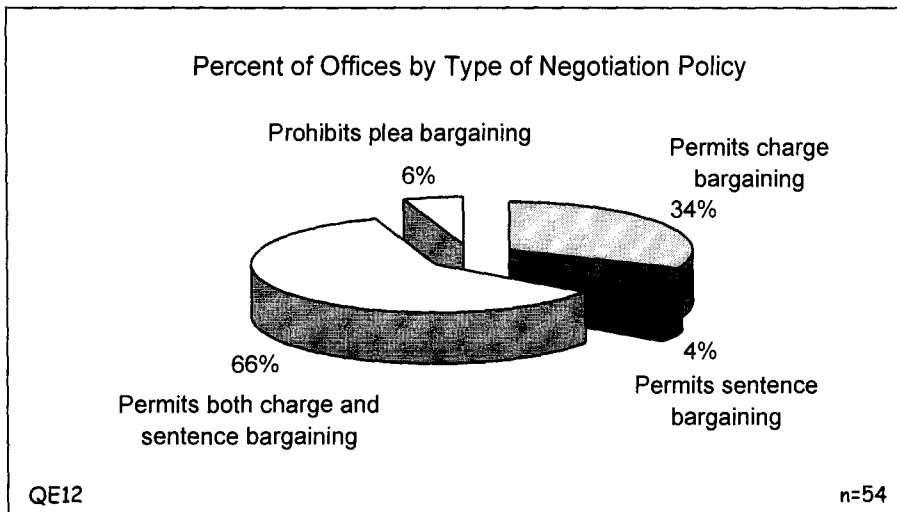
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4. Uniform and consistent plea negotiation and dismissal policies



Plea bargaining policies of prosecutors vary according to their preferences and limitations imposed by court rules or procedures. More common policies include *charge bargaining* which allows attorneys to reduce charges; *sentence bargaining* which allows attorneys to recommend reduced sentences, probation, diversion or treatment programs, etc; and a *combination of charge and sentence bargaining* which allows attorneys to negotiate both issues. Some prosecutors ban bargaining unless there are special circumstances. A no plea bargaining policy requires intensive screening and case review to ensure that the proper charge is placed initially since any changes later are discouraged.

Since plea negotiation policies are discretionary, they may vary widely. Most prosecutors (66 percent) use both charge and sentence bargaining.



To effectively manage misdemeanor cases, the prosecutor should have plea offer policies in place with respect to amending misdemeanor and traffic cases. Whatever the policy, it needs to be made known to law enforcement, defense counsel and the court. This is particularly true if the policy restricts the amendment of these cases.

In Michigan

The percent of offices restricting the amendment of cases involving:

Misdemeanors is 29 percent

Traffic is 35 percent

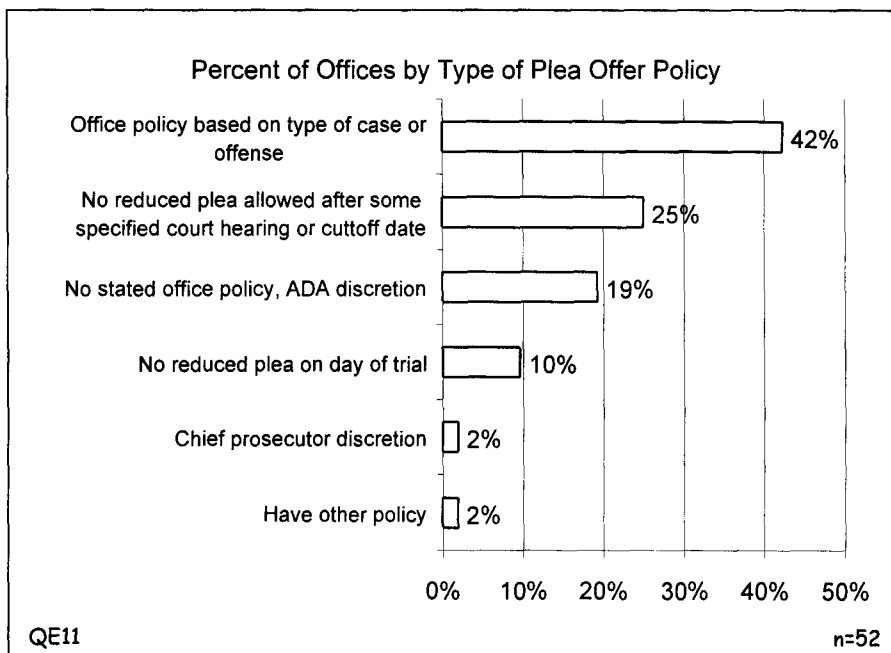
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Guilty pleas are the predominant method of case disposition.

Generally, less than 10 percent of felony cases are disposed by trial. Good management practices assist in obtaining pleas as early as possible in the process - not on the day of trial. Prosecutors use a variety of techniques for speeding up dispositions. One is to establish a cutoff date after which no reduced plea will be accepted. Another is to refuse to accept a reduced plea on the day of trial. (Both strategies may be weakened if the court does not agree with them). Some offices use different policies for plea offers depending on the type of case or offense. In the worst-case scenario, some prosecutors have no office policy about plea offers leaving it to the discretion of the attorneys. A key principle in management appraisals is that policies be stated and be administered uniformly and consistently.



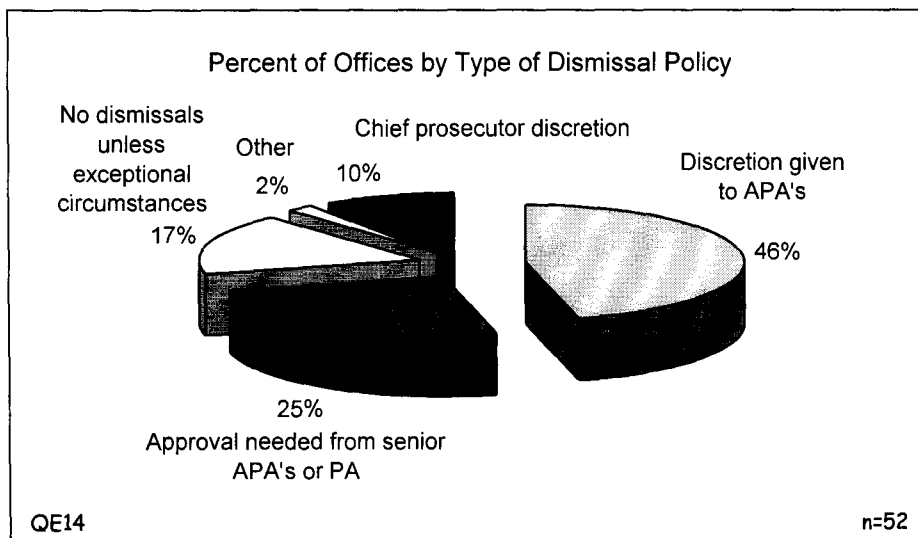
Statewide, there is little consensus about plea offer policies. The offices vary in the approaches they use. Most common (42 percent) is basing offers on the type of case or offense.



