

**PROSECUTION MANAGEMENT IN
MISSOURI**

2001

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PROSECUTION MANAGEMENT IN MISSOURI, 2001

INTRODUCTION

Missouri has 114 counties and the city of St. Louis representing a population of approximately 8.2 million. The largest prosecuting attorney's office is in Jackson County (Kansas City) with 72 full-time and 3 part-time assistant prosecuting attorney (APA) positions. Typically, prosecuting attorney offices in Missouri are small and in the more rural areas they are headed by part-time prosecutors. With the exception of the city of St. Louis, prosecuting attorneys represent counties. St. Louis city has a circuit attorney for the city. The median¹ office in Missouri has two assistant prosecuting attorneys

Prosecuting attorneys have felony misdemeanor, juvenile traffic and some civil jurisdiction. All are elected for four-year terms. They are located in the executive branch of government. Offices are funded by local county budgets.

The court system is unified and includes an associate circuit court for misdemeanors and traffic and a circuit court for felonies and juveniles. There may be municipal courts within the county which operate independent of the circuit court and typically handle ordinance violations, traffic and some misdemeanors where there is concurrent jurisdiction. The prosecuting attorney is required by law to review and authorize complaints before they are filed in court.

In 2001 the Jefferson Institute conducted a management survey for the Prosecuting Attorneys Council of Missouri and the Missouri Office of Prosecution Services (MOPS), a statutorily established "autonomous entity" located in the office of the attorney general. MOPS is funded by court fees and provides training and technical assistance to the prosecuting attorney's offices. Through state funding and grants, it also supports prosecution services in specific issue areas. Currently it is involved in developing a statewide case tracking system and the development of a prosecutor's guide to misdemeanor case management.

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

Good managers recognize that it is important for offices to have reasonable staffing levels. However, they also recognize that if resources are strained, it is even more important to manage resources 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 Council and to serve as a baseline for determining the status to prosecution management statewide in Missouri. 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 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 Missouri 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-five (or 48 percent) of the 115 prosecutors responded to the survey. The responses are 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 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.²

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

² 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.

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:

- Regularly scheduled communication with law enforcement about policy and priorities
- Timely, complete and responsive investigative reports
- Availability of prosecutors to law enforcement
- Close coordination and joint programs between investigators and prosecutors
- Law enforcement involvement in case processing and outcomes
- 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:

Charging and declination policies communicated to all interested parties

- Charging decisions uniformly made consistent with policy
- Charging decisions made by experienced trial attorneys - no assistant shopping
- Procedures that monitor requests for additional information

- 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:

- The concept of differentiated case management³
- The use of alternatives to criminal prosecution
- Administrative not adversarial prosecution
- Reductions in case processing time
- Accountability in the decision making process
- 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:

- Leadership and openness to change
- Availability and use of management information
- Management and operations by teams if feasible
- Accountability
- Use of alternative funding sources
- Community involvement

³ 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:

- **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.

- **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.

- **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 weighted 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 53. The highest median levels of management compliance are recorded for case management (66 percent) and space, equipment, and automation (64 percent), followed by intake and screening at 56 percent. The lowest scores are recorded for the police-prosecutor interface (40 percent) and organization and administration (27 percent). (Figure 1).

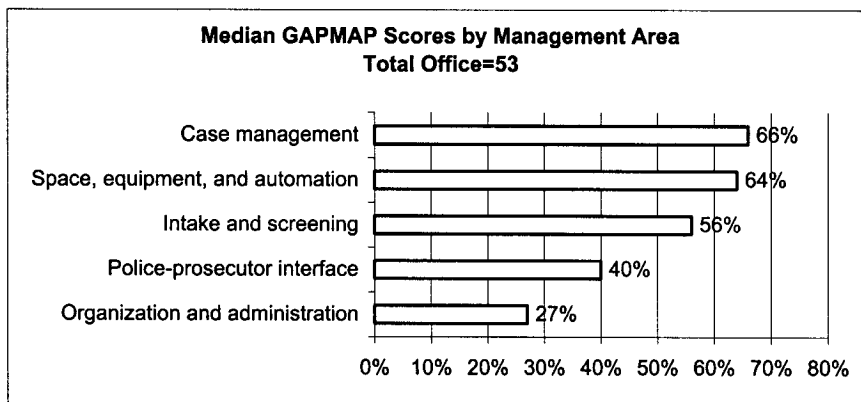


Fig. 1

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 Missouri 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 40 percent. The range of scores among individual offices is between 85 percent and 10 percent. This wide variation suggests that there is a real opportunity to improve parts of the police-prosecutor interfaces and thereby improve communication, coordination, and collaboration. It appears that there are positive working relations among the departments and the prosecutor but the interface between the two is not as strong once cases move into the prosecution process or in the areas of planning and policy.

Strengths

Practices that tend to conform to generally accepted management principles are predominately located in the timeliness of police reporting (roughly 80 percent of the offices reported receiving police reports in 10 days or less), and the prosecutor active review of search warrants. Almost all offices (91 percent) are actively involved in drafting and certifying search warrants. These practices suggest that the prosecutors' intake and screening activities are strengthened. The fact that the prosecutor has to authorize charges before they are filed in the court appears to have established a solid basis for

good police-prosecutor relations. This is also supported by the large proportion of prosecutors' offices (78 percent) that have designed forms for law enforcement use.

The quality of police reports by larger agencies was also identified as good to excellent. A grade of A or B was given to the quality of police report by 58 percent of the prosecutors; and for the quality of evidence collection, 69 percent of the office gave the largest agencies an A or B.

Weaknesses

The results suggest that there is little statewide effort to involve police in policy and planning matters. Only 11 percent of the offices have regularly scheduled meetings with the chiefs and the sheriff. Only 15 percent of the offices report that police are involved in plea negotiation while 13 percent involve law enforcement in prosecution plans. Few offices (only 35 percent) reported that they participate in joint programs with the police although much of this may be due to the fact that most offices are too small and do not have resources to support formal programs.

The survey suggests that the smaller law enforcement agencies need assistance in report writing and evidence collection. The percent of the offices rated the agencies with an A or B was 29 percent for evidence collection and 20 percent for report writing. On the whole, it appears that prosecutors are not particularly active in training police (even informally) in the areas of report writing or discussing new legislation.

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

1. Regularly scheduled communication with law enforcement policymakers



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

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

In Missouri,



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



The fewest number of agencies is 1, the largest is 68.

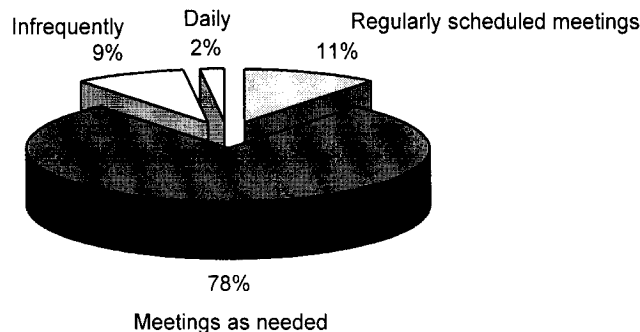
QB1



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.

Only 11 % 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

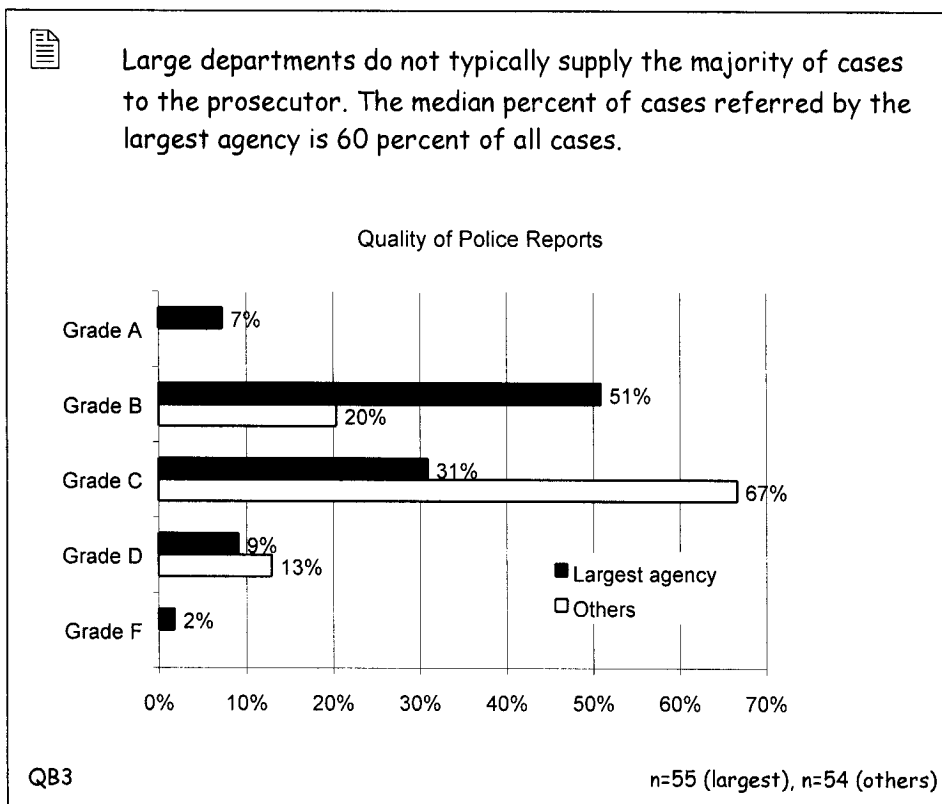
n=55

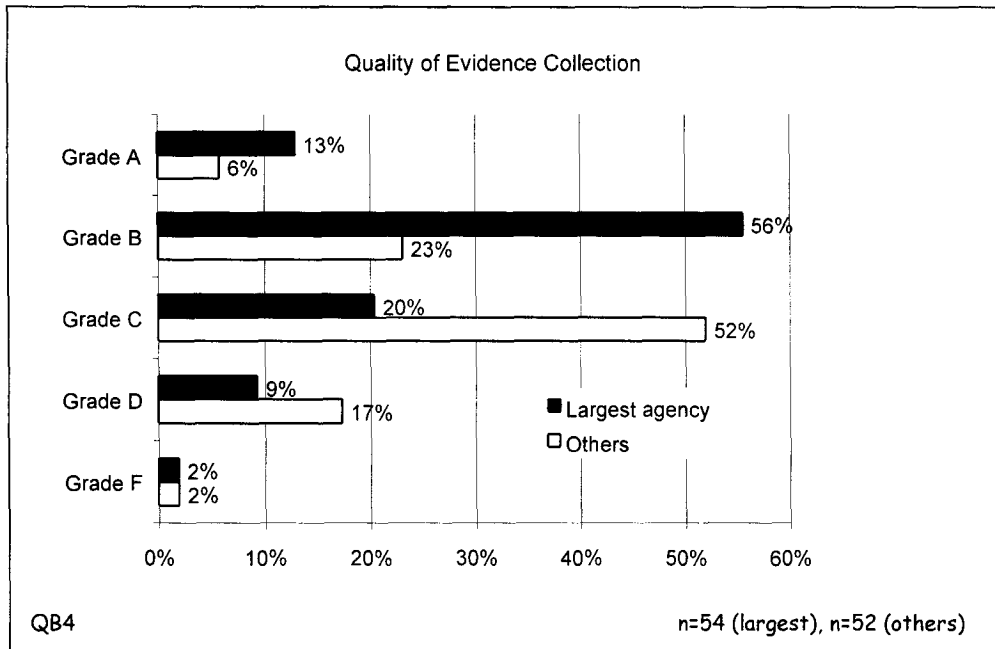
2. Timely, complete and responsive investigative reports



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 larger departments provide better quality police reports and have better quality of evidence collection than smaller agencies (median grade B for the larger departments, grade C is median for smaller departments).



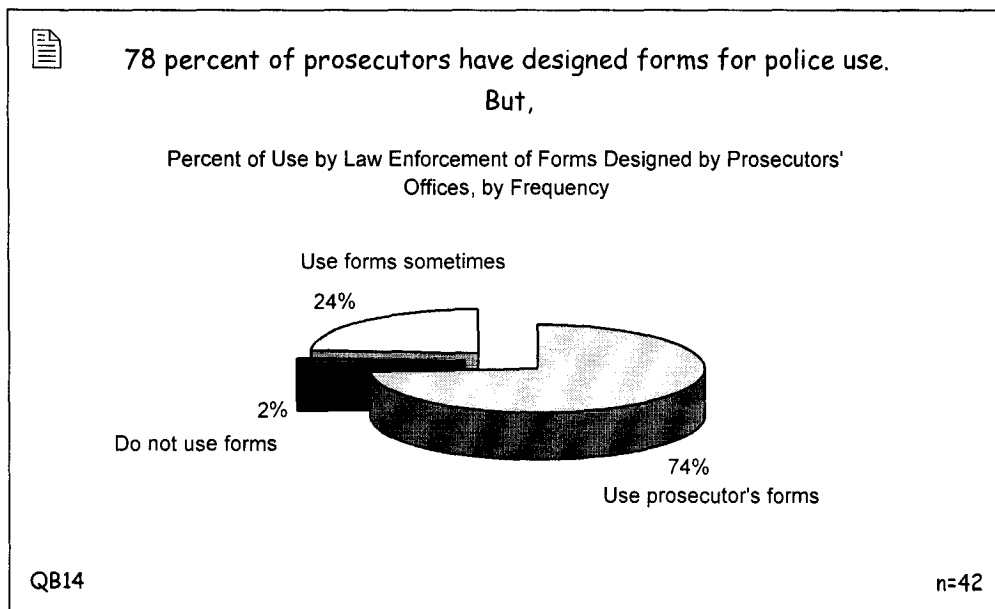


The quality of evidence collection is rated B for largest agencies and C for the smaller ones.



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.

78 percent of prosecutors have designed report forms for law enforcement use. They are used regularly by law enforcement almost three out of four times (74 percent).





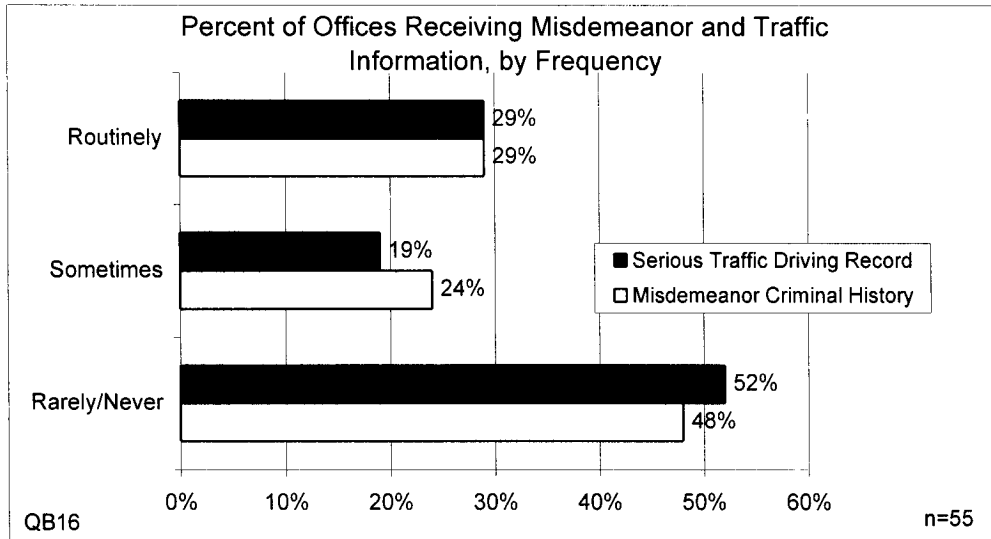
Timely reports from law enforcement are important for proper charging decisions. Delays in submitting reports produce delays in charging that may provoke other problems. One may be unnecessary cost to the public if pretrial detention is ordered and the case is ultimately declined or dismissed. Another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

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

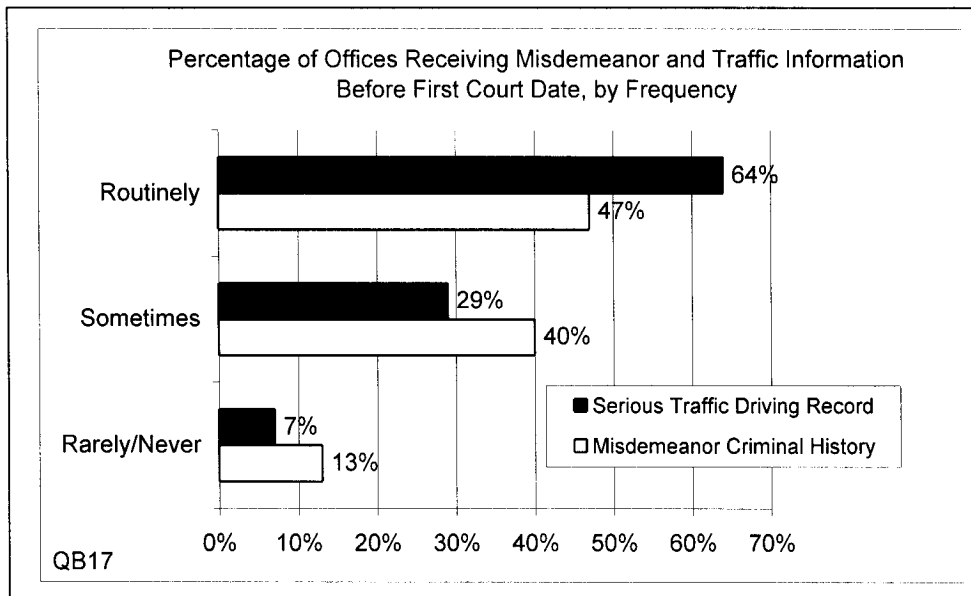
In Missouri,	
Median Number of Days to Receive Felony Reports for:	
Violent Crimes	1
Property or drug crimes	5
Percent of Offices Receiving Reports in 10 Days or Less for:	
Violent Crimes	83%
Property or drug crimes	77%
QB7	



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.



Only 29 percent of the prosecutors routinely receive misdemeanor driving or criminal history records



Almost two thirds of the offices have driving records before the first court date. Less than half have criminal histories available routinely before the first court date

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.