

**PROSECUTION MANAGEMENT  
IN  
NORTH CAROLINA**

**1995**

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# **NORTH CAROLINA PROSECUTION MANAGEMENT IN 1995**

## **INTRODUCTION**

North Carolina has 100 counties and 39 prosecutorial districts that are mostly identical to judicial districts. The state has a population of approximately 7.5 million in 1999, most of whom reside in six urban areas. The largest prosecutorial district is the 26<sup>th</sup>, Mecklenberg County with 33 appropriated assistant district attorney (ADA) positions and 12 funded by either grants or the city of Charlotte. The offices range in size from 2 to 45 ADAs. The median office size is four ADAs.

District attorneys most often represent multiple counties. Two offices represent seven counties each, four have five counties in their jurisdictions, the median<sup>1</sup> number of counties in a prosecutor's jurisdiction is two.

The unique features of the office of district attorney in North Carolina include:

- Prosecutors are in the judicial branch of government, administered by the Administrative Office of the Courts (AOC)
- The AOC prepares the budgets for the prosecutors' offices and allocates legal assistant positions
- Superior court judges "ride circuit" within judicial districts
- By statutory authority, the prosecutor sets the docket

In 1995 the Jefferson Institute conducted a resource analysis for the North Carolina Conference of District Attorneys, an independent statutory body attached to the AOC for administrative purposes. The activities of the Conference include providing training and technical assistance to the prosecutors, assisting in legislation, and the improvement of prosecution management throughout the state.

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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.

The analysis of the resources indicated that the prosecutors were 115 positions below actual and projected caseloads and deficient in at least the same amount for support staff. Over the next two years, the legislature increased the number of attorneys by 115 but the number of support staff was only increased by half. Generally speaking, the offices of the district attorneys have a minimum level of resources but not an abundance.

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. Good management is a goal for all prosecutors but the underlying questions are, what is good management and how does one know when it has been achieved? Furthermore, 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?

This report presents an approach for evaluating the management needs of prosecution statewide. It describes the results of a needs assessment that was conducted in 1999 by the Jefferson Institute as part of its BJA funded program to Promote Innovation in Prosecution (Grant No. 97-DD-BX-0006). It demonstrates that it is possible to examine prosecution management in diverse communities across the state and assess the level of prosecution statewide. It also describes an approach that allows the Conference of District Attorneys and prosecutors to determine where additional resources are needed.

## **PURPOSE AND OBJECTIVES**

The purpose of this assessment is twofold. At the state-level it assesses the state of prosecution management, identifies areas of strength and weakness, examines the alignment of state and federal resources with need, and provides a technique for developing long-term strategies to improve prosecution management statewide.

At the national level, this assessment serves to demonstrate a technique that could be adopted, with some adjustments, by other states.

The value of this technique is that, for the first time, states may obtain a large picture of the status of prosecution services and decide where resources should be placed so they provide the most efficient and effective services in a uniform and consistent manner throughout the state. Further, over time, this technique allows a state to monitor changes and allocate resources in response to changing trends. Many prosecutors may be threatened by the idea of assessment. Elected prosecutors may fear that weaknesses found in their offices will be used by the opposition to defeat them. These may be legitimate concerns if the management of their offices is the issue. The purpose of a statewide assessment is not to evaluate individual offices but rather to determine whether, given the present level of resources, prosecution services are being delivered uniformly across the state and in what areas should funds and resources be directed to improve or sustain the highest quality of prosecution possible.

## **METHODOLOGY**

The needs assessment in North Carolina has two ingredients:

1. A survey of prosecutors to obtain baseline information about prosecution and its variations across the state;
2. The development of criteria to assess the level of prosecution management and its compliance with generally accepted prosecution management principles (GAPMAP)
3. A synthesis of the findings to identify areas of need and priorities for action.

Thirty-one of the 39 district attorney's offices responded to the survey. The responses were representative of the distribution of offices in the state.

After the survey responses were analyzed, the results were compared to generally accepted management principles and the levels of compliance with the principles were noted. This produced a picture of the strengths and weaknesses of prosecution management statewide. It also identified areas needing attention.

The results of the analysis were then synthesized to identify gaps in management improvement needs and priorities for the allocation of future funds and resources.

The analysis 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 analytical strategy identifies deficiencies and strengths within each of the above issue areas, examines the level of deficiency statewide, assigns priorities to the needs and then determines whether funds are aligned with the needs.

Preliminary findings were presented to a representative group of prosecutors for validation and to gain more insight about the qualitative aspects of prosecution needs. The final report was prepared for the North Carolina Conference of District Attorneys.

The focus of this study is the status of prosecution management statewide and the identification of areas where improvements are most feasible and bring 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 assessment to identify practices that enhance or support these goals.

Section two discusses the conceptual framework for the statewide assessment and highlights the differences between estimating professional levels of compliance and accounting for the influence of office size on systemic effects.

Section three presents a synthesis of this assessment summarizing the strengths and weaknesses and recommending “next steps” for action.

Appendix A contains a copy of the survey instrument.

# I. CRITERIA FOR EVALUATING PROSECUTION MANAGEMENT

Assessments of the delivery of services to the public require standards and performance measures to act 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 to determine their ability to support or enhance the principles.

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 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 functional areas 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 being 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.

Some prosecutors may believe 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.

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. 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 this needs assessment 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 Conference of District Attorneys might consider developing workshops or communications to assist prosecutors in making changes.

The purpose of the statewide assessment is to identify strengths and weaknesses in the delivery of prosecution services and 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
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

## **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
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

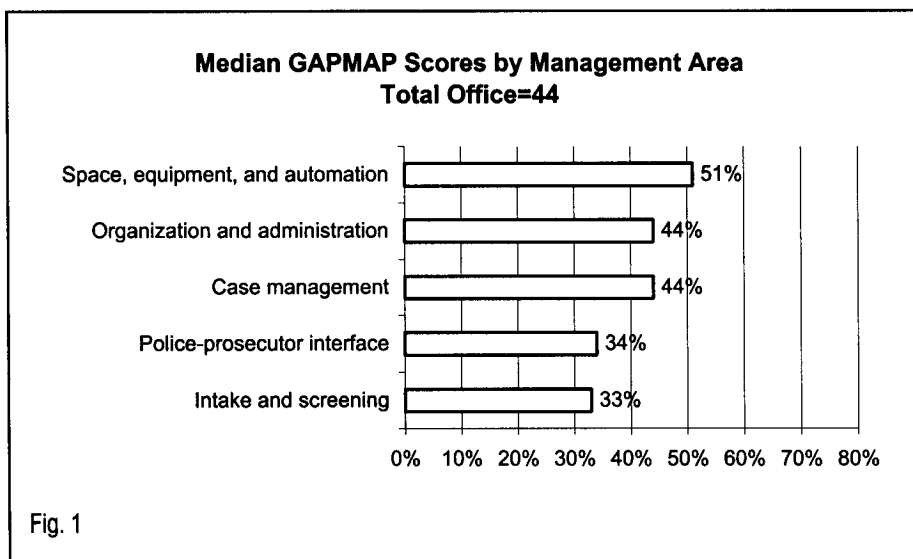
In this section we present a summary of the survey results. The findings are organized into the five management areas: police-prosecutor interface; intake and screening; case management; organization and administration; and, space, equipment and automation.

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 44. The highest levels of management compliance are recorded for space, equipment, and automation (51 percent), followed organization and administration and case management at 44 percent. The lowest scores are recorded for police-prosecutor interface (34 percent) and intake and screening (33 percent). (Figure 1).



Of great interest is the uniformly high levels of compliance in all areas. Four of the five management areas have compliance rates in the 60 percent range; the exception being organization and administration which has a 56 percent compliance rate.

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

#### **Statewide Compliance with GAPMAP**

The median state level of compliance for the police-prosecutor interface is 34 percent. The range of scores among individual offices is between 80 percent and 14 percent. The wide variation suggests that there is a real opportunity to improve police-prosecutor interfaces and thereby improve communication, coordination, and collaboration.

It appears from the following examination that practices which should be strengthened include:

- Hold regularly scheduled meetings between police chiefs and sheriffs and the district attorney to discuss mutual policy and priorities
- Reduce the number of days before the prosecutor receives felony reports
- Increase informal training and notifications
- Improve police-prosecutor communication about prosecutions

- Strengthen the role of police officers as witnesses and case advocates.

### 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 is 11.**

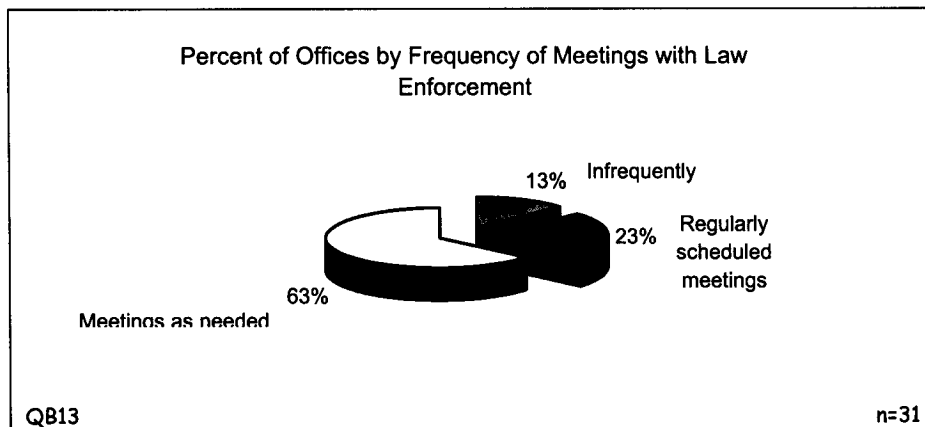
In North Carolina,

- The median number of law enforcement agencies referring cases to a prosecutor's office is 11.
- The fewest number of agencies is 4, the largest is 32 .



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.

**About 23 percent of the prosecutors have regularly scheduled meetings with the chiefs of the local law enforcement agencies to discuss mutual problems and priorities.**



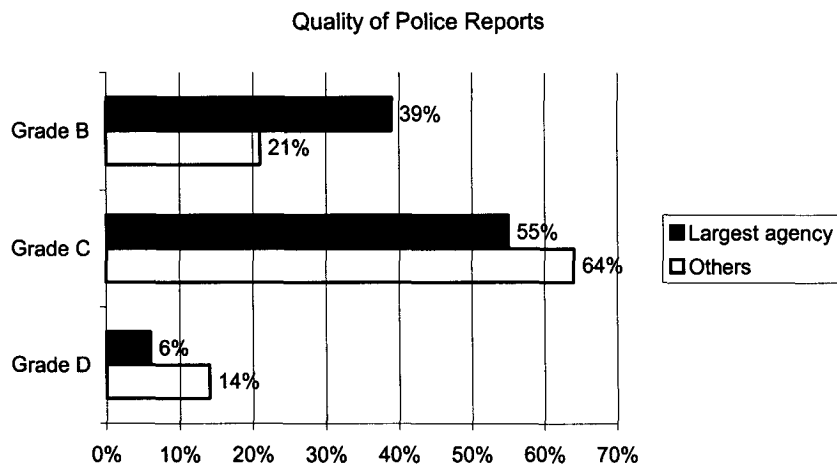
## 2. Timely, complete and responsive investigative reports



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.



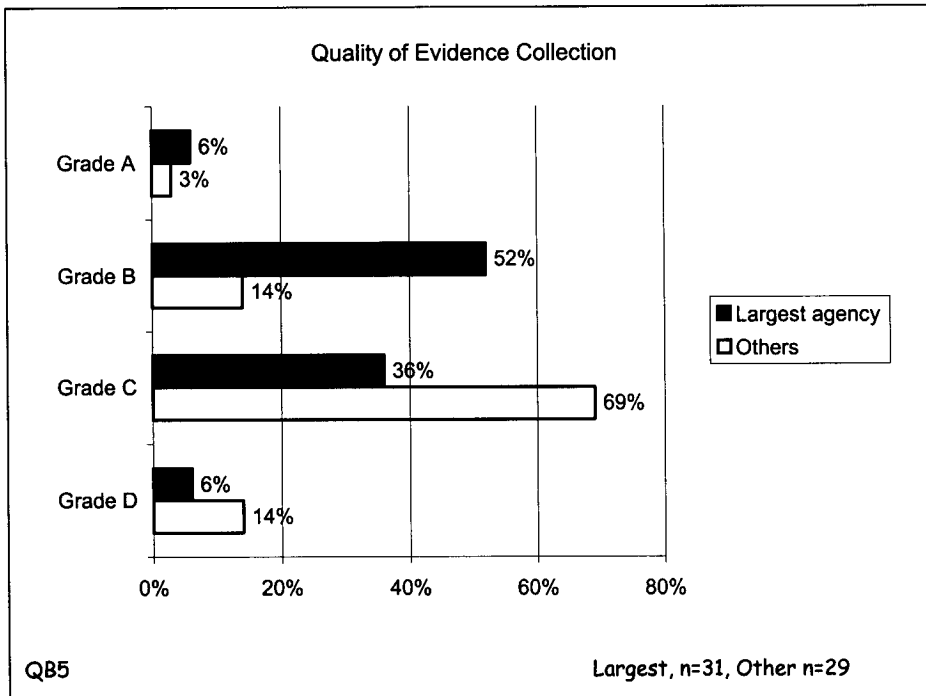
Large departments do not typically supply the majority of cases to the prosecutor. The median percent of cases referred by the largest agency is 40 percent of all referrals.



QB4

Largest, n=31 Others, n=29

Prosecutors assess the quality of all police reports, regardless of origin, as average, C. They observe differences between large and small departments only in the quality of evidence collection and protection where larger agencies receive a higher grade (B) than smaller agencies (C).



**Prosecutors rate the quality of the evidence collected by the largest agencies as B and C for the smaller agencies**



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

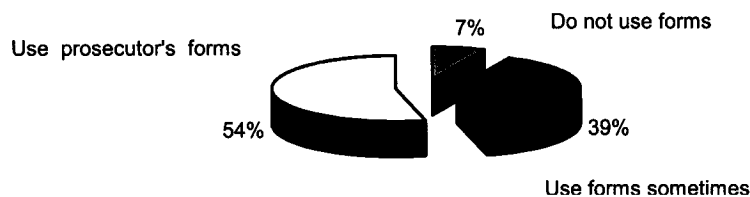
**Although most prosecutors (87 percent) have designed report forms for law enforcement use, only 54 percent report that they are used regularly by law enforcement agencies.**



**87 percent of the prosecutors have designed forms for police use.**

**But,**

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



QB16

n=28



**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.

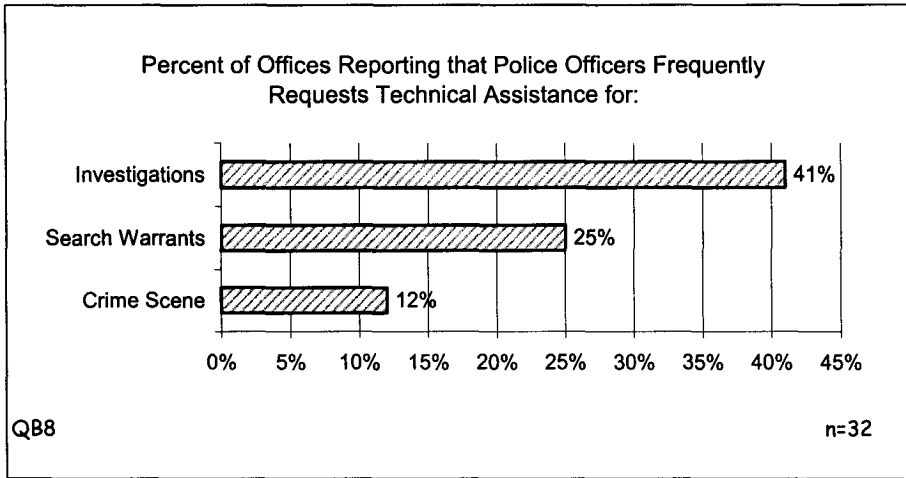
**The majority of prosecutors indicate that police reports are not being forwarded to them in a timely fashion.**

In North Carolina,	
Median Number of Days to Receive Felony Reports for:	
Violent Crimes	14
Property Crimes	20
Drug Crimes	15
Percent of Offices Receiving Reports in 10 Days or Less for:	
Violent Crimes	39%
Property or drug crimes	31%

### ***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 for search warrants.



**Statewide, prosecutors are more likely to interact with law enforcement (41 percent) about investigations than preparing search warrants or assisting at crime scenes.**



**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, few prosecutors (28 percent) frequently provide law enforcement with information about changes in legislation, or provide training in the areas of evidence protection, report writing or search warrants.**