Dismissals are one of the most sensitive indicators of the

quality of prosecution services and case management. They reflect both the quality of police investigative reports and the prosecutor's screening practices. They also indicate the degree to which prosecutors exercise case management control over dispositions and outcomes. If the charging standard is that the case should be sustainable at trial, then we would expect the office to have a "no dismissal" policy. On the other hand, if any assistant can dismiss cases without review or approval by supervisors, then the degree of uniformity or consistency in decision-making among the attorney staff can be questioned. This concern is especially valid if the office is staffed with young attorneys and suffers from a relatively high turnover rate. Even if attorneys are experienced, dismissals should be monitored to identify the reasons why they occurred. For example, evidentiary insufficiency, constitutional issues or the failure of witnesses to appear are reasons that may suggest management problems existing in other parts of the office.

Statewide, prosecutors exhibit little uniformity when it comes to office dismissal policy. 46 percent give their attorneys discretion to dismiss cases without approval by senior prosecutors.



5. Victim-witness activities



The Victim Rights Amendments (VRA) passed by the majority of states emphasize victim notifications and their optional participation in the prosecution process. For prosecutors VRA has required additional staff and, in larger offices, the need to formalize and organize victim-witness procedures.

In Michigan,



The typical (median) office has 1 victim-witness coordinator.



The ratio of victim-witness coordinators to attorney staff ranges from 1 coordinator for each attorney to one coordinator for 14 attorneys.

Statewide, the typical (median) staffing is one victim-witness coordinator per office. However, the ratio of victim-witness staff to attorneys varies widely and does not appear to be a function of the size of the office.

Organization and Administration

Prosecutor offices were examined for practices that increase productivity, encourage problem-solving, support accountability and increase innovation and change. Some of these practices include:

1. Leadership and openness to change
2. Participatory management and operations
3. Availability and use of management information

Statewide Compliance GAPMAP

The median state level of compliance for organization and administration is 42. The range of scores among individual offices is between 91 percent and 0 percent. The wide variation suggests that organizational differences may be due to the preponderance of small offices in the survey and the need for more training or education about organizational management.

Good organizational management has a direct influence on the productivity of the office and a better use of scarce personnel resources.

Strengths

The survey indicates that there is a high level of participatory management in the offices where staff and attorneys are involved in the decisionmaking process for making changes. The prosecutors appear to have access to valuable management information especially how cases are being disposed. A good indicators of the availability of this information is the high percent of offices (63 percent) that "know" how many misdemeanor cases were disposed in the previous month.

Weaknesses

Many of the offices in the survey represent small offices. Therefore, it is not surprising to see that 40 percent of the prosecutors carry an active caseload even though this is not recommended since it detracts from the ability of the prosecutor to manage the office and serve as a locally elected community

leader. Most of the offices report that the victim-witness staff operate under the supervision of the office administrator. This organizational placement tends to focus on the notification duties and less on trial preparation which is suggested if the coordinators are integrated into the trial teams.

In the following sections, we examine each of the practices and report the survey results.

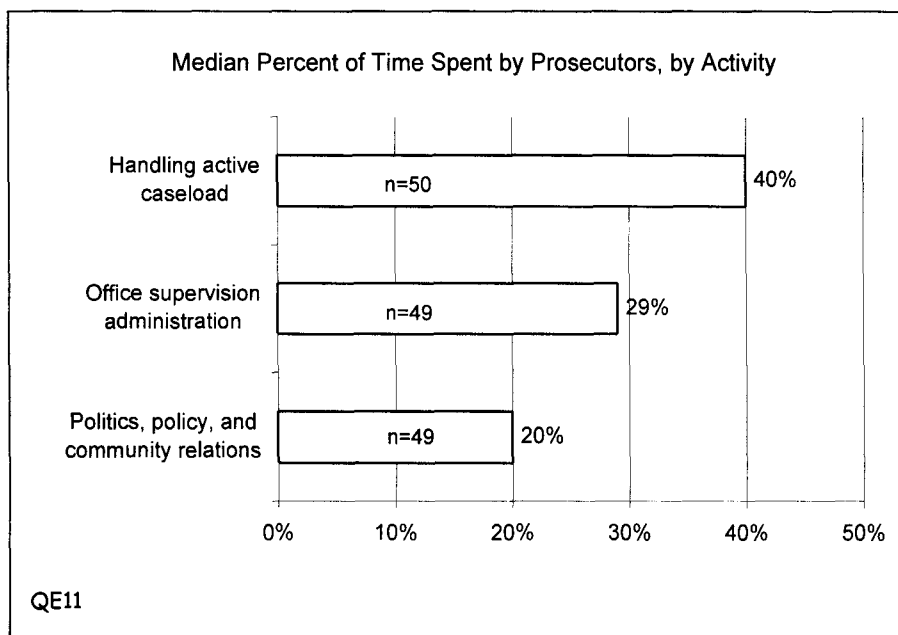
1. Leadership and openness to change



Elected district attorneys wear a variety of hats. They are first and foremost prosecutors and attorneys. As such they sometimes carry active caseloads. They are also managers and administrators for their offices, a responsibility that increases as office size increases. Finally, they are politicians and community leaders. How they apportion their time is important because it sheds light on how they view the duties and responsibilities of their offices. The percent of time spent on an active caseload detracts from their other two duties. Carrying an active caseload also may limit the amount of attention they can give to areas that should be changed or improved.

Statewide, caseload demands consume 40 percent of prosecutors' time.

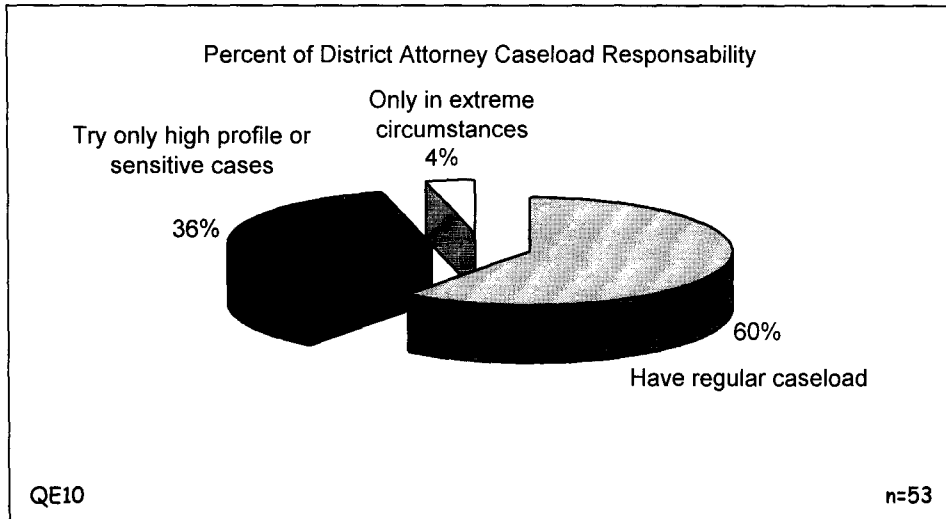
The percent of time spent on the other categories of office administration and policy, politics and community relations is comparatively less.





