

# PROSECUTION MANAGEMENT IN COLORADO

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# PROSECUTION MANAGEMENT IN COLORADO, 2001

## INTRODUCTION

Colorado has 64 counties that are organized into 22 judicial districts. Five districts represent a single county, 17 districts have at least two counties. One district has seven counties. The city and county of Denver is the largest office in the state with a prosecution staff of about 64 full and part-time attorneys. Most of the judicial districts are rural. The median<sup>1</sup> office has nine deputy district attorney positions.

District attorneys represent judicial districts and have jurisdiction over felonies, misdemeanors, juvenile and some limited civil responsibilities, mostly child support enforcement and forfeitures. All district attorneys are elected to four-year terms and all are full-time. Some deputies may be part-time.

Under Colorado's state constitution, the position of district attorneys was established under the judicial section. But case law now defines the prosecutor as part of the executive branch. The Colorado attorney general has further defined judicial districts as political subdivisions, thereby making the district attorneys subject to term limits. The elected district attorney's salary of \$67,500 is mandated by the state. The state pays 80 percent of the mandated salary. The counties within the judicial district make up the difference and may supplement the salary. All other expenses of the office including personnel, fringe, space, supplies etc. are paid by the counties in the judicial district.

Colorado's court system is not unified. District court has jurisdiction over felonies and civil cases involving more than \$15,000. County courts have jurisdiction over misdemeanor and traffic cases. County court judges may take guilty pleas to felonies. There are municipal courts but the district attorney is not present in these courts. There is legislation that requires the

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<sup>1</sup> The median is the point where 50 percent of the offices are below the value and 50 percent are above the value.

district attorney's office to review and authorize felony cases before they are filed in court.

In 2001 the Jefferson Institute conducted a management survey for the Colorado District Attorneys Council (CDAC). The CDAC was formed by a contract between the 22 district attorneys in 1971. Colorado statutes provide that district attorneys can form a separate entity to promote prosecutorial interests.

CDAC is funded primarily by assessments from each of the judicial districts. It is established as a 501c(6) entity under the direction of Peter Weir. It is a multi-purpose agency with legislative, operational and training responsibilities. It provides legislative representation for district attorneys, conducts a juvenile program called Shape-up, operates and maintains the statewide computer information system known as Blackstone and provides training, technical assistance and publications to individual offices.

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 conducted by the Jefferson Institute is 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 Colorado District Attorney's Council and to serve as a baseline for determining the status to prosecution management statewide in Colorado. 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 CDAC 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 Colorado 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. Twenty-two (or 100 percent) of the district attorney's offices responded to the survey.

The survey responses were compared to generally accepted management principles and the percent of offices indicating that they incorporate 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.<sup>2</sup>

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

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<sup>2</sup> 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 &amp; 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 CDAC 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 management<sup>3</sup>
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

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<sup>3</sup> 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 weighting 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 61. The highest levels of management compliance are recorded for space, equipment, and automation (74 percent), followed by case management (at 70 percent). The police/prosecutor interface is third highest at 63 percent. Intake and screening had a 58 percent compliance level. The lowest score is recorded for organization and administration at 42 percent. (Figure 1).

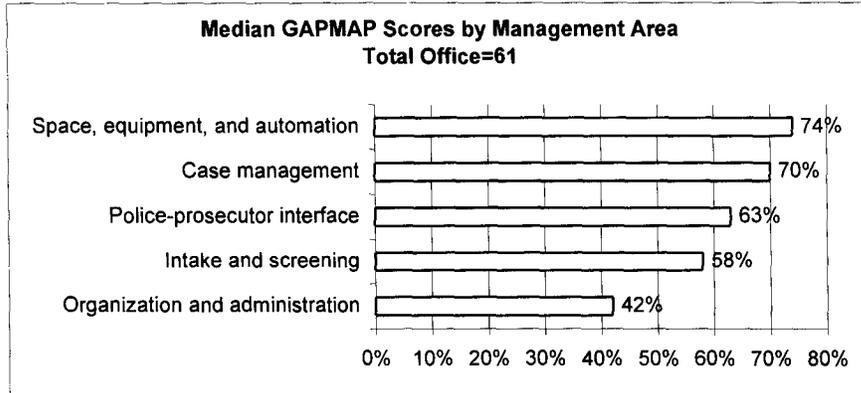


Fig. 1

Of great interest is the relatively large differences in compliance levels among the areas. Two of the five management areas have relatively high compliance rates in the 65 to 77 percent range. Three areas hover below 60 percent and above 50 percent.

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 all 22 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 Colorado 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 63 percent. The range of scores among individual offices is between 81 percent and 34 percent. The wide variation in responses suggests that there are some real opportunities to improve parts of the police-prosecutor interface and thereby improve communication, coordination, and collaboration. There appear to be many positive working relations among the departments and the prosecutor but also some weaknesses in the areas of report writing, and involvement with law enforcement agencies at the operational level.

##### *Strengths*

In Colorado law enforcement agencies must have cases reviewed by the prosecutor before they are filed in court. As a result, the prosecutor has the ability to affect the completeness and adequacy of police reporting. The district attorneys report that they receive police reports in a timely manner, almost all offices (95 to 100 percent) report that they receive reports in 10 days or less. There appears to be a high degree of coordination at the policymaking level. More than two thirds of the office have regularly scheduled meetings with chiefs of police and most prosecutors have joint

operating programs with law enforcement. For the three out of four offices that designed police reporting forms, 88 percent report that they are being used.

### *Weaknesses*

The major weaknesses in this interface appear to focus on the quality of the reports and evidence collected by the law enforcement agencies especially the smaller agencies in a jurisdiction. Additionally with the exception of helping law enforcement with search warrants, there is relatively little interaction between the prosecutor and police with respect to investigations, presence at the crime scene and little notification or training in new legislation, report writing, and evidence protection. It appears that greater communication and interaction with detectives and officers in the areas of police involvement with prosecutions is also needed.

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 10.**

In Colorado,



The median number of law enforcement agencies referring cases to a prosecutor's office is 10.



The fewest number of agencies is 1; the most is 29.

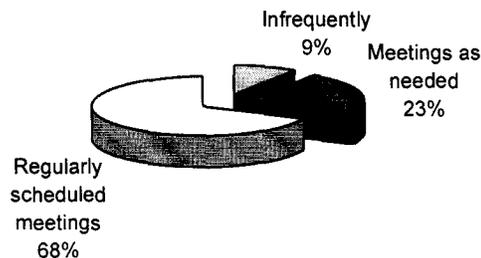
QB1



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.

**68 percent 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

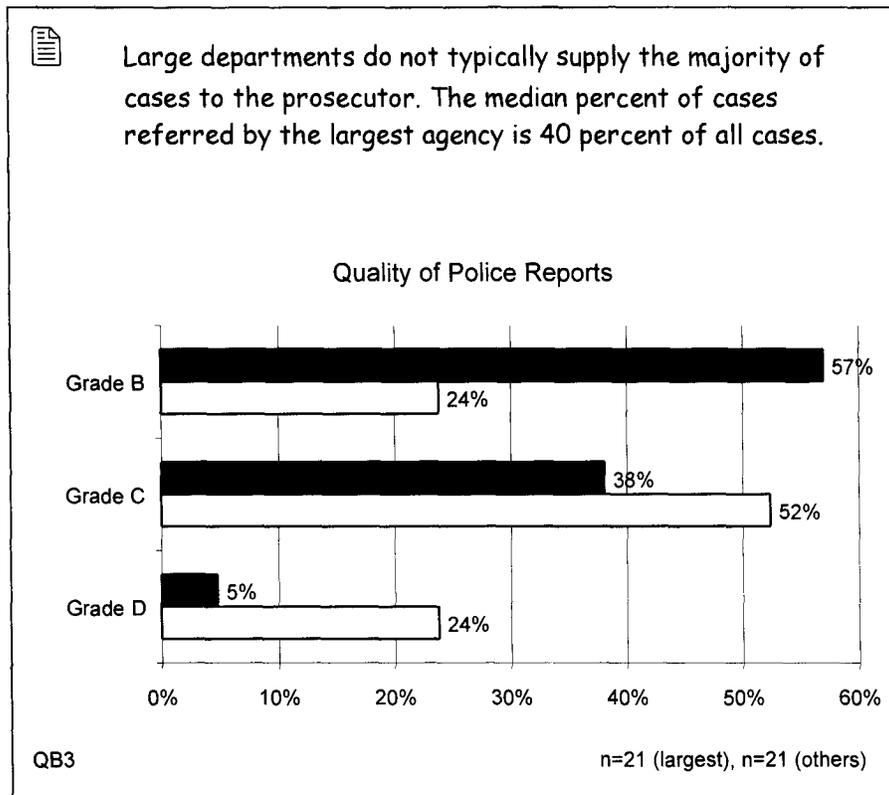
n=22

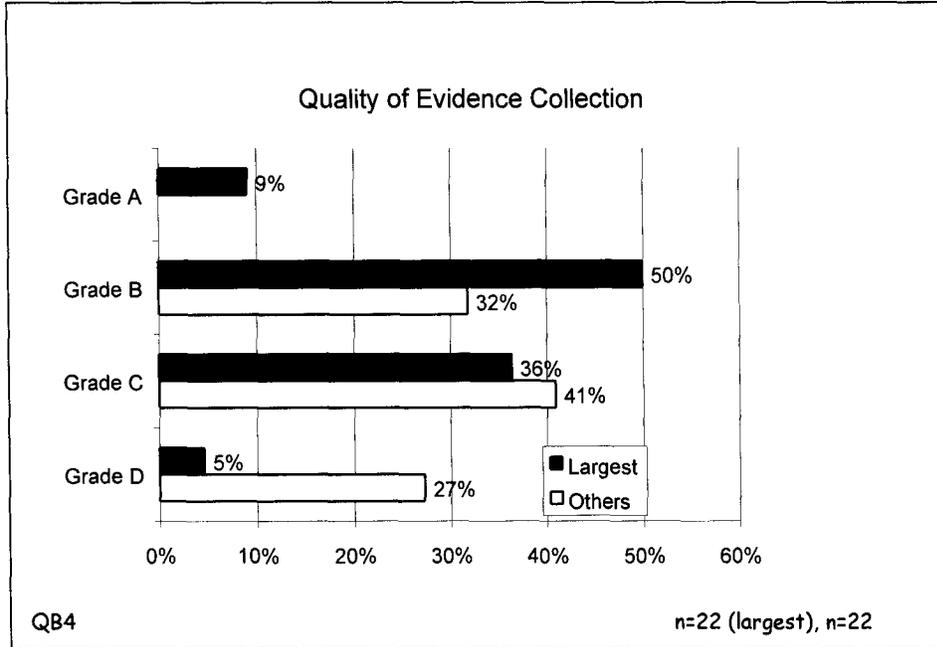
## 2. Timely, complete and responsive investigative reports



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 for the largest agency, and C for the others.



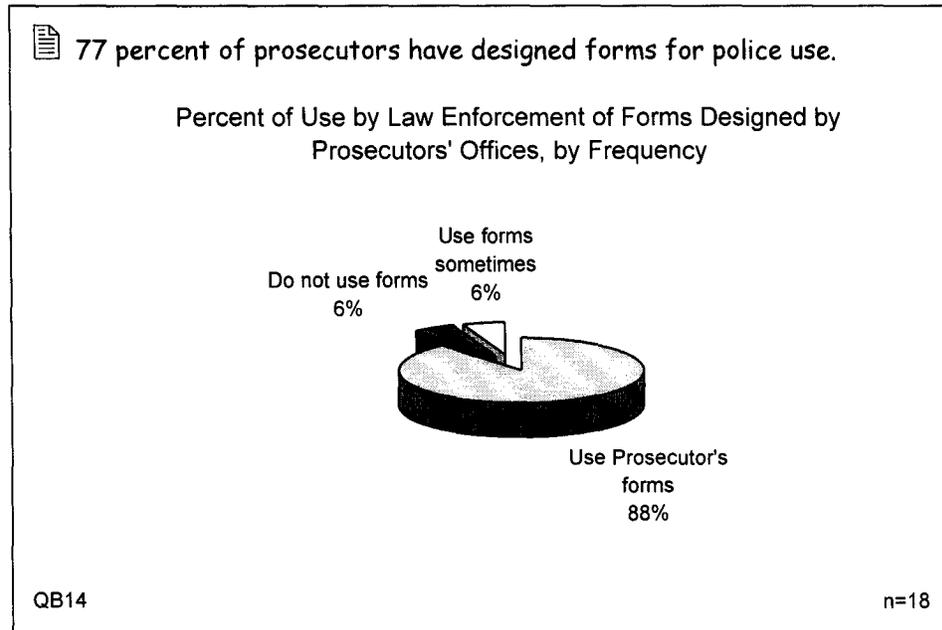


The median grade for the quality of evidence collection is B for the largest agency and C for the others.



**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.

**77 percent of prosecutors have designed report forms for law enforcement use and they are used regularly by law enforcement 88 percent of the time.**





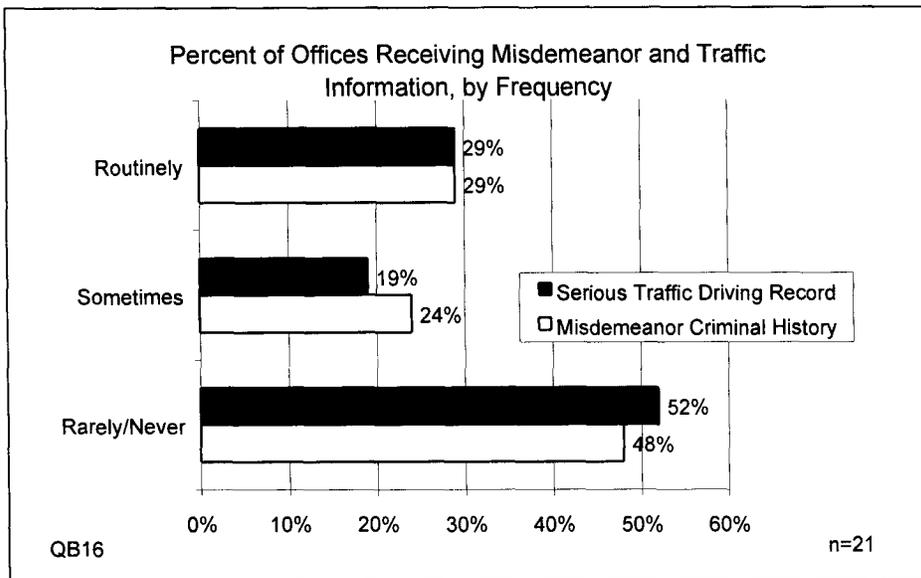
**Timely reports from law enforcement are important for proper charging decisions.** Delays in submitting reports produce delays in charging that may provoke other problems. One may be unnecessary cost to the public if pretrial detention is ordered and the case is ultimately declined or dismissed. Another 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.

**Most of the prosecutors (over 90%) indicate that police reports are being forwarded to them in a timely fashion.**

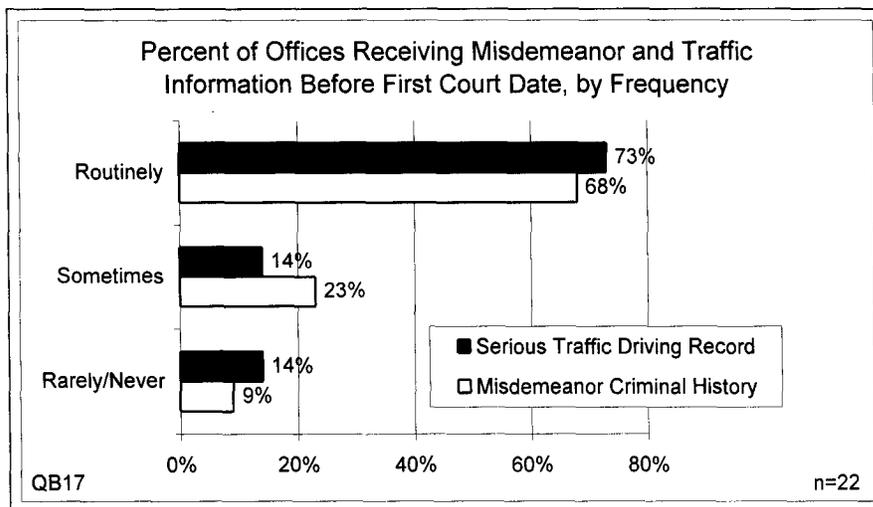
In Colorado,	
Median Number of Days to Receive Felony Reports for:	
Violent crimes	2
Property crimes	3
Drug crimes	3
Percent of Offices Receiving Reports in 10 Days or Less for:	
Violent crimes	95%
Property crimes	95%
Drug crimes	100%
QB7	



**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.



**Less than a third of the prosecutors routinely receive copies of criminal histories or driving records for misdemeanor and traffic cases with the police reports.**



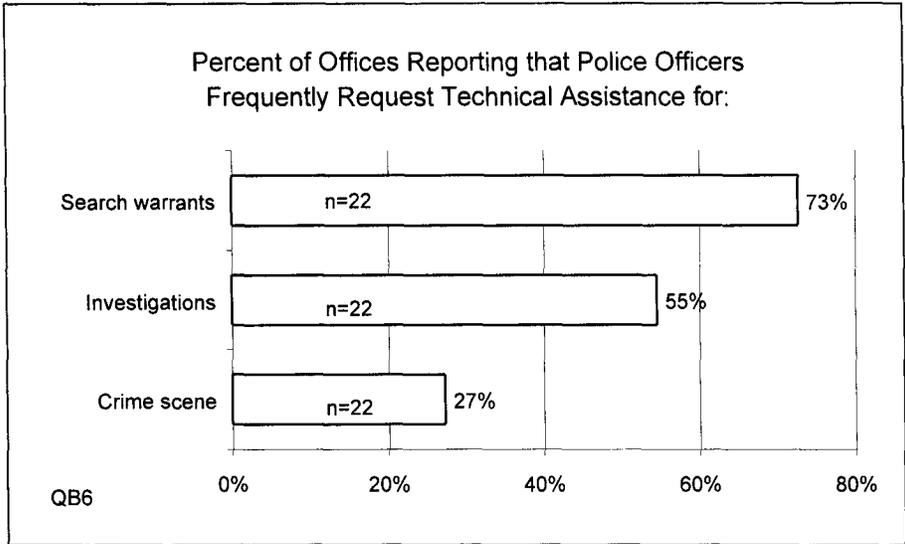
**Before the first court date, 73 percent of the prosecutors have the driving record and 68 percent have the criminal histories in misdemeanor cases.**

### **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.



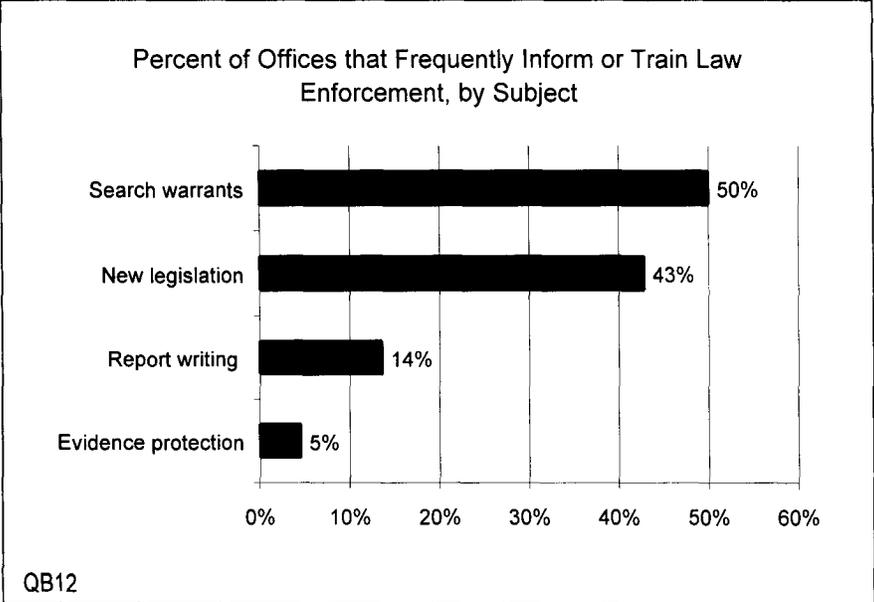
**Prosecutors are more likely to interact with law enforcement when preparing search warrants (73 percent) than during investigations (55 percent) or at crime scenes (27 percent).**



**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, 50 percent of the prosecutors frequently assist law enforcement with search warrants. Over four in ten inform them about new legislation. Much less assistance is provided for evidence protection and report writing.**



#### **4. Close coordination and joint programs between investigators and prosecutors**

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 all (95 percent) prosecutors participate in at least one joint police/prosecutor programs. Most prevalent are drugs, domestic violence and child sex abuse.**

In Colorado,

-  95 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 drugs (78 percent), domestic violence (64 percent) and child sex abuse (41 percent).

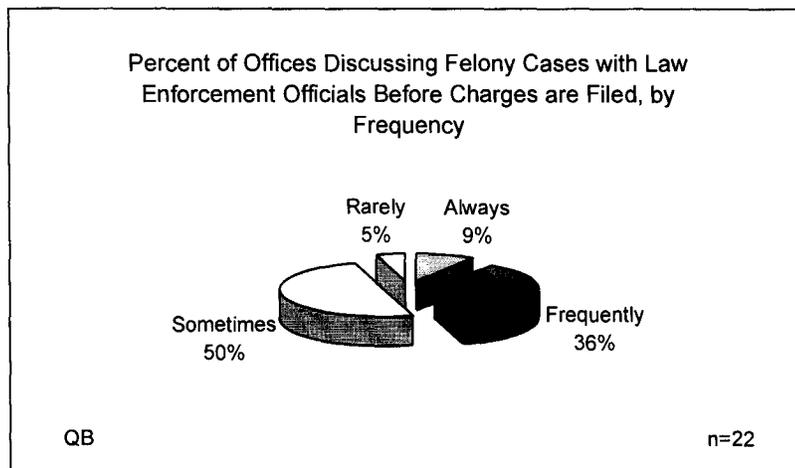
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## 5. Involve law enforcement in case processing and outcomes

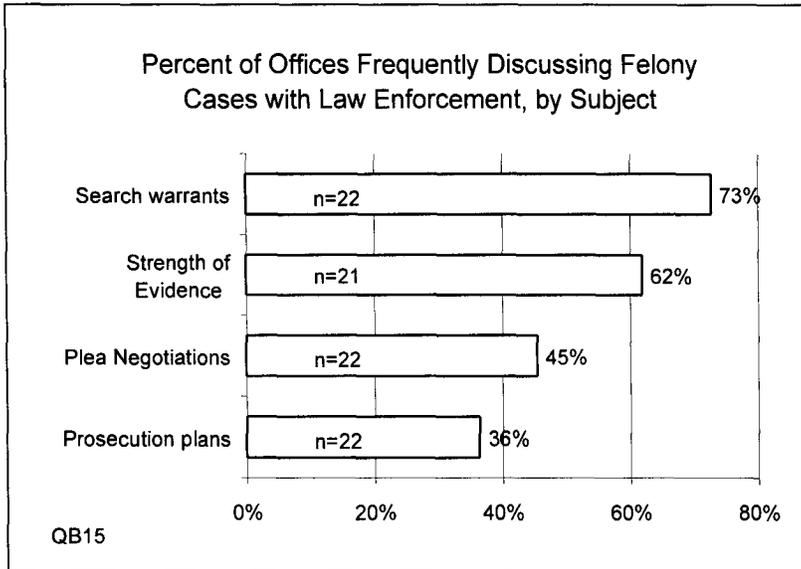


**The more police become vested in the outcomes of cases, the stronger is the prosecutor's case.** Vesting officers and investigators with knowledge about prosecution strategies and plans implies high levels of trust and confidence between the two agencies. One indicator of law enforcement involvement 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.

**The survey indicates that only 9 percent of the offices always discuss felony cases with police before charges are filed. A little over a third (36 percent) frequently discuss cases prior to filing.**



**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.

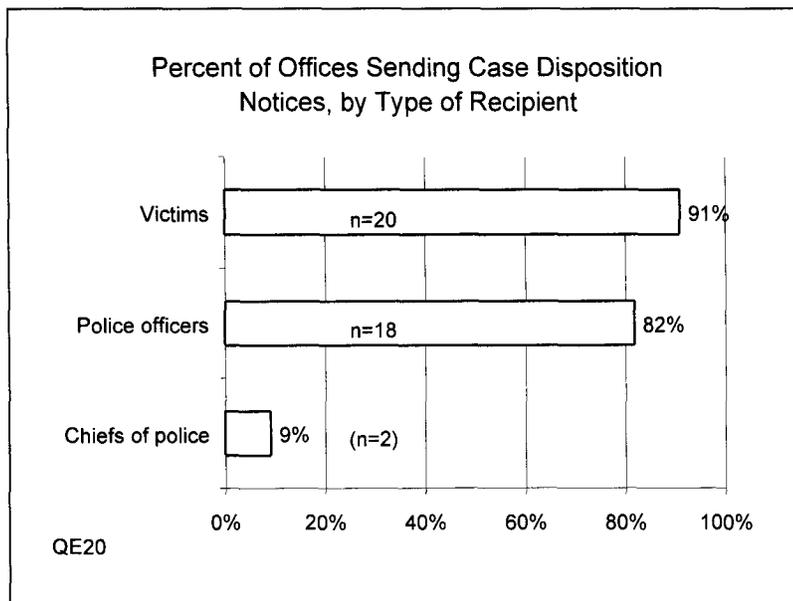


**Prosecutors are more likely to discuss search warrants (73 percent) and evidentiary strength (62 percent) with police than negotiations (45 percent) and prosecution plans (36 percent).**



**The recent emphasis placed on notifying victims about hearings and case status** highlights the value 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 extend the notification process to law enforcement by modifying existing victim notification procedures.

**Case disposition notices are routinely provided to victims (91 percent) and police officers (82 percent). The number of responses is too small to reliability estimate the percent informing chiefs of police (9 percent).**

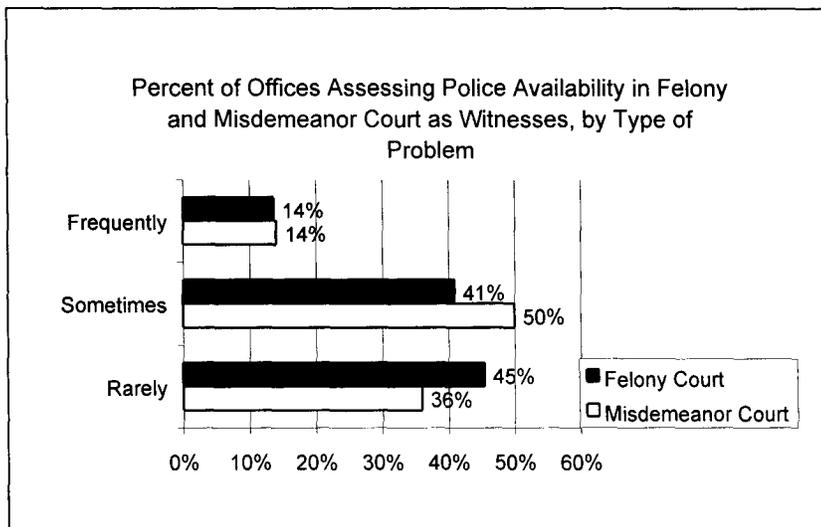


## 6. Efficient use of prosecution and law enforcement time



**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.

**Almost half of the offices (45 percent) report few problems with police availability for felony court appearances. 36 percent report few problems with misdemeanor court appearances**



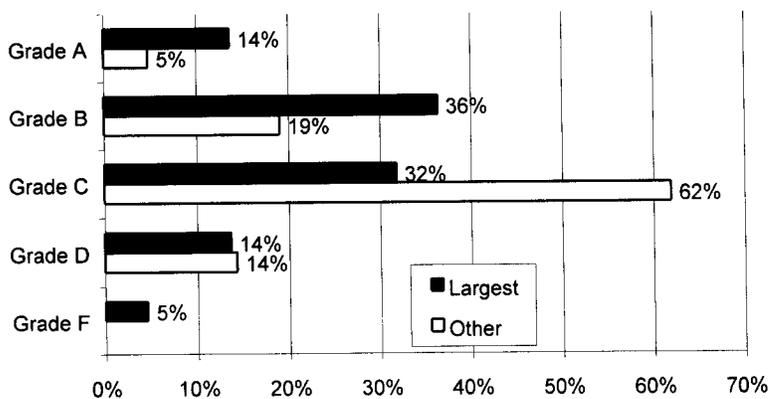
**Law enforcement's responsiveness to prosecutors' requests for** additional information is another indicator of police-prosecutor working relationships. If officers understand the prosecutor's need for sufficient evidence to support a conviction, they tend to be more responsive. Delays in responding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

In Colorado,

 The median grade for responsiveness in large departments was B, above average.

 In the smaller agencies it was C.

Percent of Offices Assessing Police Response to Prosecutors' Requests for Additional Information by Grade and Size of Agency



QB9

n=22(largest), n=21 (other)

**50 percent of offices view law enforcement's responsiveness to prosecutors' requests for additional information as excellent or good in the largest agencies. Only 24 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 statewide level of compliance for intake and screening is 58 percent. The range of scores among individual offices is between 91 percent and 32 percent. Of all management areas, intake and screening is the most important since it represents the “gate” to the adjudication process.

Colorado provides the district attorneys with authority to review and authorize cases before they are filed in the court. As a result, all felony cases are reviewed but the same practice is not as typical for misdemeanor cases where only 14 percent of the offices reported review procedures. This authority provides prosecutors with an opportunity to exercise control over the gate and establish policies and practices that support uniform and consistent decisionmaking.

### *Strengths.*

Almost all offices reported that they reviewed both felony and misdemeanor cases before charges were filed or before first appearance. This provides the foundation for a strong intake and screening process. Most of the offices also have organized their intake activities so that accountability in making charging decisions is enhanced. Prosecutors in Colorado have the tools and the opportunity to conduct good screening.

### *Weaknesses*

Even with the opportunity to conduct case review, the district attorneys generally have to base decisions on limited information provided by law enforcement. Most offices report that they receive arrest and offense reports. Few offices receive criminal records (a fact that may be minimized if the district attorney’s office has the ability to retrieve them), the suspect’s written summary and property evidence sheets. Few offices have guidelines for declinations and when additional investigation should be ordered. Finally, only 27 percent of the offices reported that they have access to programs

that serve as alternatives to prosecution such as mediation and dispute resolution programs.

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.

**All offices review felony cases before charges are filed in court. However, only 14 percent of offices review misdemeanor cases before filing charges**

In Colorado,

-  Fourteen percent of offices *authorize* felony charges before arrest.
-  Every office *reviews* felony cases before charges are filed in the court.
-  Only fourteen percent of offices review misdemeanor cases before charges are filed.

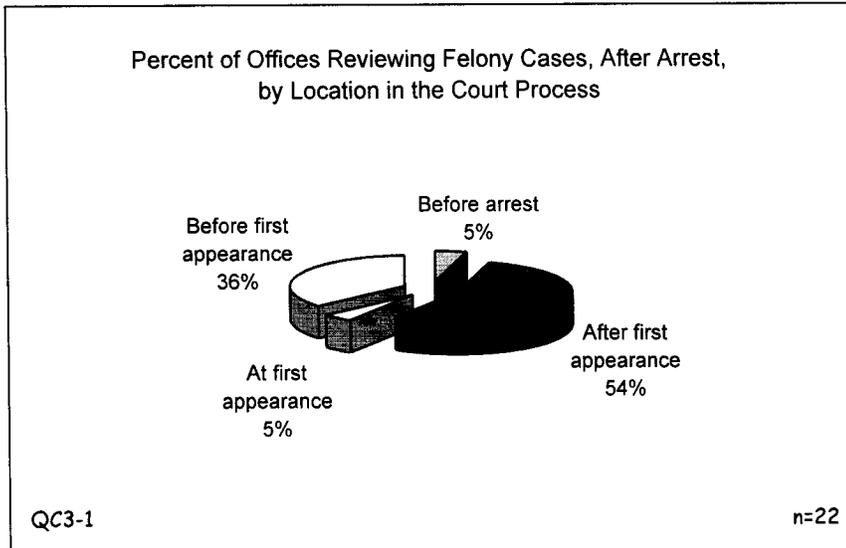
QC1& C2

n=22

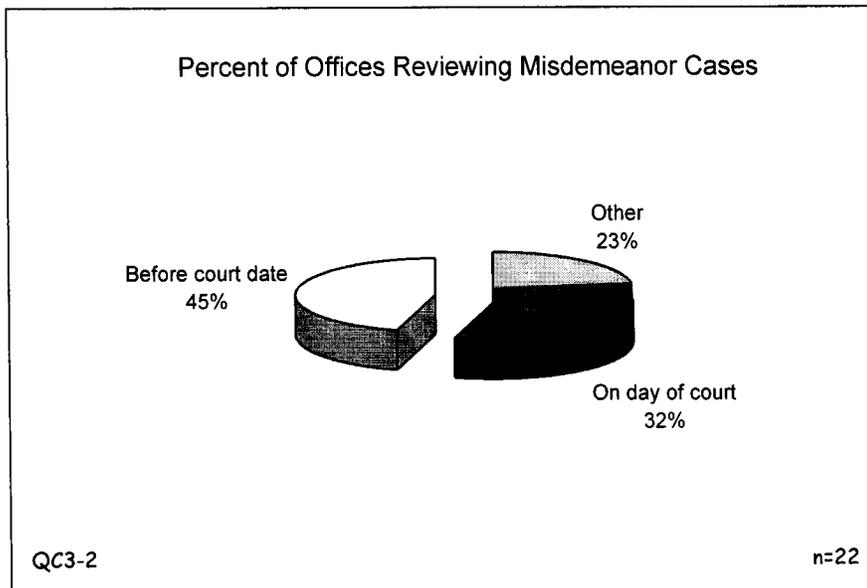


**The later in the process prosecutorial review occurs, the more likely it is that the court will process cases that should have been declined, could have been better investigated or more appropriately charged.** The effect of delayed screening is to increase workload for all parties and add to court 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.



**41 percent of offices review felony cases before arrest or first appearance.**



**45 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.

In Colorado,



The median number of days between arrest and filing felony charges is three.

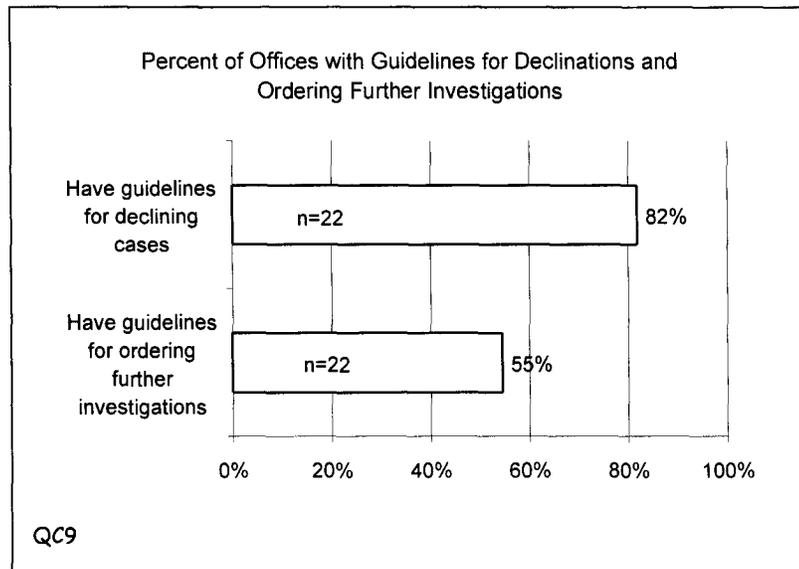
QC4

n=14

## 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.

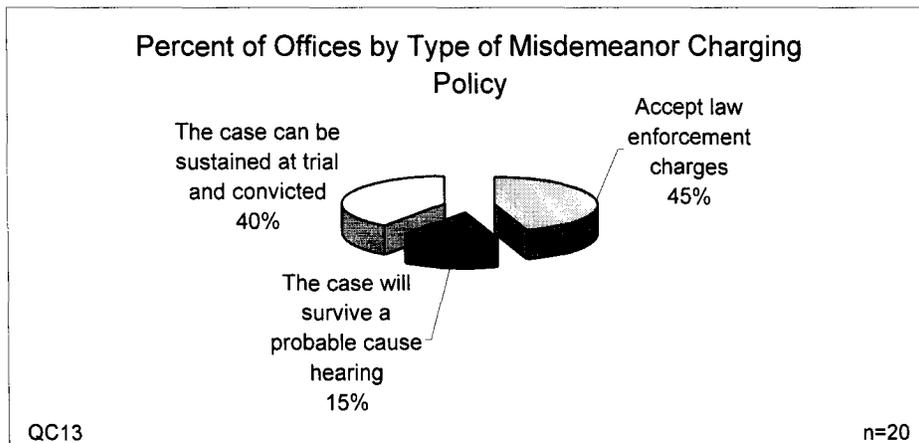
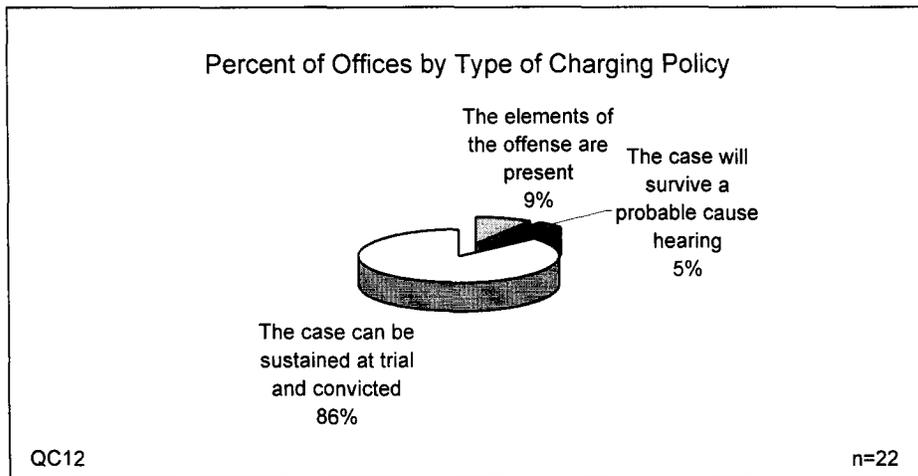


**About four out of five offices have guidelines for declinations. Over half have guidelines for ordering further investigations.**



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.

**86 percent of the offices accept only felony cases that can be sustained at trial.**



**For misdemeanors, 40 percent of the offices use the more restrictive sustained at trial standard. 45 percent accept law enforcement charges**



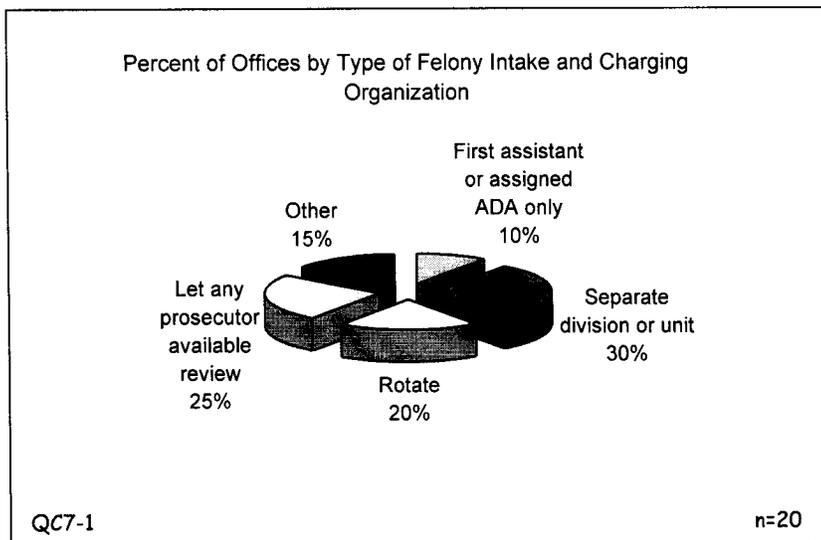
Misdemeanor charging policies depend primarily on the information available to the prosecutor, the prosecutor's priorities and the type of intake and screening established to implement the priorities. A well-managed misdemeanor intake process has charging recommendations and plea offers reviewed and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

experienced attorneys based on sufficient information and established priorities for prosecution.

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

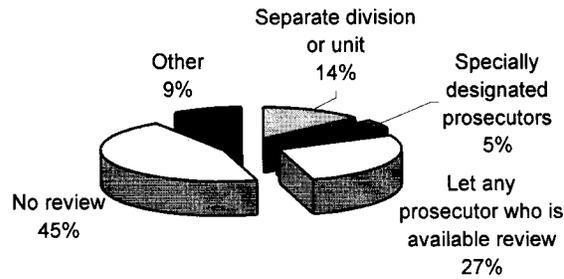


**One indicator of policy and management control over the intake process can be seen in its organization.** In small offices, screening is usually performed by one person, the prosecutor, the first assistant or some specially designated attorney. As the volume of work increases, prosecutors create intake 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.



**60 percent of the offices have felony intake and charging organizations that support accountability in decision-making and uniformity in charging.**

Percent of Offices by Type of Misdemeanor Intake and Charging Organization



QC7-2

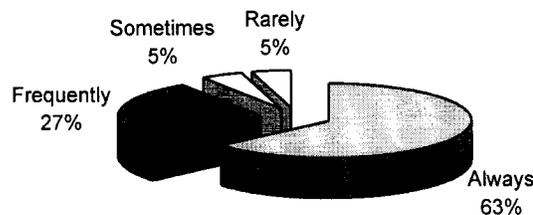
n=22

**19 percent have misdemeanor review and charging procedures that support accountability and uniformity**



**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

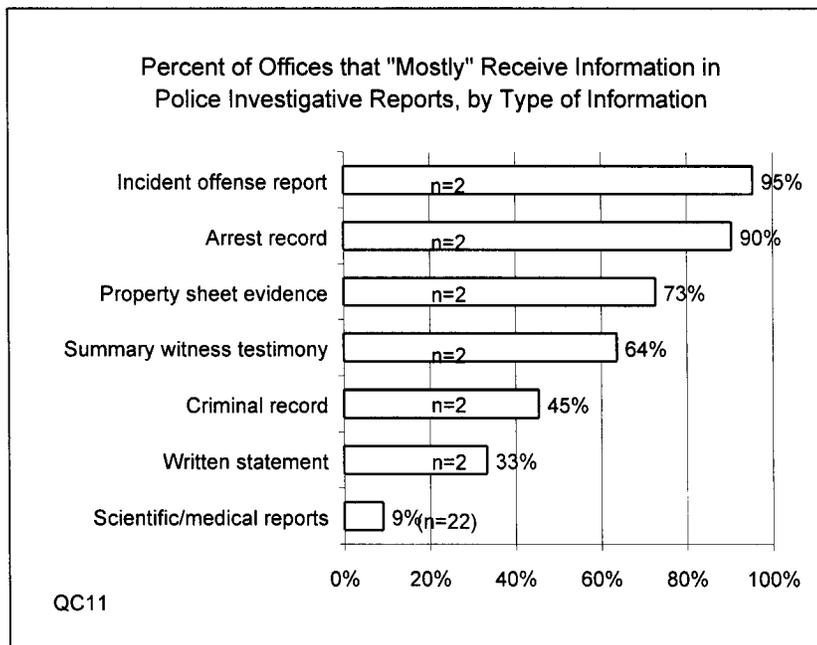


**63 percent of all offices always use attorneys with prior felony experience to review felony cases.**



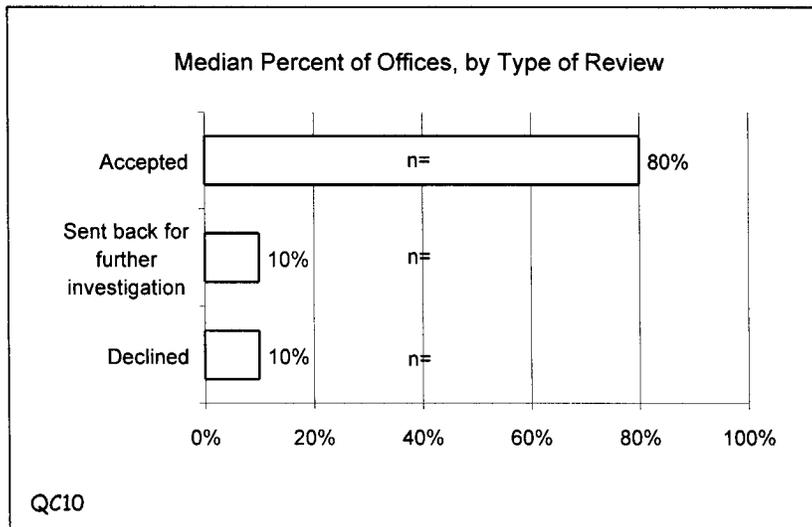
**The foundation upon which charging decisions are made is a** written record of the facts surrounding a case. The more complete the information, the better are the decisions of the intake and screening attorneys. Reports from law enforcement agencies should contain information about the incident, the 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.

**Most offices receive police investigative files with information about the offense (95%), arrest record (90%), and property sheet evidence (73%). Fewer offices receive information about witness testimony (64%), the suspect's criminal record (45%), written statement (33%) and scientific or medical reports (9%).**



**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.



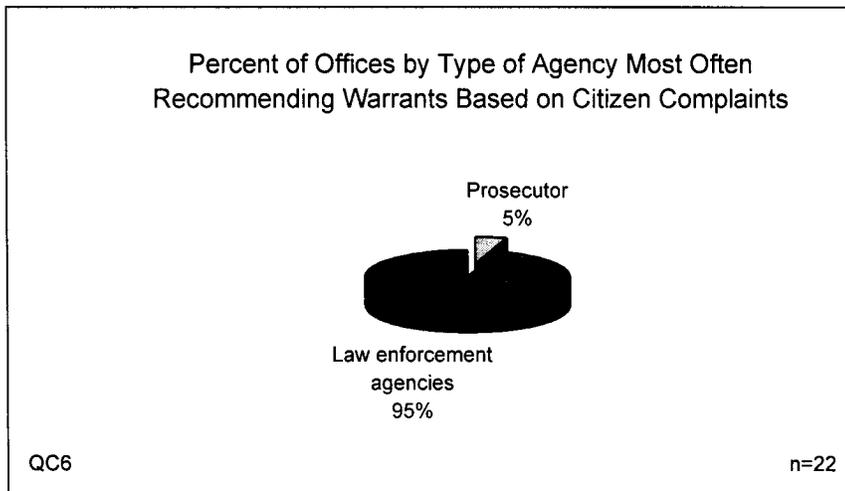
**Statewide the screening pattern shows a relatively high acceptance rate (80 percent) and a relatively low declination rate (10 percent). Referrals for further investigation are relatively low (10 percent). Only 15 percent of the offices decline more than 20 percent of their felony cases.**

#### **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.



**95 percent of citizen complaints are investigated by law enforcement agencies before warrants are recommended.**

### ***5. Programs available as alternatives to prosecution***

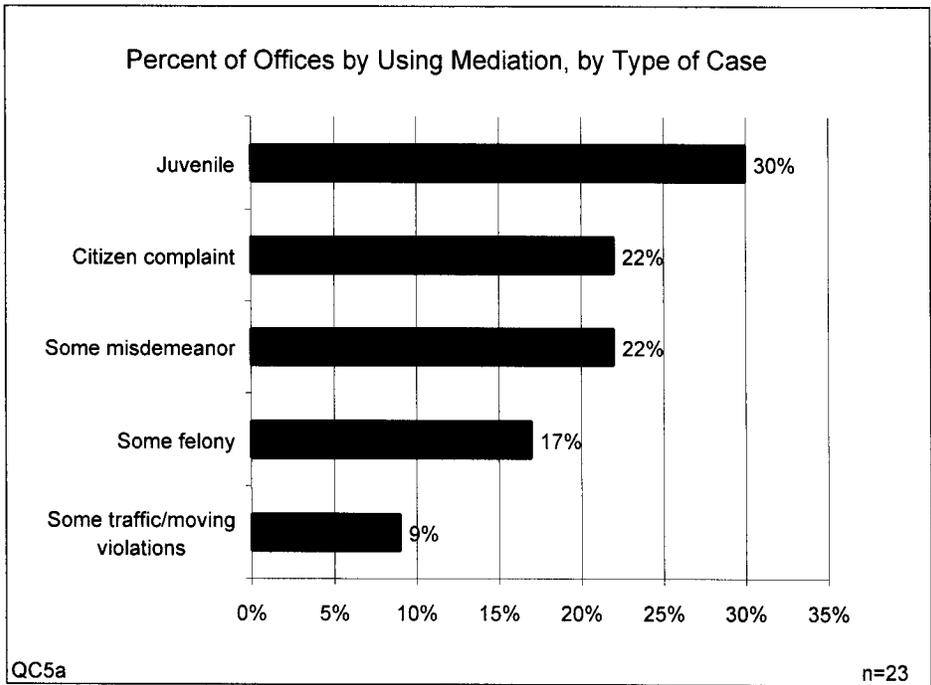


**If prosecutors exercise control over the gate to the courts, part of their discretionary authority includes declining cases or deferring prosecution. Not all cases referred for prosecution necessarily need it. It may be more appropriate to refer some cases to other alternatives. These alternatives 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 Colorado,



**50 percent of offices reported the use of mediation or dispute resolution.**



**50 percent of the offices reported using mediation or dispute resolution for cases or citizen complaints. 30 percent of the offices used alternatives for juvenile cases followed by uses for some misdemeanor (22 percent) and citizen complaints (22 percent).**

## **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 statewide level of compliance for case management is 70 percent. The range of scores among individual offices is between 88 percent and 11 percent. The wide range among offices suggests that changes can be made to improve levels of compliance in some offices.

### *Strengths*

Colorado has a court environment that mostly supports the prosecutor's case management activities and allows them to implement sound management practices. The state has a relatively low felony jury trial rate and few courts are backlogged. Most cases are disposed before the day of trial.

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*

There is a mix of good and "bad" practices that create contradictions in case management. Although there is typically no backlog in the courts, there is relatively less use of individual docketing by judges and delays are suggested by almost 60 percent of the offices that report more than 180 days from filing to disposition. Almost 60 percent of the offices reported the

availability of diversion programs but fewer offices reported that the prosecutor's recommendation was required before the offender could be considered for diversion. Although almost all offices report using informal discovery, very few provide it promptly before preliminary hearing or arraignment. Finally while most offices have plea negotiation policies, most give discretion to deputy district attorneys.

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

## **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 is reduced by the number of days set for civil cases.

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.

If the court uses individual docketing systems, prosecutors are able to assign attorneys either to a judge or a courtroom or create trial teams or both. Efficiency and accountability is increased. Case scheduling and trial preparation time becomes manageable.

#### *Case management*

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 Colorado

The court system statewide has the following characteristics:

-  It is typically small.  
The median number of judges in a prosecutorial district is 9  
Typically 3 judges regularly hear felony cases, 4 hear misdemeanor and traffic cases, and 2 hear juvenile cases
-  In 80% of the reporting jurisdictions, judges carry a mixed docket of criminal and civil cases, 10% carry a mixed docket sometimes, and 10% do not have mixed dockets.
-  62 percent of offices reported that felony judges "ride circuit" i.e. reside in different courthouses for specified periods. 38 percent said felony judges do not sit in other jurisdictions.
-  The practice of taking guilty pleas to felonies in county court varies.  
18 percent of the offices said lower court judges would take pleas to felonies,  
55 percent said judges will not take pleas, and  
27 percent said judges took pleas to felonies "some of the time".
-  95 percent of the offices reported the court used individual docketing systems.  
5 percent used a master calendar system.
-  Jurisdictions vary in the type of system used for calendaring felonies.

78 percent used the clerk of court.  
6 percent used the prosecutor.  
11 percent used the judge.  
6 percent used other means.



38 percent of the offices reported that the chief judges had extensive administrative authority.  
29 percent reported the chief judge's administrative authority was limited to specific areas.  
The rest of the offices (33 percent) reported that the chief judge had either limited administrative authority or authority was based on consensus only.



The majority of prosecutors (73 percent) reported backlogs in felony case processing. 27 percent of offices reported no backlog in felony case processing.



68 percent report backlogs in misdemeanor courts.



More than two thirds of the jurisdictions have expedited practices for lower court cases.  
77 percent of the offices reported having disposition times set for misdemeanor and/or traffic cases  
23 percent do not.



Many offices (77 percent) reported using alternatives to prosecution and adjudication.



When alternatives are available, prosecutors appear to be actively involved in making decisions or recommendations about participation in treatment or diversion programs.  
56 percent of the prosecutors stated that they *always* or *frequently* reviewed felony cases for eligibility,  
44 percent reviewed misdemeanor cases *always* or *frequently* for eligibility.  
28 percent *rarely* or *never* reviewed felony cases for eligibility.  
39 percent *rarely* or *never* review misdemeanor cases.



One third of the offices report that trials de novo are used in their jurisdictions but they all agree that they do not constitute a problem

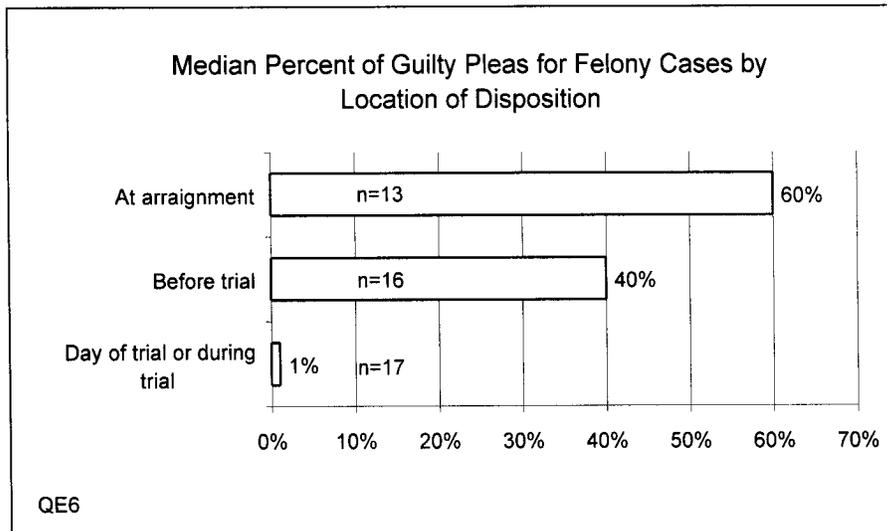
## 2. Applying the concept of differentiated case management



**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.

**One of the goals of DCM is to achieve a pure trial docket. It appears to be generally supported statewide. 60 percent of cases plead guilty at arraignment. Only 1 percent plead on the day of trial or during the trial.**

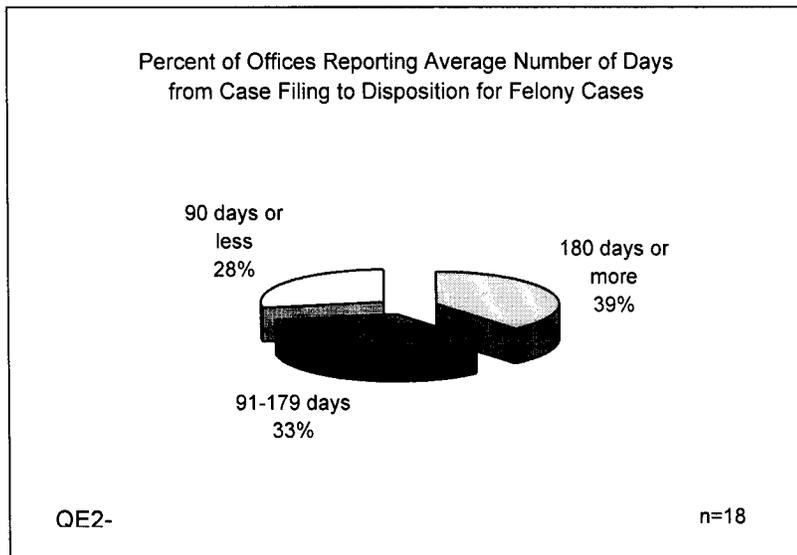


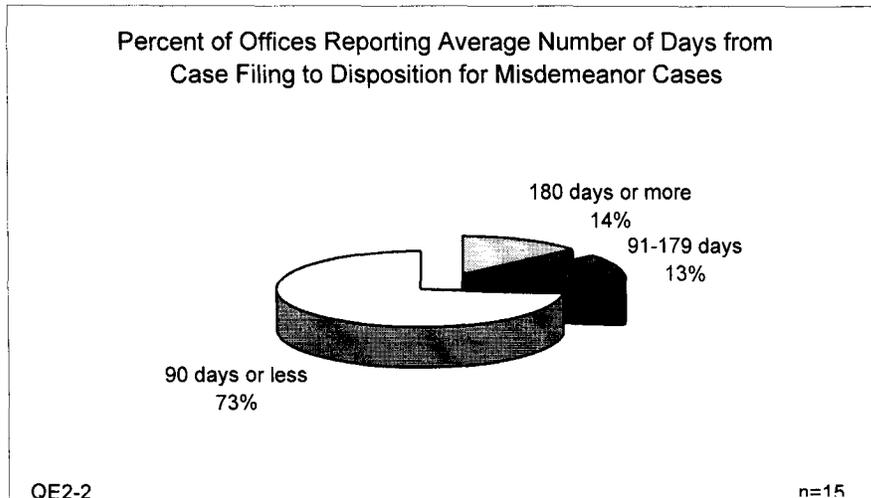
### 3. Reductions in case processing times



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.

**The median number of days from filing to disposition for felony cases is 120. Thirty-nine percent of the offices reported average days to disposition as 180 days or more.**



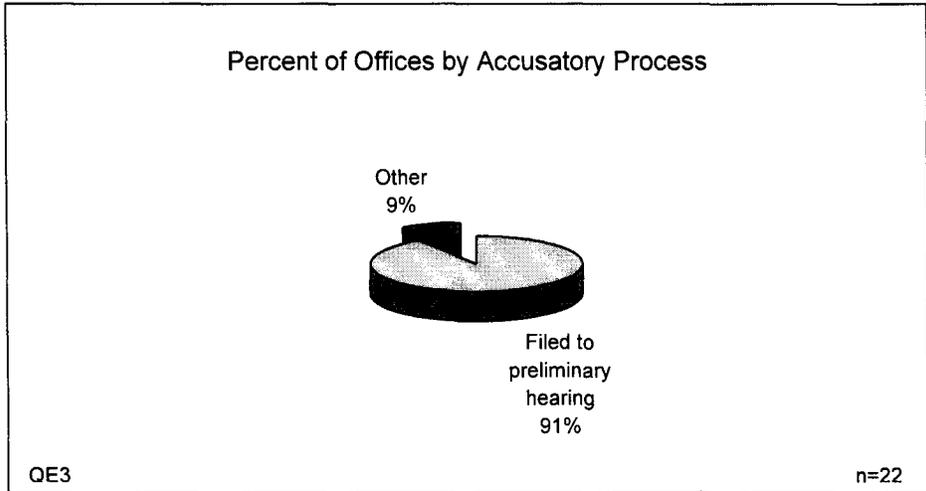


**The median number of days from filing to disposition for misdemeanor cases is 75 days. 73 percent of the offices reported averages of 90 days or less to disposition**



**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.



**Most offices (91 percent) use a preliminary hearing to obtain their accusatory instruments.**



**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.

**It appears that the court has ample capacity for conducting felony jury trials. The median is 12 felony jury trials per judge annually.**

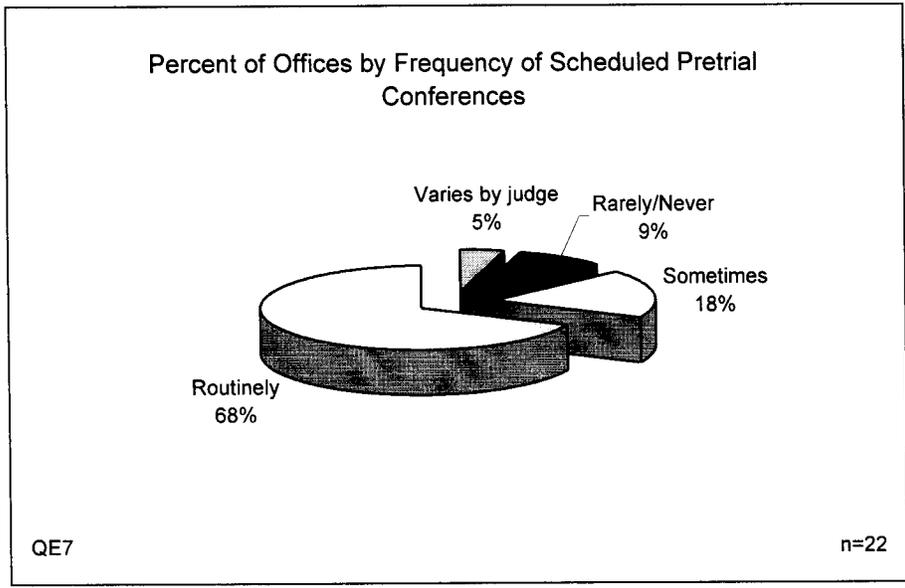
In Colorado,

All offices report that felony judges conduct 25 or less jury trials a year.

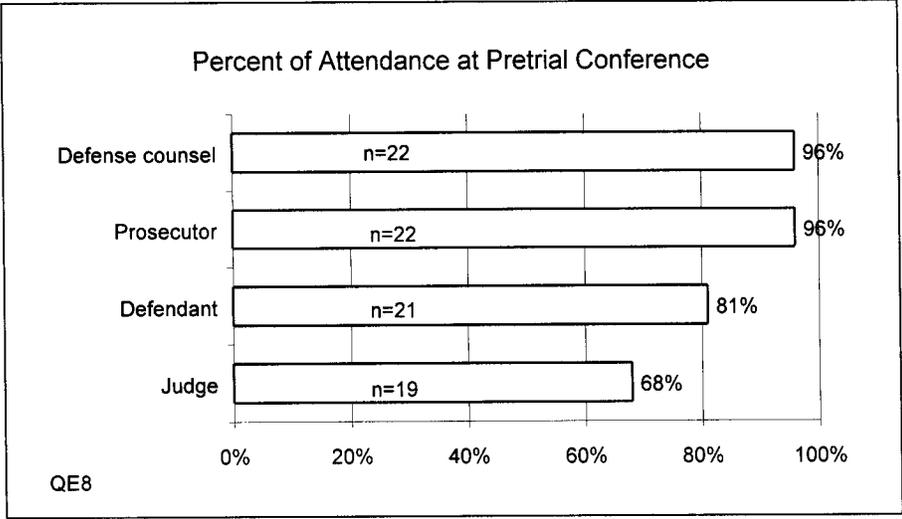


**Inefficiency in court practices may also contribute to delay.**

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 and if all parties are not routinely present, then the negotiation and disposition process tends to become inefficient.



**68 percent of offices reported that pretrial conferences were routinely scheduled.**



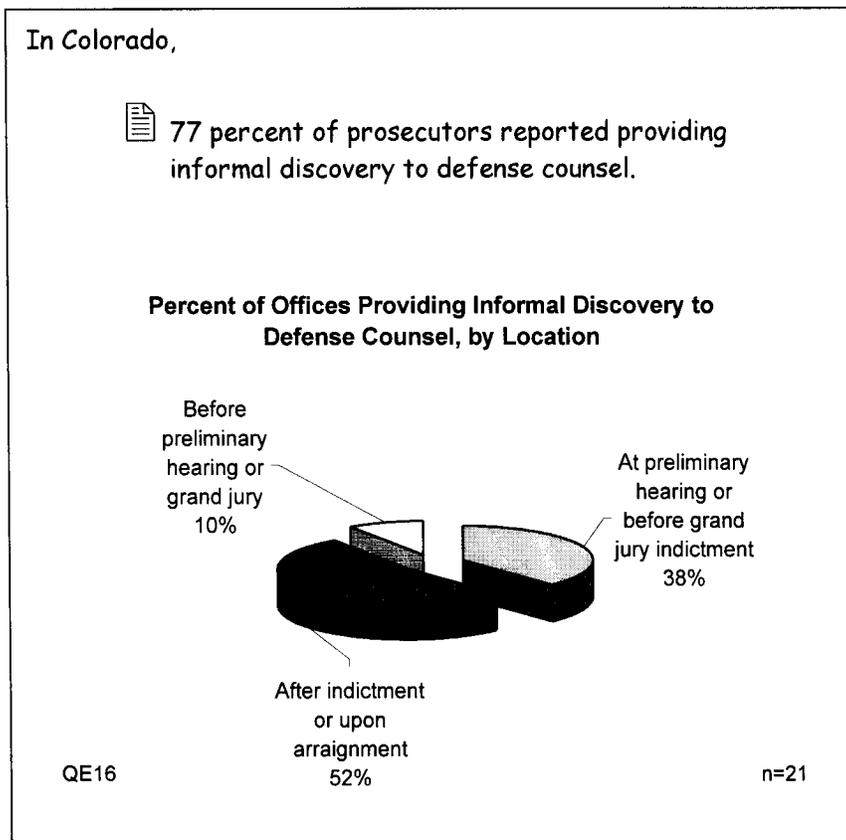
**81 percent of the offices report that the defendant is routinely present at pretrial conferences**



**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.

**48 percent of the offices reported they provide informal discovery to defense counsel before indictment or at preliminary hearing**



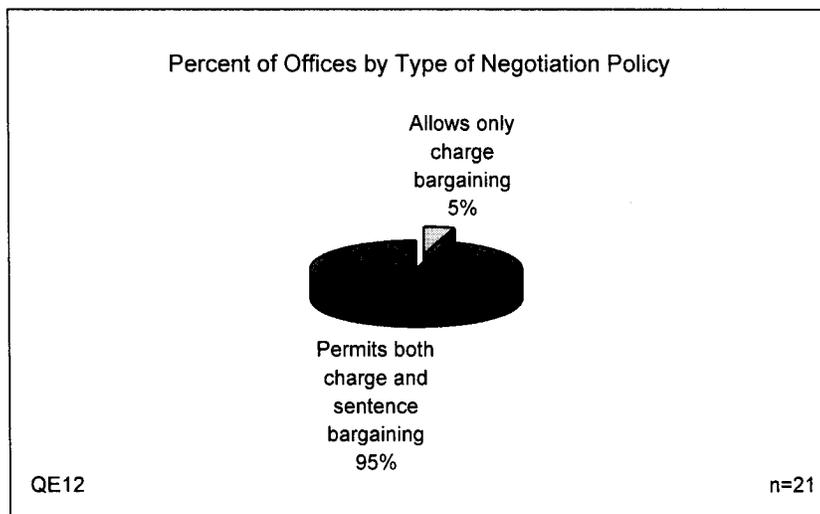
#### **4. Uniform and consistent plea negotiation and dismissal policies**



**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

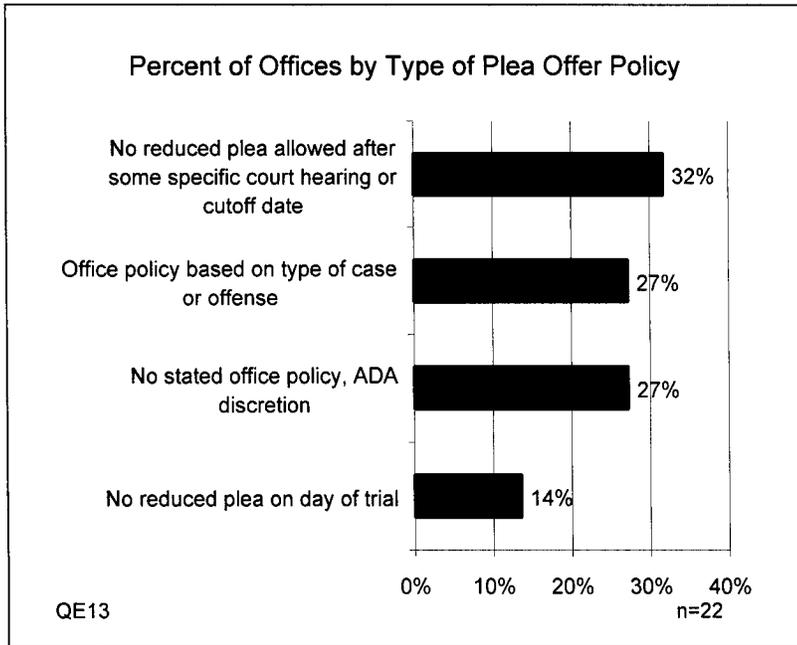
attorneys to recommend reduced sentences, probation, diversion or treatment programs, etc; and a *combination of charge and sentence bargaining* which allows attorneys to negotiate both issues. Some prosecutors ban bargaining unless there are special circumstances. A no plea bargaining policy requires 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. In Colorado 95 percent of prosecutors permit both charge and sentence bargaining.**



**Guilty pleas are the predominant method of case disposition.**

Generally, less than 5 or 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.



**73 percent of the offices have a plea offer policy. The most common (32 percent) prohibits pleas after a certain point.**



**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 Colorado**

The percent of offices restricting the amendment of cases involving:

- Misdemeanors is 31 percent
- Traffic 27 percent

QE18 n=22

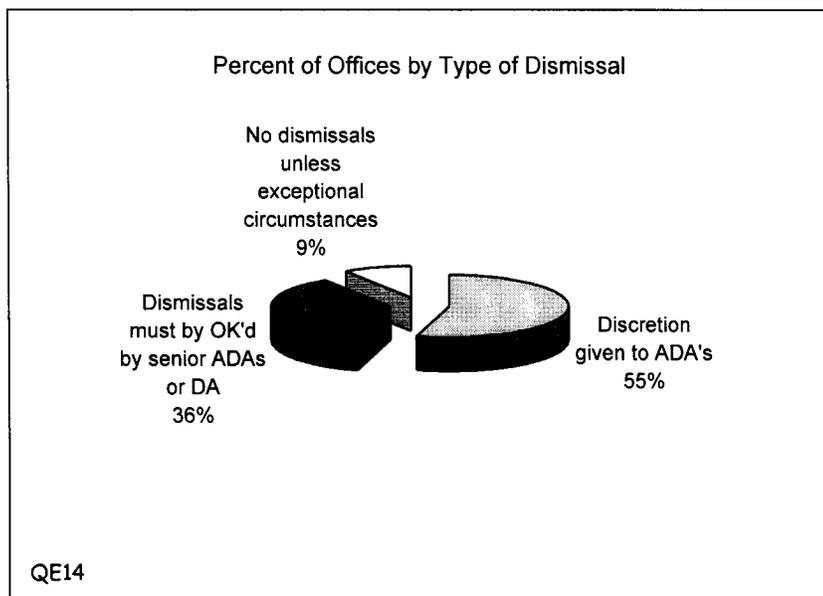


**Dismissals are one of the most sensitive indicators of the**

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.

**Prosecutors report little uniformity in office dismissal policies. 55 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 Colorado,

-  The typical (median) office has 3 victim-witness coordinators.
-  The ratio of victim-witness coordinators to attorney staff ranges from 1 coordinator for each attorney to one coordinator for 17 attorneys.

QE21

**The typical (median) staffing is three victim-witness coordinators 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 43. The range of scores among the individual offices is between 72 percent and 11 percent. The wide variation suggests that organizational differences may be due to the preponderance of small offices in the survey and the prosecutor's need for more training in organizational management.

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

#### *Strengths*

The survey indicates that much of the organizational structure of offices reflects the predominately small size of the offices. There is a high level of participatory management in the offices where staff and attorneys are involved in making decisions about changes. Most prosecutors either use vertical assignment procedures or assign their deputies to courtrooms. Both procedures introduce accountability into decisionmaking and prosecution.

### *Weaknesses*

Half of the prosecutors reported that they 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 an elected community leader.

Despite the existence of Blackstone, and with the exception of felony jury trials, only about half of the prosecutors are familiar with the dispositions patterns in their offices. This lack limits their ability to manage their cases.

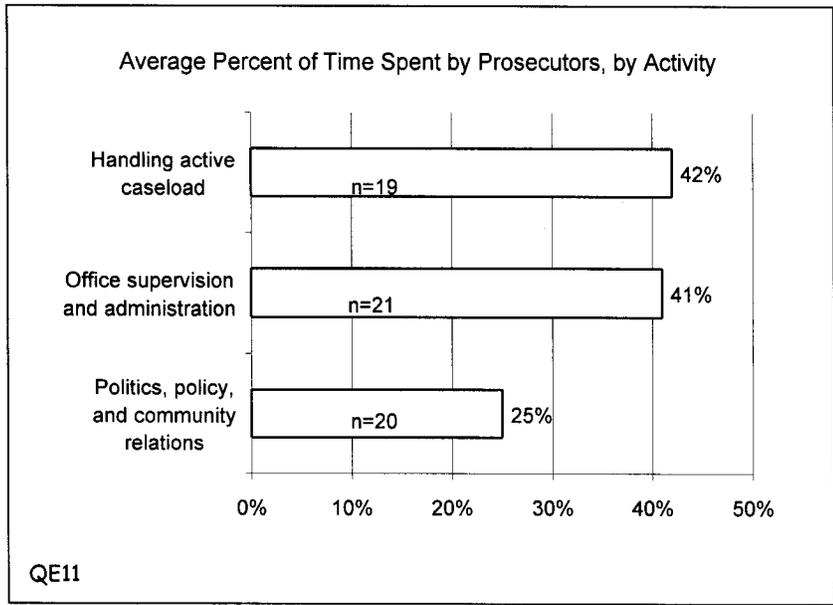
It appears that there has been little integration of the victim-witness coordinators with case preparation activities. Most of the offices report that the victim-witness staff operate under the supervision of the office administrator or a special units. This organizational structure tends to focus on their notification duties and less on case preparation.

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

## ***1. Leadership and openness to change***



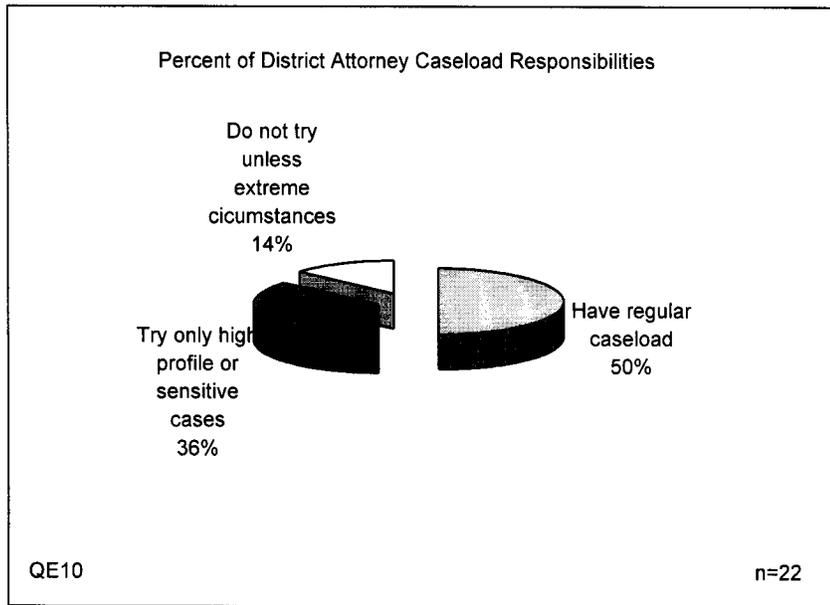
**Elected district attorneys wear a variety of hats. They are first** and foremost prosecutors and attorneys. As such they sometimes carry active caseloads. They are also managers and administrators for their offices, a responsibility that increases as office size increases. Finally, they are politicians 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 and may limit the amount of attention they can give to areas that should be improved.



**Caseload demands consume 40 percent of prosecutors' time and attention. An additional 39 percent is spent on office administration leaving 25 percent for community leadership.**



**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.**



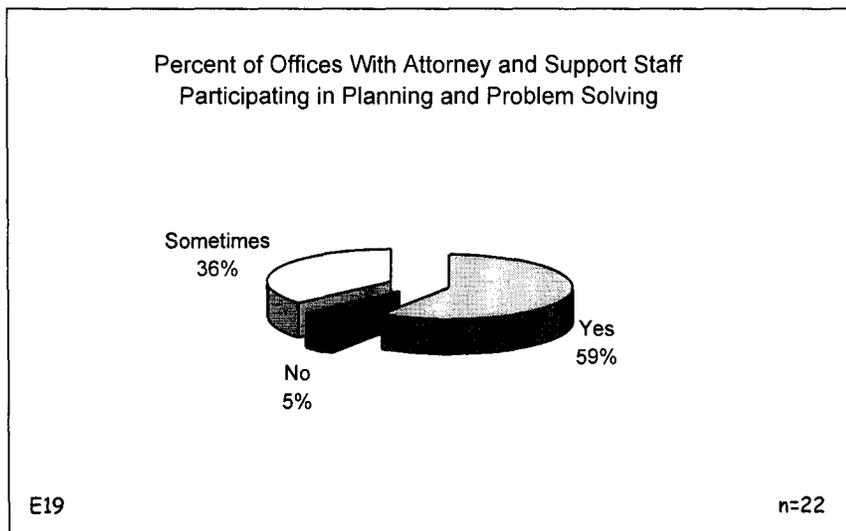
**Fifty percent of the prosecutors reported that they carry a regular caseload.**

## 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.

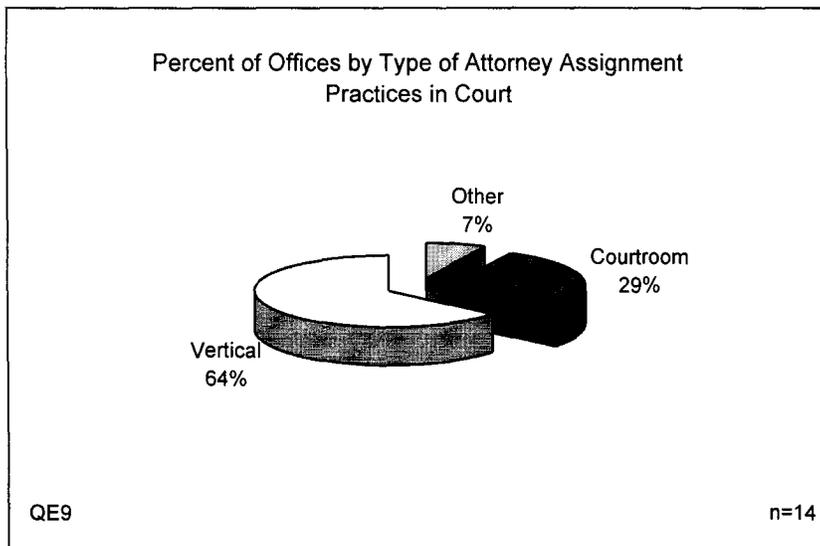
**Small offices usually have more informal organizations. 59 percent of the prosecutors involve the whole office in making changes or problem solving.**



**There are a variety of ways to assign felony cases to attorneys.** Most are strongly influenced by the court's docketing system. For example, if the court uses a master calendar system for docketing, the prosecutor may respond 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 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.

**93 percent of prosecutors use felony attorney assignment systems that promote accountability in case processing. They include vertical or courtroom attorney 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 Colorado,

-  57 percent of prosecutors have established separate organizational units for misdemeanor prosecutions.
-  Most offices (77 percent) assign the least experienced attorneys to misdemeanors.
-  86 percent of the offices have designated experienced attorneys for training

E23, E24, E25

n=22



**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.

**59 percent report that they have specialized prosecution units.**

In Colorado,

-  59 percent of the offices have specialized prosecution units
-  41 percent did not.

QE17

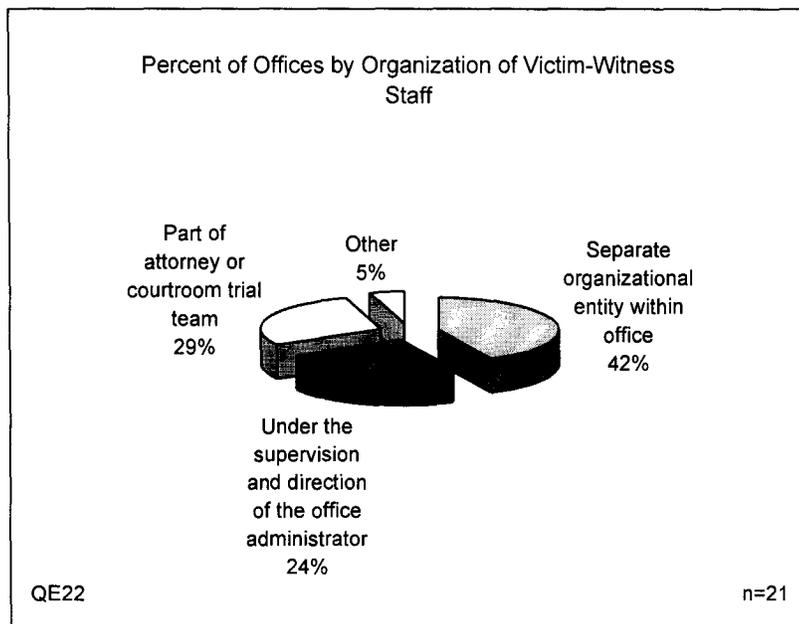


**The role and activities of victim-witness coordinators have varied widely as offices undertake to create and define this new position.** In some instances the victim-witness coordinators have primarily clerical duties that satisfy notification requirements. In other

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

**Only 29 percent of the offices have assigned victim witness staff to attorney or courtroom trial teams for assistance in case preparation.**



### **3. Availability and use of management information**

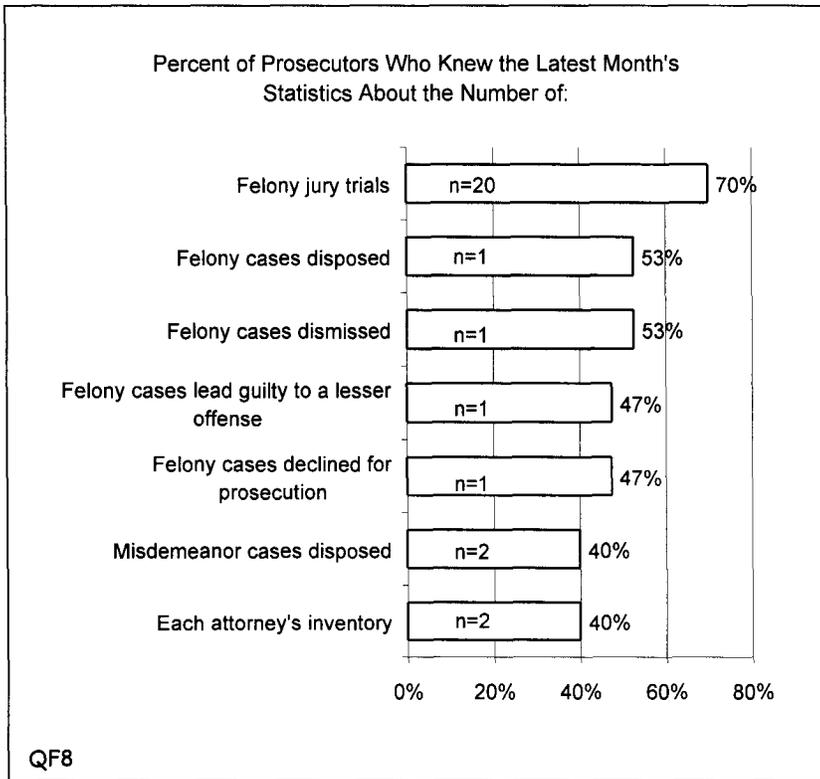


**Management information provides the key to monitoring both** the operations of an individual office and prosecution services statewide. Frequently information needed by prosecution may not be available. Court information does not necessarily satisfy prosecution needs. Additionally, too often prosecutors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

It notes changes and trends keeping prosecutors up-to-date, and helps ensure 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.

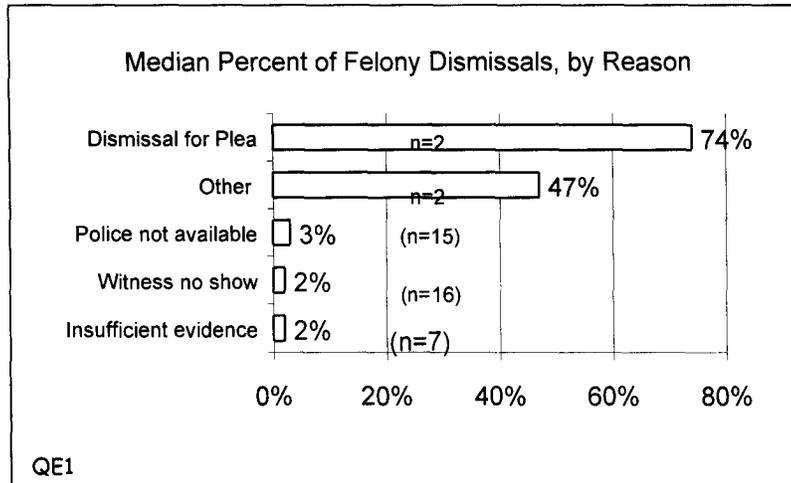
**In Colorado most prosecutors did not know how most cases are disposed except for felony jury trials.**



**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.

**Dismissals for reasons that suggest management deficiencies do not appear to be present in high proportions. Only two percent of dismissals are due to witness failure to appear and for 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 74. The range of scores among individual offices is between 94 percent and 54 percent. The wide variation suggests that extra attention should be given to those offices that are operating with inadequate space.

### *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 availability of equipment for both attorneys and staff also indicates that the tools for caseload management exists. .

## *Weaknesses*

Two thirds of the offices reported inadequate space but only 32 percent expected to move in the near future. The reasons should be identified and corrected if possible.

Productivity is reduced if the office does not take advantage of advanced communication technology. Fifty-four percent of the offices reported little or no use of e-mail for communication.

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 Colorado,



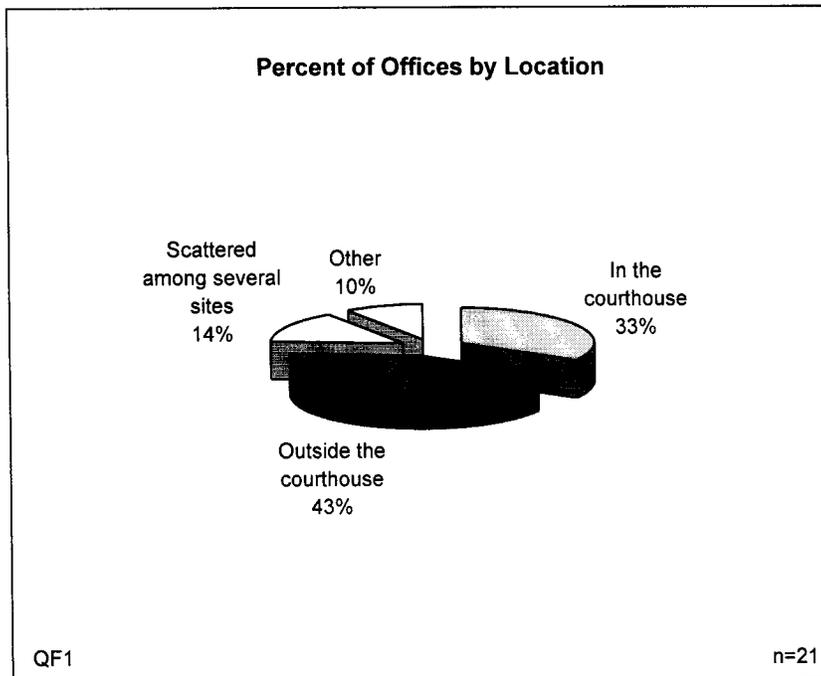
62 percent of the offices report inadequate space but only 32 percent see relief in the form of plans to move to new space in the next 3 years.

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.

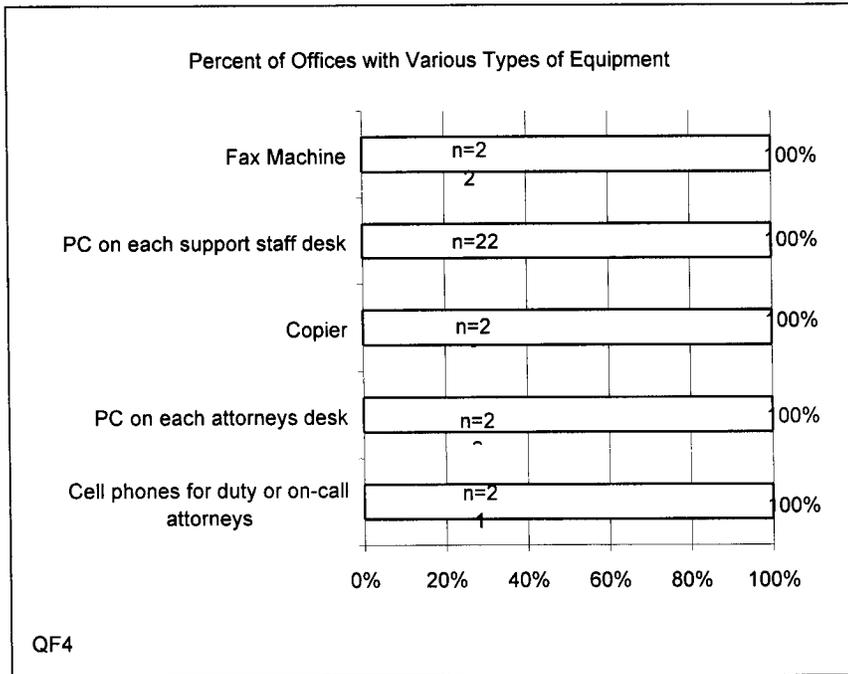
**Only 14 percent of prosecutors' offices are scattered among several sites.**



## ***2. Adequate equipment and communications technology***



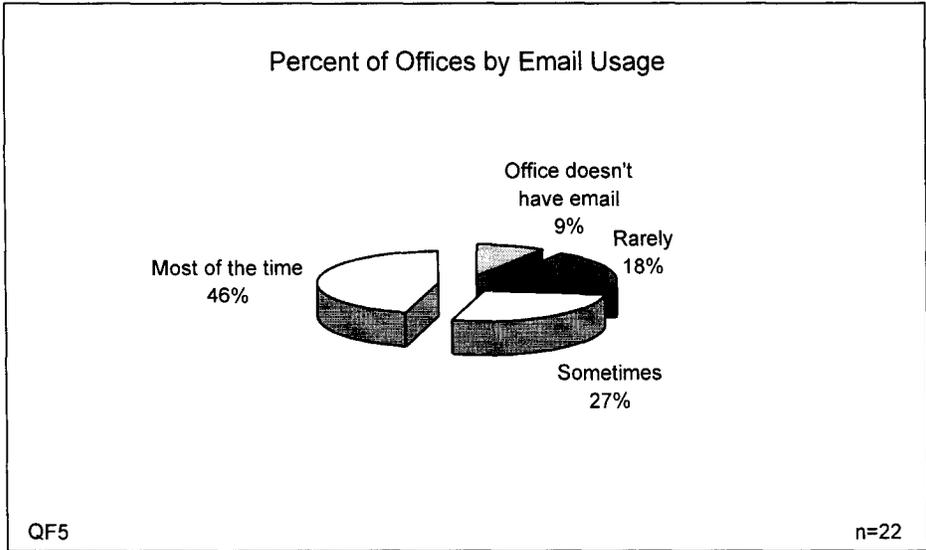
**The level of communications technology in an office is an important** indicator of not only how well the office has been given access to the latest technological advances so as to increase productivity but also it indicates the level of service the office is able to provide. If offices are not adequately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



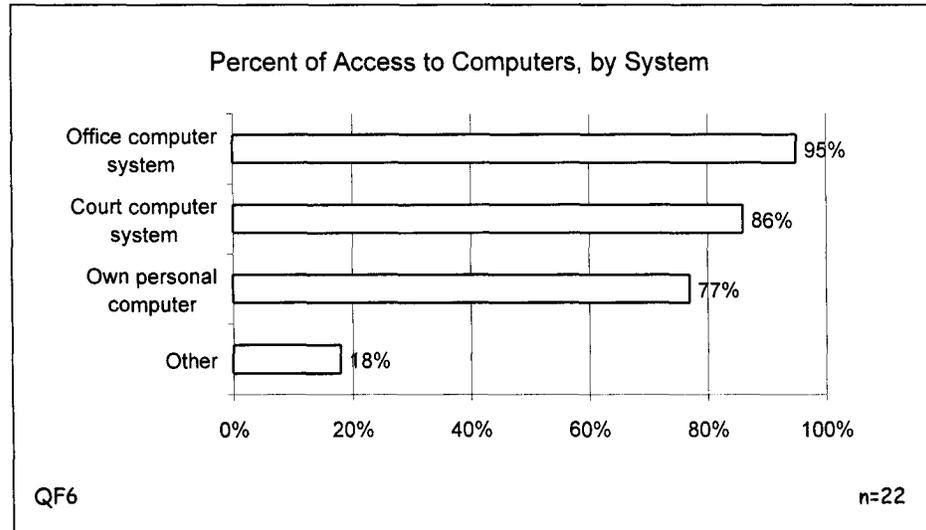
**All offices have fax machines, copiers and PCs for support staff and attorneys and cell phones available for duty attorneys.**



**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.



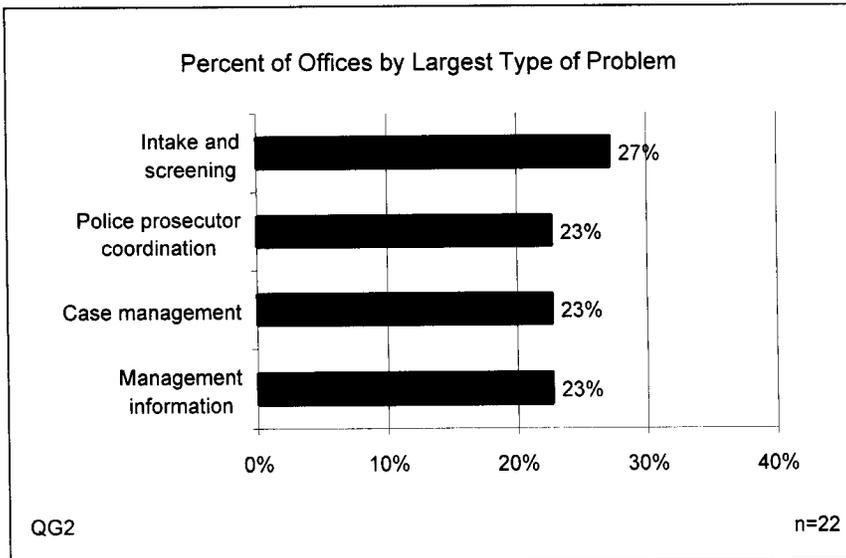
**Less than half (46 percent) of the offices use e-mail most of the time. Nine percent of the offices do not have access to e-mail.**



**91 percent of offices in Colorado have access to the Internet.**



**As part of the survey each office was asked to indicate the management area that was most problematic. The results identified the areas of intake and screening as being slightly more problematic than the other management areas.**



## CONCLUSION

Colorado has GAPMAP scores in the low 60s and high 50s for each of the management areas except space, equipment and automation which scores a 77. The levels of compliance indicate that generally about 60 percent or more of the offices in the state are conforming to generally accepted management principles. The Colorado prosecutors should look to increase the levels of compliance in all areas and uniformly in all offices. What the increase should be cannot be specified at this time because there is no past history to use as a guide. However, this initial assessment could serve as a benchmark to estimate whether there have been improvements in prosecution management, where they have occurred and by how much.

Because the assessment looked at practices that supported management principles in each of the five areas, it was able to identify prosecution management areas that appear to be operating well and those that appear to need attention. The practices that are below the overall average score for the management area are summarized in the table below.

We recommend that the CDAC review the areas identified as being below the average recorded for the management area to identify areas that they believe should receive priority attention and develop plans or strategies to improve management in these areas.

Because there is wide variation among the offices with respect to their management styles and operations, it may be possible to identify “best practices” for transfer or replication in other offices. The CDAC should have a primary leadership role in this management improvement venture.

## Areas for Review and Priority Setting

Management Area	Percent Conforming to GAPMAP
<b>1. Police/Prosecutor Interface-----</b>	<b>59</b>
1.1 Improve the quality of police reports and evidence collection for smaller law enforcement agencies	24 & 32
1.2 Increase interaction between prosecutors and police in crime scene investigations	27
1.3 Increase informal training and notifications about	
New legislation	43
Report writing	14
Evidence protection	5
Search warrants	50
1.4 Increase level of involvement of police in discussions about:	
Felony investigations before arrest	45
Plea negotiations	45
Prosecution plans	36
1.5 Provide monthly reports to police chiefs and sheriff about the status and dispositions of their cases	
1.6 Improve responses to prosecutors' requests for additional information for both large and smaller LE agencies	50 & 24
<b>2. Intake and Screening-----</b>	<b>54</b>
2.1 Increase the number of offices conducting misdemeanor screening	14
2.2 Increase the number of offices that review felony cases before or at first appearance and misdemeanor cases before the first court date	41 & 45
2.3 Increase the number of offices having guidelines for ordering further investigations	55
2.4 Increase law enforcement's submission of reports containing	
Criminal records	45
Suspect written statements	33
Scientific and medical reports	9
2.5 Increase use if alternatives to prosecution programs	50

Management Area	Percent Conforming to GAPMAP
<b>3. Case Management-----</b>	<b>63</b>
3.1 Expand the role of the prosecutor to always review felony cases and make recommendations for participation in treatment or diversion programs	56
3.3 Increase the percent of offices with 180 days or less from filing to disposition	61
3.4 Reduce the practice of giving discretion to any assistant to dismiss cases without supervision or review	45
<b>4. Organization and Administration-----</b>	<b>51</b>
4.1 Reduce the active caseload handled by prosecutors	14
4.2 Reexamine the work of victim-witness coordinators and integrate their activities with case preparation	29
4.3 Increase the knowledge and use of management information	40-53
<b>5. Space, Equipment and Automation-----</b>	<b>77</b>
5.1 The number of offices with adequate space	38
5.2 Increase the availability and use of advanced communication technology such as e-mail	46

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**Appendix A**  
**Survey Instrument**

## 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:

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

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

	<u>Routinely</u>	<u>Sometimes</u>	<u>Rarely/Never</u>
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. Criminal history      Routine Sometimes Rarely/Never
- 2. Serious Traffic Driving record      Routine Sometimes Rarely/Never

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

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

**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	[ ]	[ ]	[ ]
2. Arrest report (if arrested)	[ ]	[ ]	[ ]
3. Criminal record	[ ]	[ ]	[ ]
4. Suspect's written statement	[ ]	[ ]	[ ]
5. Written summary of witness testimony	[ ]	[ ]	[ ]
6. Property sheet for physical evidence	[ ]	[ ]	[ ]
7. Written scientific or medical reports	[ ]	[ ]	[ ]

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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Prosecutor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Def. Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Defendant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?

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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: