

PROSECUTION MANAGEMENT IN MICHIGAN

2001

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INTRODUCTION

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

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

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

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

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

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

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

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

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

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

PURPOSE AND OBJECTIVES

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

METHODOLOGY

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

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

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

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

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

ORGANIZATION OF THE REPORT

The report is divided into three sections.

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

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

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

Appendix A contains a copy of the survey instrument.

I. CRITERIA FOR EVALUATING PROSECUTION MANAGEMENT

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

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

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

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

The value of management principles lies in their ability to:

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERALLY ACCEPTED PROSECUTION MANAGEMENT PRINCIPLES

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

Police-Prosecutor Interface

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

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

Intake and Screening

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

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

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

Case Management

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

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

Organization and Administration

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

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

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

Space, Equipment and Automation

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

Sufficiency includes:

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

II. SUMMARY OF FINDINGS

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

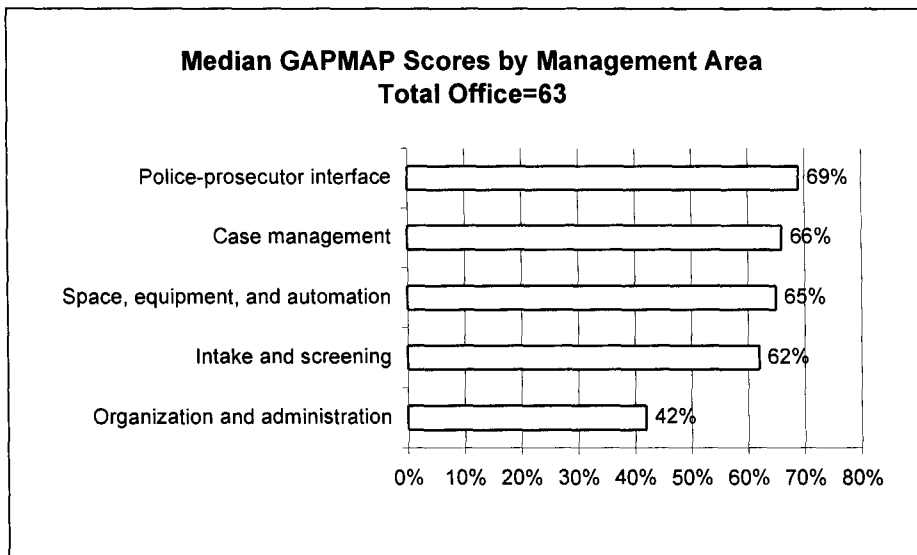
We assess compliance with GAPMAP by recording the percent of offices that have practices that conform to generally accepted management principles within each of the five management areas and then weight the practices by their relative importance to the establishment of good management in each area.

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

Summary of levels of compliance

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

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



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

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

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

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

III. COMPLIANCE LEVELS IN EACH MANAGEMENT AREA

POLICE-PROSECUTOR INTERFACE

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

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

Summary of Statewide Compliance Levels

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

Strengths

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

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

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

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

Weaknesses

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

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

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

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