As offices increase in size, the management and administrative duties of the elected prosecutors increase until they can no longer carry an active caseload – nor should they. We recognize that chief prosecutors typically enjoy trying cases more than managing offices, but sacrifices have to be made if offices are to operate successfully.

Most of the offices in the survey are small. Sixty percent of the prosecutors reported that they carry a regular caseload.

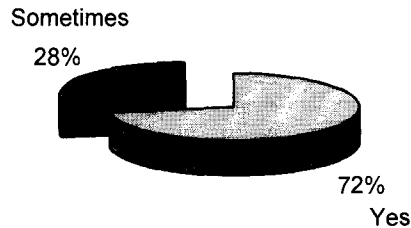


2. Participatory management and operations



Good managers involve their staff in planning and problem solving. Some prosecutors have established work teams to focus on specific issues and make recommendation for new procedures or solutions to old problems. The teams, composed of attorneys and staff, may concentrate on such issues as how to staff intake and screening, the role of victim--witness coordinators, automation and information needs, the organization of the office or improving filing and record keeping systems. The involvement of all staff in planning and problem solving is a sign of good management. As offices become more organizationally complex, the differences in management styles are more visible and the effects are more noticeable.

Percent of Offices Involving Attorney and Support Staff in Planning and Problem Solving



E19

n=54

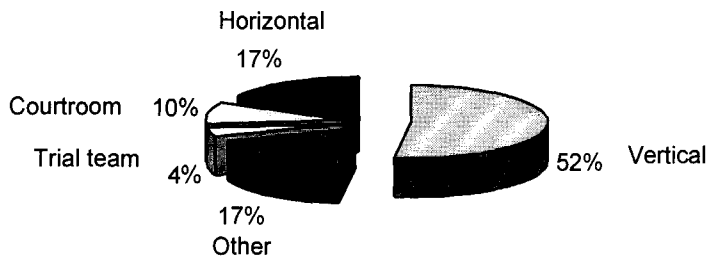
Small offices usually have more informal organizations. Almost three fourths of offices (72 percent) involve the whole office in making changes or problem solving.



There are a variety of ways to assign felony cases to attorneys.

The type of felony case assignment is strongly influenced by the court's docketing system. For example, if the court uses a master calendar system for docketing, the prosecutor usually responds by using either a horizontal case assignment system or trial teams to minimize scheduling conflicts. If the court uses individual docketing, where cases are assigned to either an individual judge or a courtroom, then the prosecutor can assign cases to trial teams or individual attorneys (vertical prosecution) who retain control over them through disposition. Some jurisdictions use a hybrid system, which again reflects the courts' docketing practices. Here various attorneys may handle cases on a master calendar assignment schedule until they are assigned to a judge for trial. Then cases are assigned vertically or to teams in courtrooms.

Percent of Offices by Type of Attorney Assignment in Felony Court



QE9

n=52

Attorney assignment in felony court varies throughout the state. 66 percent of prosecutors use systems that promote accountability in case processing (either vertical, trial teams or courtroom assignments).



The organization and supervision of attorneys processing

misdemeanor cases may substantially affect the efficiency and effectiveness of the lower courts. In most offices, support staff are more experienced in procedures than the misdemeanor attorneys. It is important that these benefits be used but that procedural steps be distinguished from legal decisions. In experienced attorneys may be allowed to make charging recommendations if they are reviewed by more experienced attorneys. Experienced attorneys should also be given responsibility for ensuring ongoing training activities for the less experienced.

In Michigan

16 percent of the offices have separate organizational units to prosecute misdemeanor cases

Most offices (69 percent) use the least experienced attorneys to prosecute misdemeanors.

72 percent of the offices designate experienced attorney to advise and train misdemeanor attorneys.

QE23, 24, 25



n = 55, 45, 46 resp.



As offices increase in size they often create special programs or

units to support more complex activities. Specialization is frequently established for drugs offenses, violent crimes, child sexual abuse, bad checks, etc. Specialization in prosecution activities is especially effective if it is coordinated with comparable law enforcement programs. The benefits are more on-the job training, closer communication between police and prosecutors, accountability and better-prepared cases. While specialization is desirable, and occurs informally in even the smallest offices, it is a practice that is more observable in larger offices.

In Michigan,

-  35 percent of the offices have specialized prosecution units
-  65 percent did not.

QE17

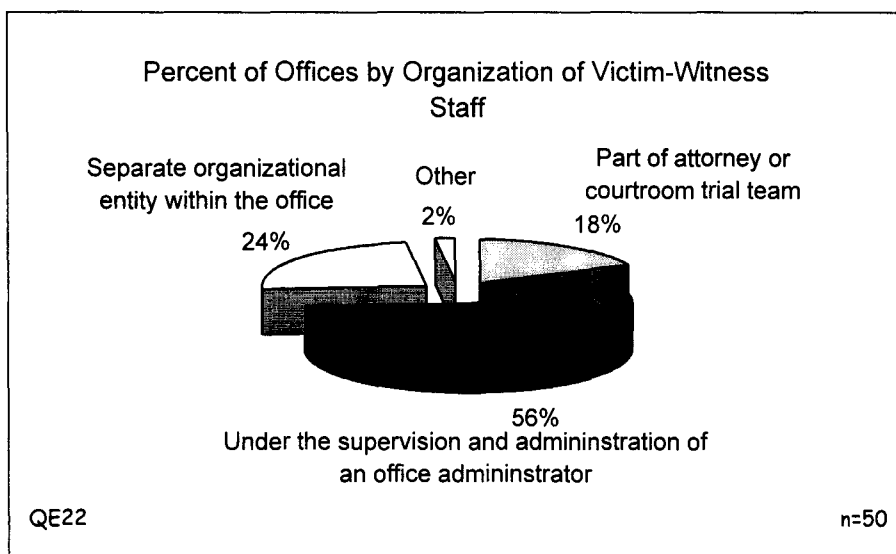
Since most of the offices in the survey tend to be small, 65 percent report that they did not have specialized prosecution units.



The role and activities of victim-witness coordinators have varied widely as offices undertake to create and define this new position. In some instances the victim-witness coordinators have primarily clerical duties that satisfy notification requirements. In other instances, they become advocates for the victim and in other offices, they become an integral part of the trial attorneys team.

One indicator of their role in an office may be found in the type of organization created for victim-witness staff. If their primary activity is clerical, then we would expect to find them under the supervision and direction of the office administrator. If they are advocates, they are more likely to be a separate unit in the office. If they are an integral part of the prosecution process, then we would expect them to be a member of a trial team composed of attorneys, support staff and victim-witness coordinators

Few offices (18 percent) have integrated victim-witness staff as part of the courtroom trial process. A little more than half of the offices (56 percent) have victim-witness staff under the direct supervision of an office administrator.



3. Availability and use of management information

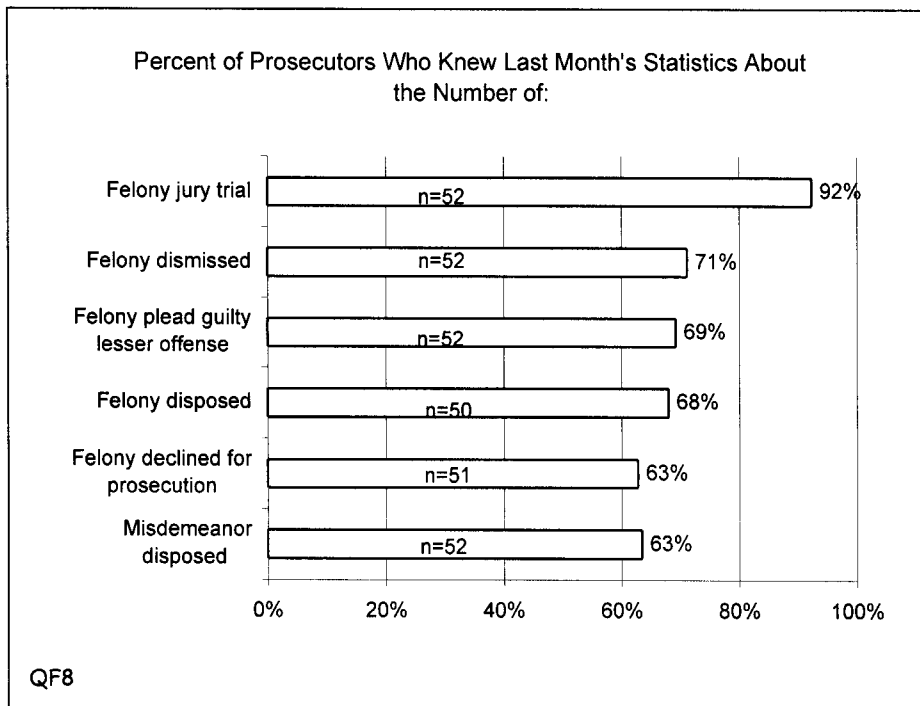


Management information provides the key to monitoring both the operations of an individual office and prosecution services statewide. Frequently information needed by prosecution may not be available. Court information does not necessarily satisfy prosecution needs. Additionally, too often prosecutors have not been trained in how to interpret and use management information even if it were available.

Management information is a valuable tool for identifying strengths and weaknesses in the working environment of the office. It also notes changes and trends keeping prosecutors up-to-date and ensures that their priorities for prosecution are relevant.

One indicator of prosecutors' interest in management is the extent to which they are knowledgeable about how cases are being disposed. Almost all prosecutors know the number of felony jury trials they had but rarely does this knowledge extend to misdemeanor dispositions.

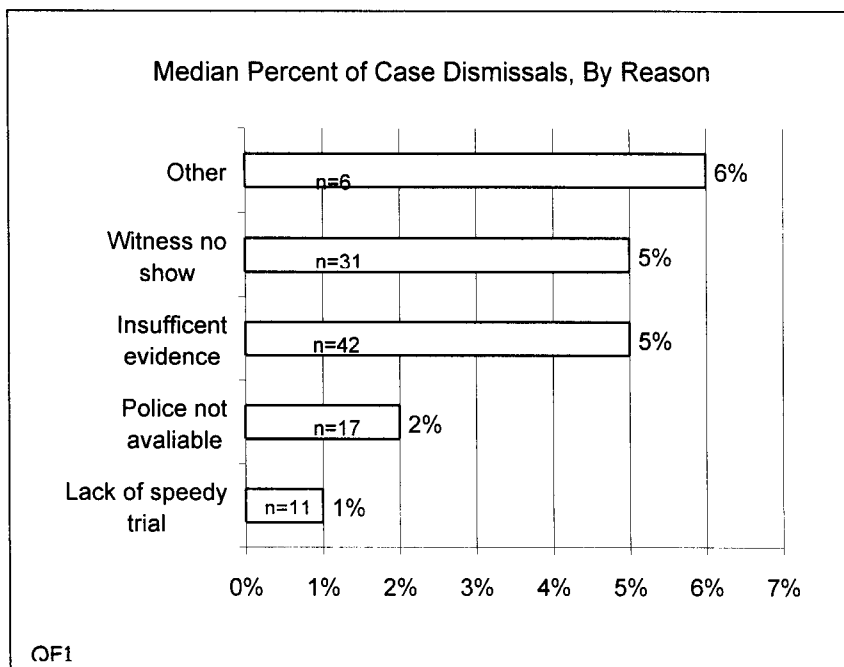
In Michigan, the majority of prosecutors know how cases are disposed, even misdemeanor cases.





One goal of case management is to dispose of cases at the earliest possible time, using the fewest resources and achieving acceptable results. Well-designed management information systems can provide disposition patterns statewide and indicate where strengths and weaknesses are within an office. Two of the most sensitive indicators for case management are the dismissal rate and the reasons for dismissals. They highlight areas needing attention. Dismissals for lack of probable cause suggest poor intake screening. Dismissals for lack of speedy trial suggest poor case management. Dismissals for failure of witnesses to appear suggest inadequate victim-witness coordination procedures. Dismissals because police witnesses were not available suggest a weakness in police-prosecutor notification procedures.

Statewide, dismissals for reasons suggesting management deficiencies do not appear to be present in high proportions. Five percent is the median for dismissals due to witness failure to appear and insufficient evidence.



Space, Equipment, and Automation

Prosecutors' offices were examined for having sufficient space, adequate equipment and up-to-date technology to enable them to work comfortably, safely and productively. Sufficiency includes:

1. **Space to support all the activities of the office including:**

Reception/waiting, conferences and interviews, legal research, staff amenities, work stations for support staff, investigators and victim-witness services, case preparation and training.

2. **Adequate equipment including:**

Up-to-date copiers, fax machines, telephone answering systems, pagers, cell phones, personal computers for each employee with e-mail and Internet access.

3. **Management information systems**

Integrated with law enforcement and court systems, and other specialized activities, e.g. juveniles, child support enforcement, etc. satisfying the management and operational information needs of prosecutors.

Statewide Compliance with GAPMAP

The median state level of compliance for space, equipment, and automation is 65. The range of scores among individual offices is between 85 percent and 31 percent. The wide variation suggests that extra attention should be given to those offices that are operating below the median levels.

Strengths

Good management flourishes best when there is adequate space and equipment for the delivery of prosecution services. Almost all offices are located in a single building thereby increasing communications and strengthening the overall management of the office. The high level of automation also provides a foundation for good management.

Weaknesses

Productivity is reduced if the office does not take advantage of advanced communication technology. Forty-six percent of the offices reported little use of e-mail for communication,

A fairly large percent (46 percent) reported that their office space was inadequate but only about half envisioned relief over the next three years.

In the following sections, we examine each of the practices and report the survey results.

1. Adequate space to support all office activities



The delivery of prosecution services requires adequate space, modern equipment and state-of-the-art automation. The conditions the prosecutors operate under depend largely upon the type and level of funding designated for prosecution. State funding systems typically are less sensitive to the varying needs of individual offices because the primary purpose is to distribute a fixed amount of funds across the state to ensure at least a minimum level of prosecution services in all jurisdictions. County or district funding systems tend to be more variable comparatively since they are influenced by the level of affluence or poverty in the locale, the level of crime and the expectations of the community. Some hybrid systems exist to mitigate some of these problems. One frequent response is to have state funding with county supplements or county/district funding with city supplements. An indicator of impediments to the efficient delivery of prosecution services is inadequate space.

In Michigan,



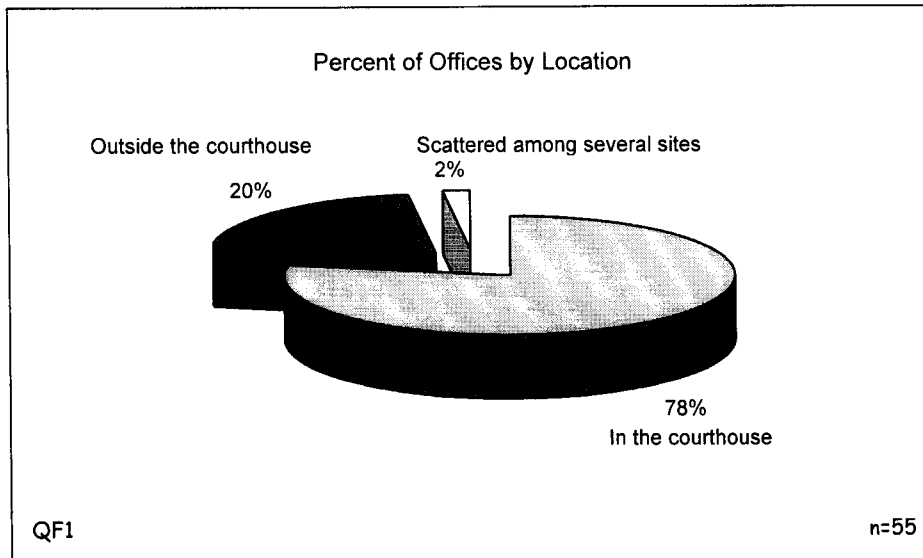
46 percent of the offices report inadequate space but only 21 percent see relief in the form of plans to move to new space in the next 3 years.

QF2&F3



Offices located in scattered sites have more difficulty in developing cohesive prosecution services than those located in one place. If prosecutors staff branch offices on a full-time basis, studies have indicated that the prosecutor may require an additional one third of an attorney to manage each branch office.

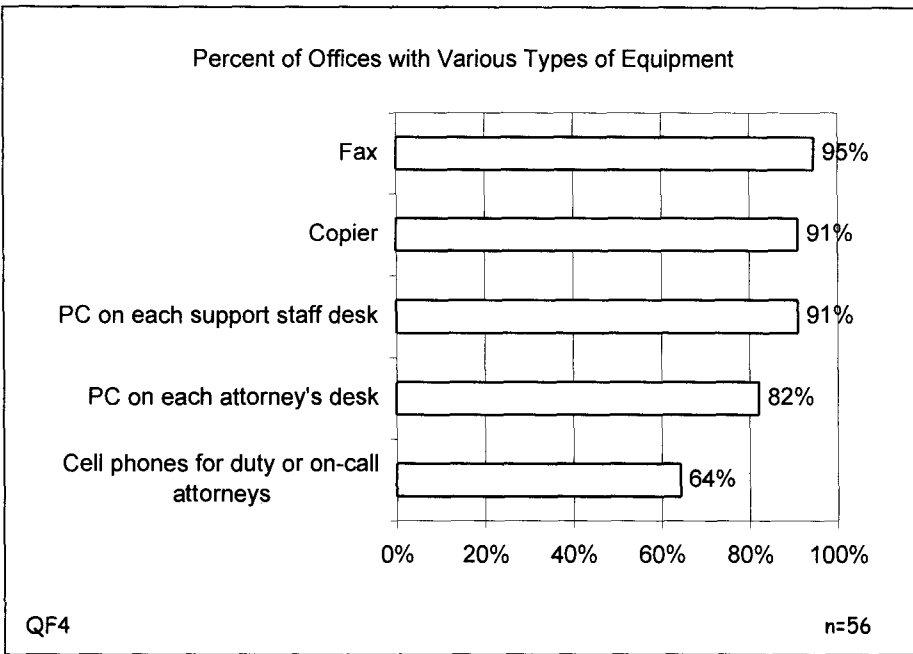
More than three-fourths of offices are located in the courthouse.



2. Adequate equipment and communications technology



The level of communications technology in an office is an important indicator of not only how well the office has been given access to the latest technological advances so as to increase productivity but also it indicates the level of service the office is able to provide. If offices are not adequately supported with communications technology, then one should not expect high levels of productivity or the ability to make changes or improvements easily.

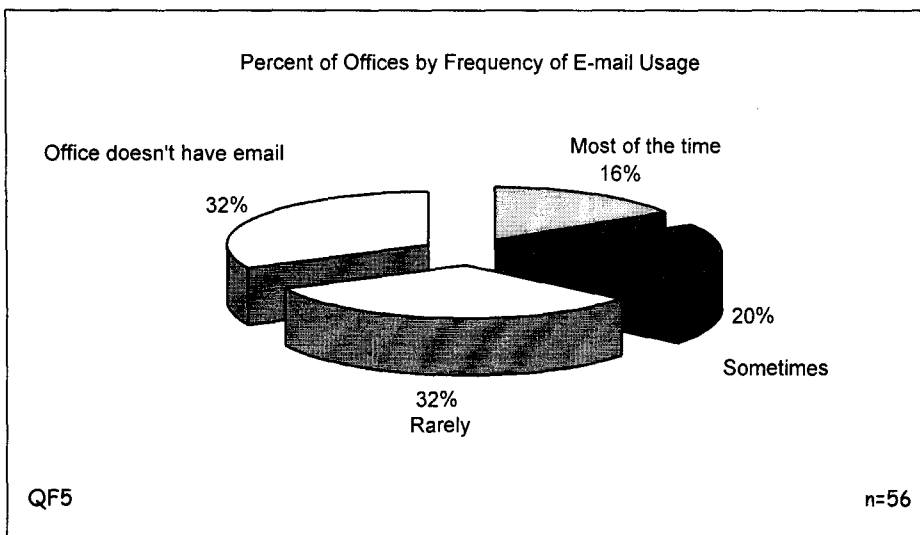


Statewide, almost all offices have fax machines, copiers and PCs. 64 percent of the offices report having cell phones available for duty attorneys.



Communications have been revolutionized by the emergence of the Internet and e-mail. Their use has been a major contributor to increased productivity. At this time, e-mail usage serves as an indicator of how completely an office has adapted to new technology in general and takes advantage of its benefits. High levels of e-mail usage in the office even for such questions about the location of lost files indicate high levels of productivity. Low levels of use are signals to increase training for attorneys and staff in the benefits and techniques for using this new technology.

Statewide the level of e-mail usage is very low. Only sixteen percent of the offices report using it most of the time.



In Michigan

79 percent of the offices have access to the Internet

All offices report having access to court computers and their own PCs.

98 percent of the offices have access to office computer systems.

QF6

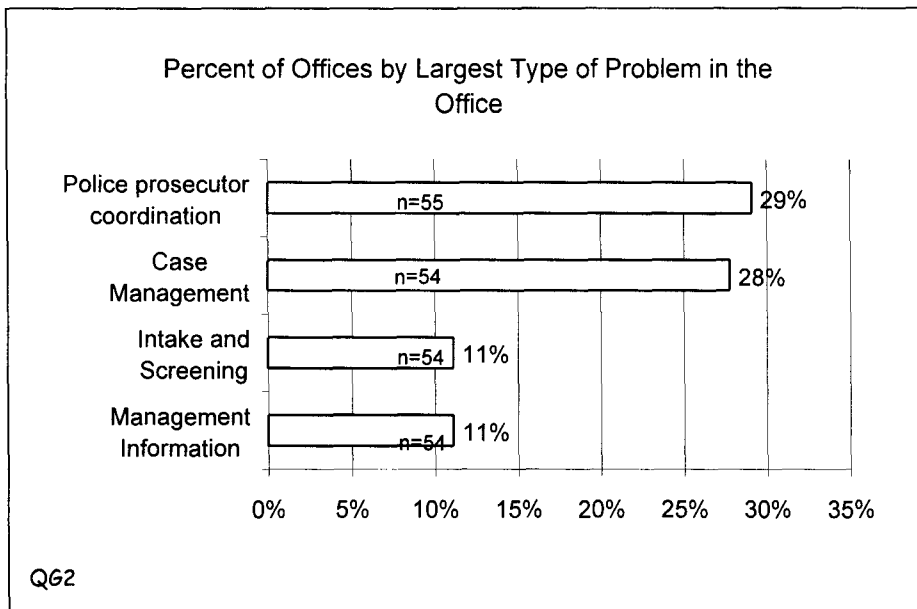
n=56

Statewide, the level of access to automated systems is very high.

3. Management information for decision making



As part of the survey each office was asked to indicate the management area that was most problematic. The results identified the areas of police-prosecutor coordination and case management as being the most problematic.



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Appendix A

PROSECUTOR'S MANAGEMENT INVENTORY

A. Jurisdiction and Office Information

A1. What is the population of your jurisdiction?

A2. How many counties in your jurisdiction?

A3. How many offices do you staff?

_____ Full-time
_____ Part-time

A4. Do you have concurrent jurisdiction with local municipalities for:

Misdemeanors [] 1. Yes [] 2. No
Traffic/moving viol. [] 1. Yes [] 2. No

OFFICE INFORMATION

A5. Is the chief prosecutor:

[] 1. Full time [] 2. Part time

A6. Excluding the chief prosecutor, please identify the number of employees:

- _____ 1. Full time Attorneys
- _____ 2. Part time Attorneys
- _____ 3. Non-attorney staff excl. investigators
- _____ 4. Investigators employed by DA
- _____ 5. Interns

A6. How many attorneys left the office last year?
Number _____

A7. What is the typical starting salary for an assistant prosecutor?

\$ _____

A8. How many attorneys primarily process:

- _____ 1. Felony prosecution
- _____ 2. Misdemeanors
- _____ 3. Juveniles and family
- _____ 4. Traffic
- _____ 5. Child support
- _____ 6. Civil
- _____ 7. Other (specify) _____
- _____ 8. Intake
- _____ 9. Supervisors/administrators

A9 Last year, how many:

- _____ Felonies were filed by your office
- _____ Misdemeanors filed
- _____ Traffic, moving violations

A10. Specify whether number of felony filings cited above is based on:

- [] 1. Charges
- [] 2. Defendants
- [] 3. Other (specify) _____

B. Police/Prosecutor Coordination

B1. Number of law enforcement agencies in your jurisdiction.

B2. What percent of prosecutor's caseload is contributed by the largest agency

B3. Grade the overall quality of police reports submitted by: (circle one)

- 1. Largest agency A B C D F
- 2. Other agencies A B C D F

B4. Grade the overall quality of evidence collection in the: (circle one)

- 1. Largest agency A B C D F
- 2. Other agencies A B C D F

B5. Are there joint programs between the police and prosecutor in the areas of:

(check all that apply)

- ☐ 1. Violent offenses
☐ 2. Drug programs
☐ 3. Career criminal/repeat offender
☐ 4. Child sexual abuse
☐ 5. Domestic violence
☐ 6. Other (specify) _____

B6. How often do police officers request technical assistance about:

	Always	Frequently	Sometimes	Rarely	Never
1. Investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Crime scene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Search warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B7. How many days after felony arrests by the largest agency are police reports typically received by the prosecutor's office for:

1. Violent crimes _____
2. Property crimes _____
3. Drug offenses _____

B8. How often are there informal discussions between law enforcement and prosecutors about felony investigations before arrest?

- ☐ Always ☐ Frequently ☐ Sometimes
☐ Rarely ☐ Never.

B9. Grade the response of the police to prosecutor's requests for additional information. (circle one)

1. Largest agency A B C D F
2. Other agencies A B C D F

B10. How often do you have problems with police availability in court as witnesses

1. Felony cases
☐ Always ☐ Frequently ☐ Sometimes
☐ Rarely ☐ Never
2. Misdemeanor cases
☐ Always ☐ Frequently ☐ Sometimes
☐ Rarely ☐ Never

B11. How often does the chief prosecutor or his deputy meet with the heads of law enforcement agencies?

- ☐ 1. Regularly scheduled meetings
☐ 2. Meetings as needed
☐ 3. Infrequently

B12. How often does the prosecutor's office inform or train law enforcement about:

	Always	Frequently	Sometimes	Rarely	Never
1. New legislation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Report writing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Evidence protection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Search warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B13. Has the prosecutor's office designed forms for police use?

- ☐ 1. Yes ☐ 2. No

B14. Are they used?

- ☐ 1. Yes ☐ 2. No ☐ 3. Sometimes

B15. How often are police involved in discussions about felony cases with respect to:

	Routinely	Sometimes	Rarely/Never
Strength of evidence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plea Negotiation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prosecution plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Search warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B16. For misdemeanors and serious traffic cases how often does law enforcement submit the defendant's:

1. Misd. Routine Sometimes Rarely/Never
Criminal history ☐ ☐ ☐
2. Serious Traffic Routine Sometimes Rarely/Never
Driving record ☐ ☐ ☐

B17. How often are criminal histories and/or driving records available before the first court date?

1. Misd. Routine Sometimes Rarely/Never
Criminal history ☐ ☐ ☐
2. Serious Traffic Routine Sometimes Rarely/Never
Driving record ☐ ☐ ☐

C. Intake and Screening

C1. Do you have to authorize charges:

a. before a felony arrest is made?

☐ 1. Yes ☐ 2. No

b. before a misdemeanor charge is filed?

☐ 1. Yes ☐ 2. No

C2. Do you review felony/misdemeanor cases before charges are filed in court?

Felony ☐ 1. Yes ☐ 2. No

Misdemeanor ☐ 1. Yes ☐ 2. No

C3. When are most cases presented to the prosecutor for review and charging:

Felony

☐ 1. After arrest, before first appearance for bond setting

☐ 2. After arrest, at first appearance

☐ 3. After arrest, after first appearance

☐ 4. After arrest, before indictment

☐ 5. Other _____

☐ 6. Before arrest

Misdemeanor

☐ 1. After arrest, before court date

☐ 2. After arrest, on day of court

☐ 3. Other _____

☐ 4. Before arrest

C4. How long can a defendant remain in pretrial detention before the prosecutor has to indict or file a bill of information?

1. No. of days _____

2. No specified time limit ☐

C5. Does the prosecutor use mediation or dispute resolution programs for designated cases?

☐ 1. Yes ☐ 2. No

C5a. If yes, for what types of cases? (check all that apply)

☐ 1. Some felony

☐ 2. Some misdemeanor

☐ 3. Citizen complaint

☐ 4. Juvenile

☐ 5. Some traffic/moving violations

C6. Who most often recommends warrants based on citizen complaints?

☐ 1. Law enforcement agencies

☐ 2. Prosecutor

☐ 3. Magistrate

☐ 4. Other _____

C7. Who reviews cases for charging:

Felony

☐ 1. First assistant or assigned ADA only

☐ 2. Separate unit with designated prosecutor(s) who authorize charges

☐ 3. Screening duty rotated on regular basis

☐ 4. Any prosecutor is available to review and authorize

☐ 5. Other, please describe _____

☐ 6. ADA assigned to the case

Misdemeanor

☐ 1. Separate misdemeanor division or part of a screening/warrant unit with assigned prosecutor(s)

☐ 2. Specially designated prosecutors

☐ 3. Any prosecutor is available to review and authorize

☐ 4. No review

☐ 5. Other, please describe _____

☐ 6. ADA assigned to the case

C8. How often do assistants who review felony cases have prior felony trial experience?

☐ Always ☐ Frequently ☐ Sometimes

☐ Rarely ☐ Never.

C9. Does the office have guidelines (written or otherwise) setting criteria for

1. Declining cases ☐ Yes ☐ No

2. Ordering further investigations

☐ Yes ☐ No

C10. Typically, what percent of all felony cases reviewed for charging are:

_____ 1. Accepted for prosecution

_____ 2. Declined for prosecution

_____ 3. Sent back to law enforcement for additional information

100% All cases

C11. How often do police investigative files brought over for charging as a felony contain:

	<u>Mostly</u>	<u>Sometimes</u>	<u>Rarely/Never</u>
1. Incident/offense report	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
2. Arrest report (if arrested)	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
3. Criminal record	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
4. Suspect's written statement	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
5. Written summary of witness testimony	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
6. Property sheet for physical evidence	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []
7. Written scientific or medical reports	<input type="checkbox"/> []	<input type="checkbox"/> []	<input type="checkbox"/> []

C12. Which is most like your overall felony charging standard

- ☐ [] 1. Accept the case if the elements of the offense are present
- ☐ [] 2. Accept the case if it will survive a probable cause hearing
- ☐ [] 3. Accept the case if it can be sustained at trial and convicted

C13. Which is most like your overall misdemeanor charging standard:

- ☐ [] 1. Accept law enforcement/magistrate's charges
- ☐ [] 2. Accept the case if the elements of the offense are present
- ☐ [] 3. Accept the case if it can be sustained at trial

D. Court Information

D1. How many judges regularly sit in your jurisdiction?

Number _____

D2. In your jurisdiction, how many judges regularly hear:

- _____ 1. Felony cases
- _____ 2. Misdemeanor cases
- _____ 3. Juvenile cases
- _____ 4. Traffic and DUI
- _____ 5. Other (specify) _____

D3. Do judges have mixed criminal and civil dockets?

- ☐ [] 1. Yes ☐ [] 2. No ☐ [] 3. Sometimes

D4. Can lower court judges take pleas to felonies?

- ☐ [] 1. Yes ☐ [] 2. No
- ☐ [] 3. Yes, some felonies

D5. What type of calendaring system does the court use for felonies?

- ☐ [] 1. Master calendar
- ☐ [] 2. Individual dockets
- ☐ [] 3. Master calendar until trial then individual dockets

D6. Describe the type of administrative authority that the chief judge has over the court and its procedures:

- ☐ [] 1. Extensive
- ☐ [] 2. Limited to specified areas
- ☐ [] 3. By consensus only
- ☐ [] 4. Very limited or none

D7. Who calendars cases?

- ☐ [] 1. Clerk of court
- ☐ [] 2. Court administrator
- ☐ [] 3. Prosecutor
- ☐ [] 4. Other (specify) _____
- ☐ [] 5. Judge

D8. Is the felony court backlogged?

- ☐ [] 1. Yes ☐ [] 2. No

D9. Is the misdemeanor (lower court) backlogged?

- ☐ [] 1. Yes ☐ [] 2. No

D10. Do felony judges "ride circuit", i.e. reside in different courthouses for specified time periods?

- ☐ [] 1. Yes ☐ [] 2. No

D11. Are special days or times set aside for dispositions in:

- Misd. court ☐ [] 1. Yes ☐ [] 2. No
- Traffic court ☐ [] 1. Yes ☐ [] 2. No

D12. Are diversion, special programs such as drug court, or other treatment programs available in your jurisdiction?

- ☐ [] 1. Yes ☐ [] 2. No

D12a. If yes, how often do prosecutors review cases for their eligibility for diversion, special programs such as drug court, or other treatment programs before the first court hearing?

a. For felony cases

[] Always [] Frequently [] Sometimes
[] Rarely [] Never

b. For misdemeanor cases

[] Always [] Frequently [] Sometimes
[] Rarely [] Never

D13. Does the court have trials de novo?

[] 1. Yes [] 2. No

D13a. If yes, does their prosecution create a substantial problem in your office?

[] 1. Yes [] 2. No

E. Case Management and Delay

E1. Estimate the percent of all felony cases dismissed last year that was due to:

- _____ 1. Insufficient evidence
- _____ 2. Lack of speedy trial
- _____ 3. Civilian witness no-show
- _____ 4. Police not available
- _____ 5. Other (specify) _____
- _____ 6. Dismissal for plea bargain
- _____ 7. No probable cause

E2. Last year what was the average number of days from case filing to disposition

_____ for felony cases

_____ for misdemeanor cases

E3. For felony cases, what is the most frequently used accusatory process

- [] 1. Filing to preliminary hearing
- [] 2. Filing to grand jury for indictment
- [] 3. Filing to preliminary hearing for bindover to grand jury
- [] 4. Other (specify) _____

E4. If grand jury is used, how often does it meet?

- [] 1. Daily
- [] 2. Weekly
- [] 3. Biweekly
- [] 4. Monthly
- [] 5. Other _____
- [] 6. Quarterly
- [] 7. Semi-annually
- [] 8. Limited no. of days per week

E5. How many felony jury trials were conducted last year?

E6. What percent of felony cases that plead guilty, plead guilty:

- _____ 1. At felony arraignment.
- _____ 2. After arraignment, before trial
- _____ 3. Day of trial or during trial

E7. How often does the court schedule pretrial conferences?

- [] 1. Routinely
- [] 2. Sometimes
- [] 3. Rarely/Never
- [] 4. Varies by judge

E8 How often are the following present at a pretrial conference?

	<u>Routinely</u>	<u>Sometimes</u>	<u>Rarely/Never</u>
1. Judge	[]	[]	[]
2. Prosecutor	[]	[]	[]
3. Def. Counsel	[]	[]	[]
4. Defendant	[]	[]	[]

E9. What type of attorney case assignment system is *most often* used for felonies?

- [] 1. Vertical
- [] 2. Horizontal
- [] 3. Trial team
- [] 4. Courtroom
- [] 5. Other (specify) _____

E9a. If vertical, are case assignments made

- [] 1. Before trial judge is assigned
- [] 2. After trial judge is assigned.

E10. Does the chief prosecutor try cases?

- [] 1. Yes - has regular caseload
- [] 2. Yes - but only high profile or sensitive cases
- [] 3. No - unless extreme circumstances
- [] 4. No - never

E11. What percent of time does the chief prosecutor typically spend on:

- _____ 1. Politics, policy and community relations?
_____ 2. Office supervision and administration?
_____ 3. Handling his active caseload?

100% Total time spent

E12. Which plea negotiating policy best describes your office?

- ☐ 1. Charge bargaining permitted
☐ 2. Sentence bargaining permitted
☐ 3. Both charge and sentencing permitted
☐ 4. No bargaining unless special circumstances
☐ 5. Other, (specify) _____

E13. Which plea offer policy best describes your office?

- ☐ 1. No reduced plea allowed after some specified court hearing or cutoff date.
☐ 2. No reduced plea on day of trial
☐ 3. No stated office policy, ADA discretion
☐ 4. Office policy based on type of case or offense
☐ 5. Other (specify) _____
☐ 6. Chief prosecutor discretion

E14. Which dismissal policy best describes your office?

- ☐ 1. Discretion given to ADAs
☐ 2. Dismissals must be OK'd by senior ADAs or DA
☐ 3. No dismissals unless exceptional circumstances
☐ 4. Other (specify) _____
☐ 5. Chief prosecutor discretion

E15. Does your office have an informal, open file discovery policy for felonies with the public defender and/or defense counsel?

- ☐ 1. Yes ☐ 2. No

E16. When is discovery made?

- ☐ 1. At prelim. hearing or before grand jury indictment
☐ 2. After indictment or upon arraignment
☐ 3. After arraignment and before trial
☐ 4. Before preliminary hearing or grand jury

E17. Do you have specialized prosecution units in your office (e.g. drugs, homicides, child sexual abuse)?

- ☐ 1. Yes ☐ 2. No

E18. Do you have a policy restricting the amendment of charges on special groups of misdemeanor and/or traffic cases

Misdemeanor

- ☐ 1. Yes ☐ 2. No

Traffic or moving violations

- ☐ 1. Yes ☐ 2. No

E19. Do attorney and support staff assist in planning and problem solving for the office

- ☐ 1. Yes ☐ 2. No ☐ 3. Sometimes

E20. When cases are disposed, does the office routinely notify: (check those notified)

- ☐ 1. Chief of police or sheriff
☐ 2. Detectives/police officers
☐ 3. Victims

E21. How many victim-witness coordinators are employed by the prosecutor?

E22. Check which organizational description is most like yours for the victim-witness coordinators

- ☐ 1. Separate organizational entity within the office
☐ 2. Under the supervision and direction of office administrator
☐ 3. Part of attorney or courtroom trial team
☐ 4. Other (specify) _____
☐ 5. Independent/Private organization

E23. Are misdemeanor cases prosecuted by a separate organizational division or unit?

- ☐ 1. Yes ☐ 2. No

E24. Generally, how does the experience level of attorneys primarily assigned to misdemeanor cases compare to the rest of the office?

- _____ 1. Least experienced
_____ 2. About same experience
_____ 3. More experienced

E25. Has an experienced attorney been designated to advise and provide on-the-job training to misdemeanor attorneys.

- ☐ 1. Yes ☐ 2. No

F. Equipment, Space and Supplies

F1. Is your office space located

- ☐ 1. In the courthouse
- ☐ 2. Outside the courthouse
- ☐ 3. Scattered among several sites
- ☐ 4. Other _____

F2. Is your office space adequate?

- ☐ 1. Yes ☐ 2. No

F3. Do you plan to move into new space in the next three years?

- ☐ 1. Yes ☐ 2. No ☐ 3. Don't know

F4. Check if you have the following:

- ☐ 1. Cell phones for duty or on-call attorneys
- ☐ 2. Fax machine
- ☐ 3. Copier
- ☐ 4. PC on each attorney's desk
- ☐ 5. PC on each support staff desk

F5. How often is e-mail used to communicate within the office?

- ☐ 1. Most of the time
- ☐ 2. Sometimes
- ☐ 3. Rarely
- ☐ 4. Office doesn't have e-mail

F6. Does your office have access to the Internet?

- ☐ 1. Yes ☐ 2. No

F7. Do you have access to the following computer systems? (Check all that apply)

- ☐ 1. Court computer system
- ☐ 2. Office computer system
- ☐ 3. Own personal computer
- ☐ 4. Other _____

F8. For the latest month, do you know:

	<u>Yes</u>	<u>No</u>
1. No. felony cases declined for prosecution	_____	_____
2. No. felony cases disposed	_____	_____
3. No. felony cases dismissed	_____	_____
4. No. felony cases plead guilty to lesser offense	_____	_____
5. No. felony jury trials	_____	_____

6. No. of misdemeanor cases disposed _____

7. Each attorney's inventory _____

G. Needs

G1. What is your top priority need this year?

G2. Rank the areas below in terms of being problems for felony prosecutions in your office (1 is largest problem, 4 is least or no problem)

- _____ 1. Police prosecutor coordination
- _____ 2. Intake and screening
- _____ 3. Case management
- _____ 4. Management information

G3. Rank the areas below in terms of being problems for misdemeanor prosecutions in your office (1 is largest problem, 4 is least or no problem)

- _____ 1. Police prosecutor coordination
- _____ 2. Intake and screening
- _____ 3. Case management
- _____ 4. Management information

Please use this space for comments about other needs.

Thank you for your assistance.
Please mail or fax this survey to: