PROSECUTION MANAGEMENT IN ILLINOIS

2001

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PROSECUTION MANAGEMENT IN ILLINOIS, 2001

INTRODUCTION

Illinois has 102 counties and a year 2000 population of 12.4 million. The largest county is Cook County with a population of 5.4 million and a prosecution staff of about 870 full and part-time attorneys. The next largest office in the state is DuPage County. Most of the 102 counties in Illinois are rural. The median[1] office has one assistant state's attorney position.

State's attorneys represent the counties and have jurisdiction over felonies, misdemeanors, juvenile and civil cases. Appellate work is handled by the Illinois State's Attorneys Appellate Prosecutor. All state's attorneys are elected to four year terms and all are full-time.

State's attorneys are located in the executive branch of government. The state's attorney position is funded by the state with salaries set by the legislature. The rest of the office, staff, space and equipment, is locally funded by the counties unless the county has a mental or correctional institution that receives state supplements.

The court system is unified as a court of general jurisdiction. The trial level court has circuit judges for felonies and associate judges for misdemeanors. There is no legislation that requires the state's attorney's office to review and authorize cases before they are filed in court.

In 2001 the Jefferson Institute conducted a management survey for the State's Attorneys Appellate Prosecutor. The Appellate Prosecutor receives funding from state and local sources. It is a multi-purpose agency with operational and training responsibilities. It conducts the appellate work for the counties, maintains a special prosecution unit and provides training and technical assistance to individual offices. It coordinates activities with the Illinois State's Attorneys Association which focuses on legislative matters and supervises training conferences.

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

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 Council and to serve as a baseline for determining the status ~~of~~ OF prosecution management statewide in ~~Missouri~~ Illinois. 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~~ counties across the state. The results also provide the Prosecuting Attorneys Council with another source of information that can ~~be used~~ they 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. Sixty-five of the 102 offices (or 64 percent) responded to the survey. The responses are representative of the 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

[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.

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:

Management area	Number of practices
Police-prosecutor interface	29
Intake and screening	20
Case management	17
Organization & Administration	15
Space, equipment & automation	9
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 management[3]

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

[3] For a complete discussion of the DCM concept, see the Special Issue "Swift and Effective Justice: Mew 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 conforming to generally accepted management principles within each of the five 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 conforms to the principle.

Summary of levels of compliance

Statewide the median level of compliance is 55. The highest levels of management are recorded for space, equipment, and automation and case management (63 percent), Intake and screening has the third highest compliance level (58 percent). The lowest scores are recorded for the police/prosecutor interface (46 percent and organization and administration (36 percent). (Figure 1).

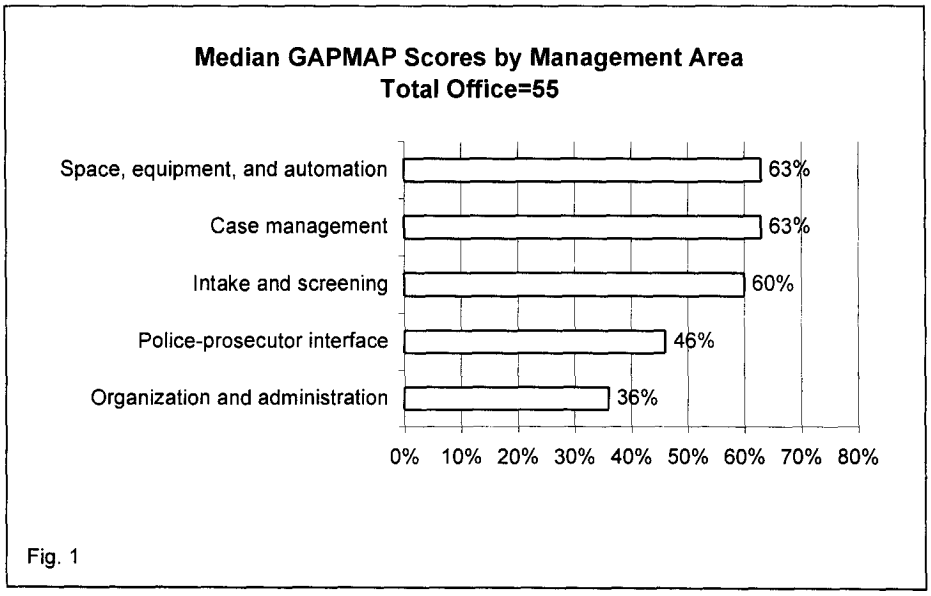


Fig. 1

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

Summary of Statewide Compliance Levels

The median state level of compliance for the police-prosecutor interface is 46 percent. The range of scores among individual offices is between 100 percent and 15 percent. The wide variation in responses 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 Illinois law enforcement agencies can file cases in the court without prosecutor review. As a result, the prosecutor is affected by the quality of the cases built by the police. The quality of the reports and evidence collected by the largest law enforcement agencies in a jurisdiction are rated good to

excellent by two thirds of the prosecutors. Smaller agencies do not fare as well. Because law enforcement agencies are the initiators of court cases, it is not surprising that about 70 percent of the prosecutors report that they Police Are responsive to requests for additional information and present few problems as witnesses in court.

Weaknesses

The major weaknesses in this interface appear to focus on the operational interaction between the police and prosecutors and the limited coordination at the policy making level. With the exception of helping law enforcement with search warrants, there is relatively little interaction in 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 in these areas should improve the evidentiary strength of cases especially since the prosecutor does not have the statutory authority to review and authorize charges. Only 22 percent of the prosecutors reported having regularly scheduled meetings with police chiefs and only 44 percent regularly notify the chief of case dispositions. This limited communication places both agencies at a disadvantage in coordinating priorities and developing consistent policies that can be implemented with limited conflict.

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 Illinois,

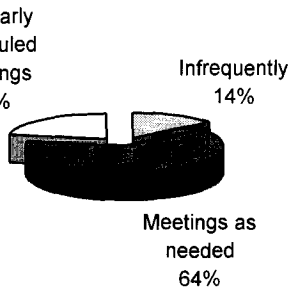
- The median number of law enforcement agencies referring cases to a prosecutor's office is 6.
- The fewest number of agencies is 2, the largest is 150.

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 22 % 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



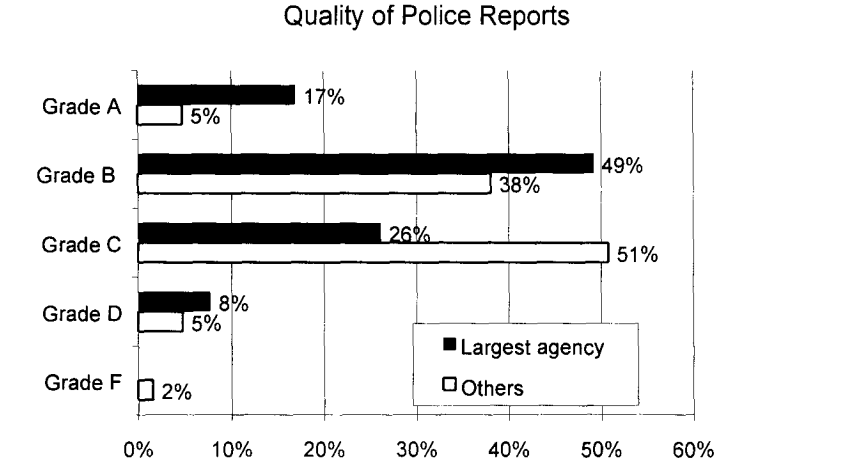
QB11 n=63

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.

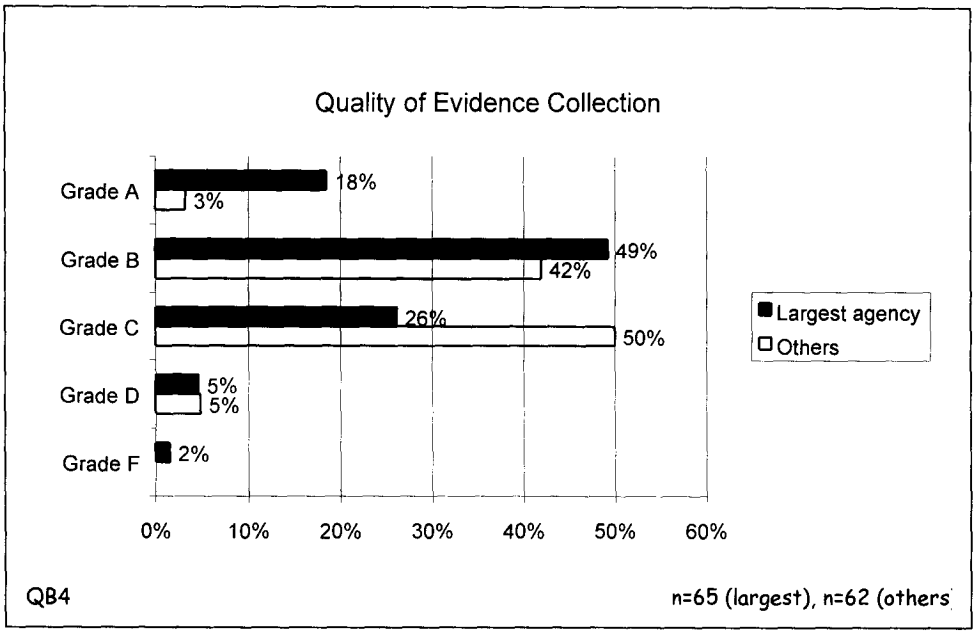
The median grade for the quality of police reports is B for the largest agency, and C for the others.

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



QB3

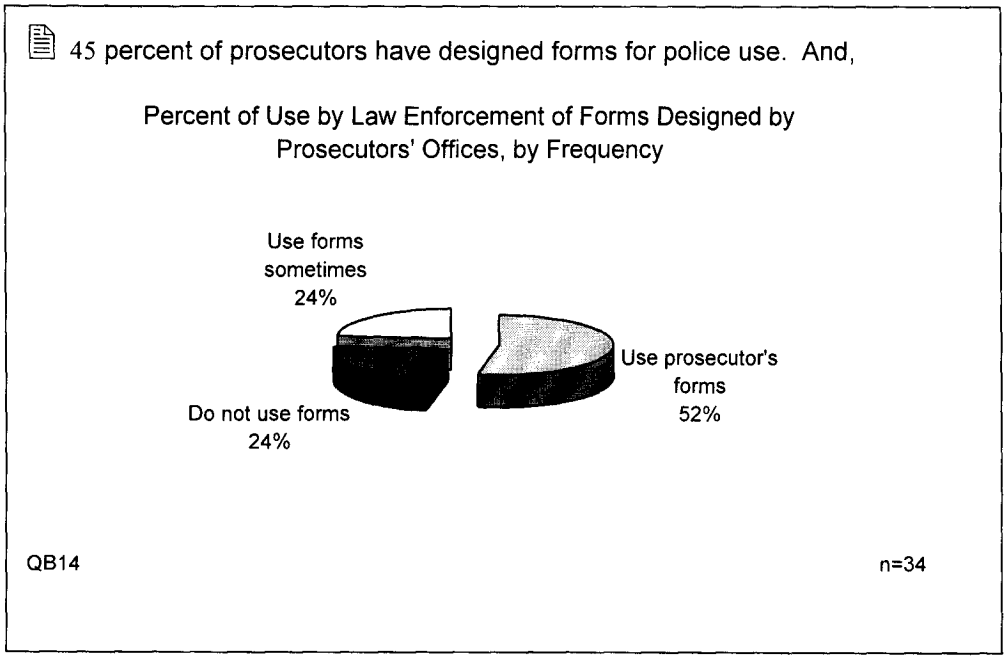
n=65 (largest), n=62 (others)



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.

45 percent of prosecutors have designed report forms for law enforcement use. But they are used regularly by law enforcement only about half of the time (52 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.

In Illinois,

Median Number of Days to Receive Felony Reports for:

Violent Crimes	1.5
Property crimes	2
Drug crimes	2

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

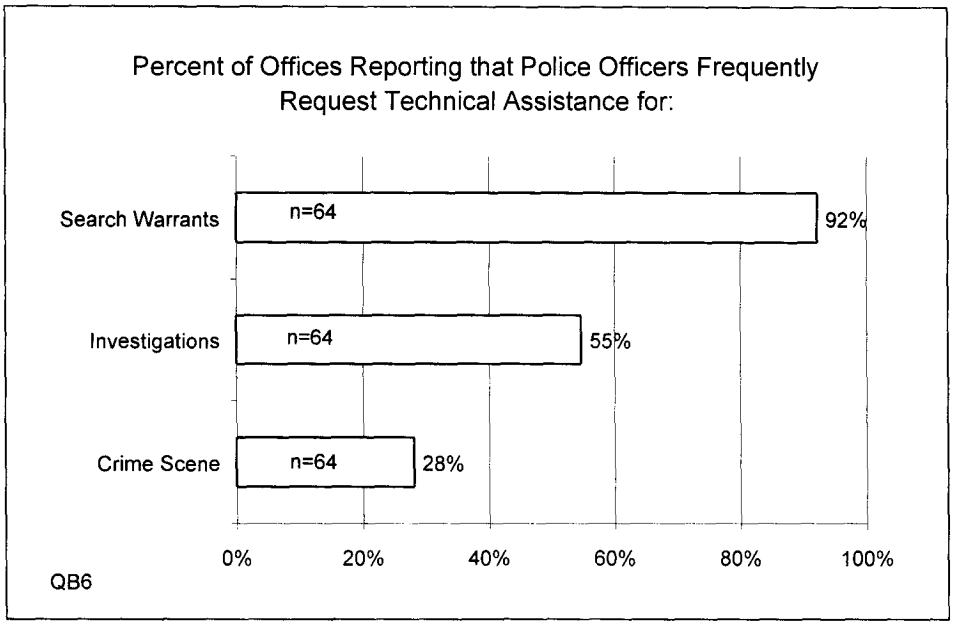
Violent Crimes	89%
Property crimes	88%
Drug crimes	83%

QB7

Most of the prosecutors (over 80%) indicate that police reports are being forwarded to them in a timely fashion.

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.

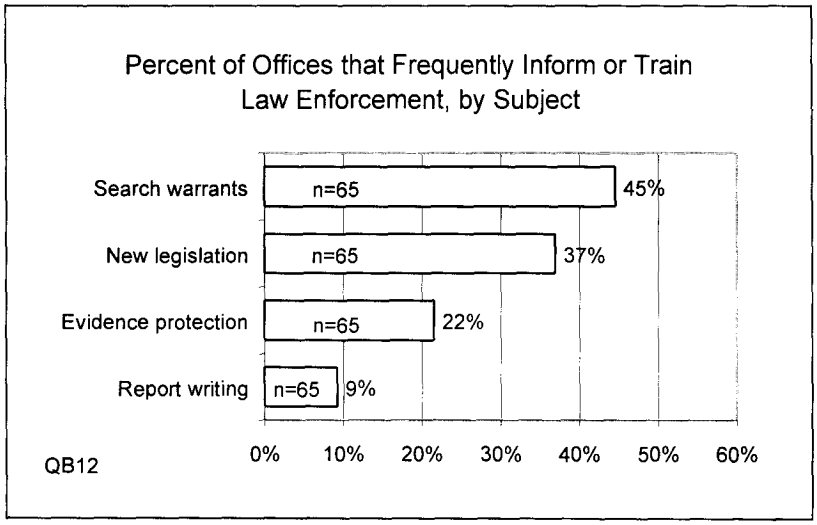


Prosecutors are more likely to interact with law enforcement when preparing search warrants (92 percent) than during investigations (55 percent) or at crime scenes (28 percent).

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, nearly five out of ten prosecutors frequently assist law enforcement with search warrants. Almost 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.

Three out of five prosecutors (60 percent) participate in at least one joint police/prosecutor programs. Most prevalent are domestic violence, child sex abuse and drugs.

In Illinois,

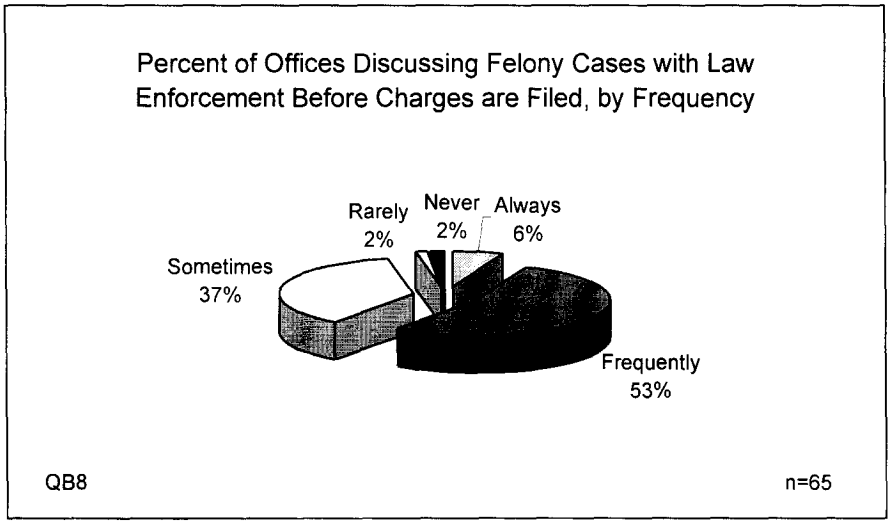
- 60 percent of prosecuting attorneys' offices have joint programs with law enforcement.
- The median number of programs in these offices is one.
- The most prevalent programs focus on domestic violence (41 percent), child sex abuse (41 percent) and drugs (39 percent).

QB5

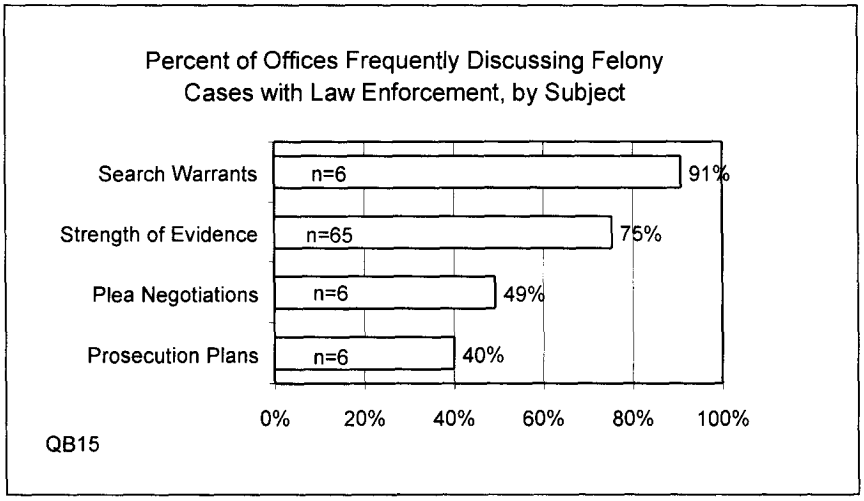
5. Involve law enforcement in case processing and outcomes

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

The survey indicates that only 6 percent of the offices always discuss felony cases with police before charges are filed. A little over half (53%) frequently discuss cases prior to filing.



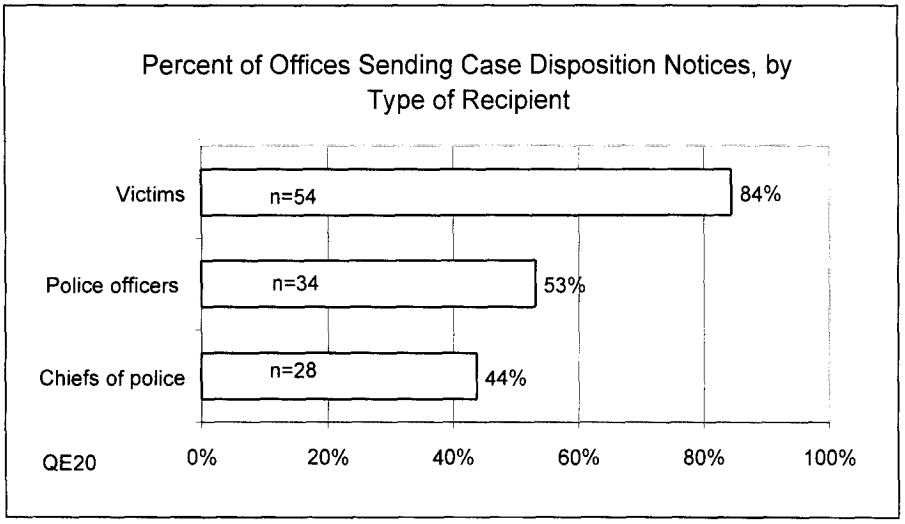
After charges have been filed, the level of communication between law enforcement agencies and prosecutors is another indicator of working relations and the degree of police interest in case outcomes. Prosecutors who work closely with law enforcement frequently discuss felony cases and specifically,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



Prosecutors are more likely to discuss search warrants (91 percent) and evidentiary strength (75 percent) with police than negotiations (49 percent) prosecution plans (40 percent).

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

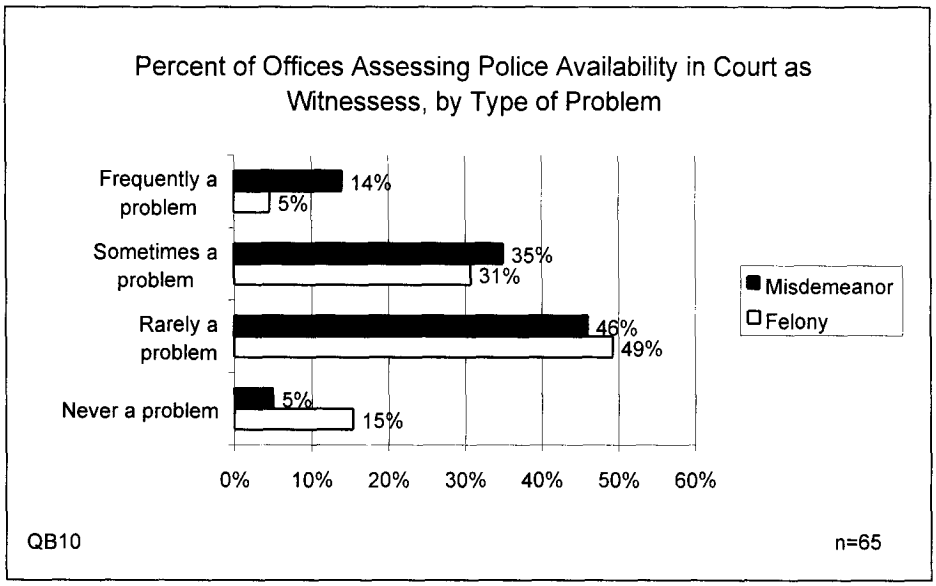
Case disposition notices are routinely provided to victims (84 percent) but less often to police officers (53 percent) and chiefs of police (44 percent).



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 callbacks for court scheduling, making appointments for police and prosecutors, and establishing single points of contact for the receipt of notices.

Over three out of every five offices (64 percent) report few problems with police availability for court appearances.
51 percent of the offices report few problems for misdemeanor court appearances.

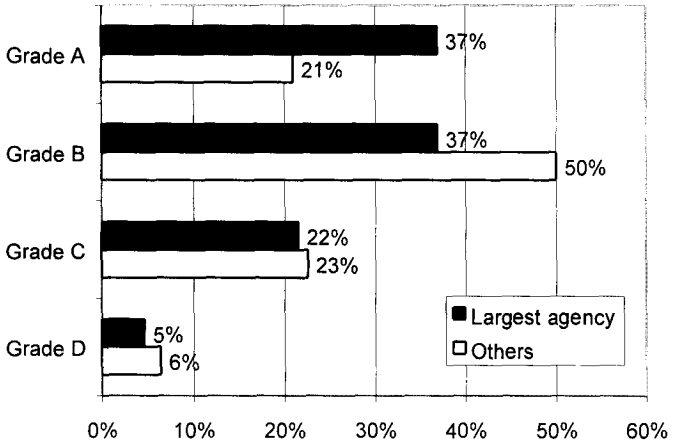


Law enforcement's responsiveness to prosecutors' requests for additional information is another indicator of police-prosecutor working relationships. If officers understand the prosecutor's need for sufficient evidence to support a conviction, they tend to be more responsive. Delays in responding to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

In Illinois,

- The median grade for responsiveness in large departments was B, above average.
- In the smaller agencies it was also B.

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



QB9

n=65 (largest), n=62 (other)

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

Almost the same percent (71 percent) share this view with smaller law enforcement 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 and supporting the GIGO principle (Garbage In, Garbage Out).

State statutes or court rules may limit the ability of the prosecutor to exercise charging discretion until after arrests are made and cases are filed in the court. In these instances, it is all the more important that case review be conducted at the earliest possible point in the adjudication process. Even if

statutory authority does not exist to provide for case review before filing, some prosecutors have introduced screening through cooperative agreements with law enforcement agencies.

Statewide Compliance with GAPMAP

The median state level of compliance for intake and screening is 58 percent. The range of scores among individual offices is between 81 percent and 18 percent. Of all management areas, intake and screening is the most important since it represents the "gate" to the adjudication process.

Illinois does not provide the state's attorneys with authority to review and authorize cases before they are filed in the court. As a result, unless informal practices and procedures are established, prosecutors have limited 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 Illinois have the tools and the opportunity to conduct good screening.

Weaknesses

Even with the opportunity to conduct case review, the state's 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 state's 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.

Almost all offices (98 percent) review felony cases *before* charges are filed in court.

83 percent of offices review misdemeanor cases before filing charges

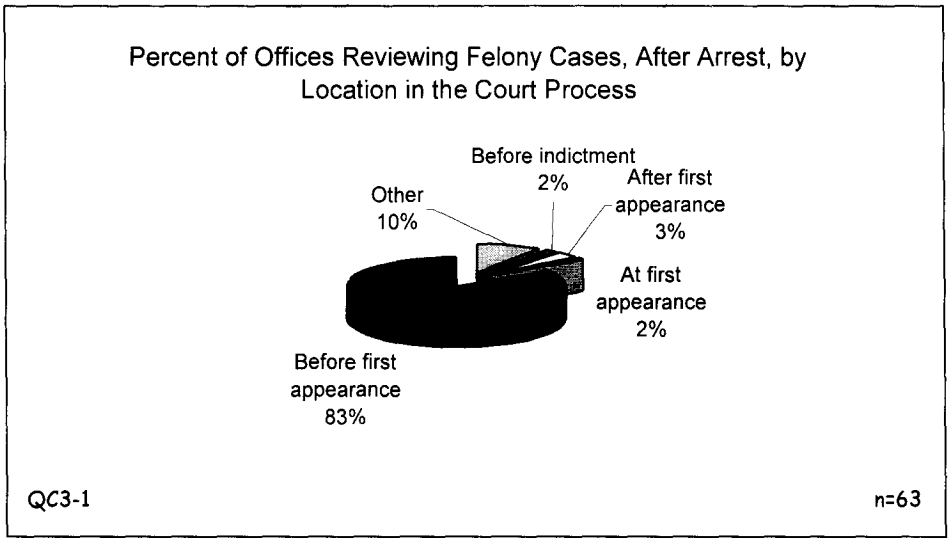
In Illinois,

- Twenty seven percent of offices *authorize* felony charges before arrest.
- Ninety eight percent of offices *review* felony cases before charges are filed in the court.
- Eighty-three percent of offices review misdemeanor cases before charges are filed.

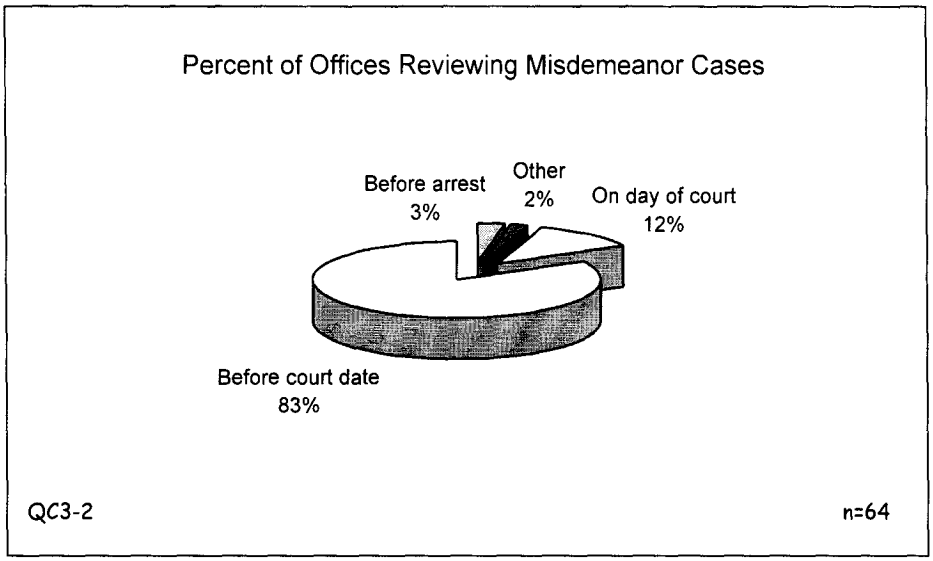
QC1& C2 n=64

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.



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



86 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.

9 percent of offices have 24 hours or less to indict or file an information. 75 percent file within 2 days.

In Illinois,

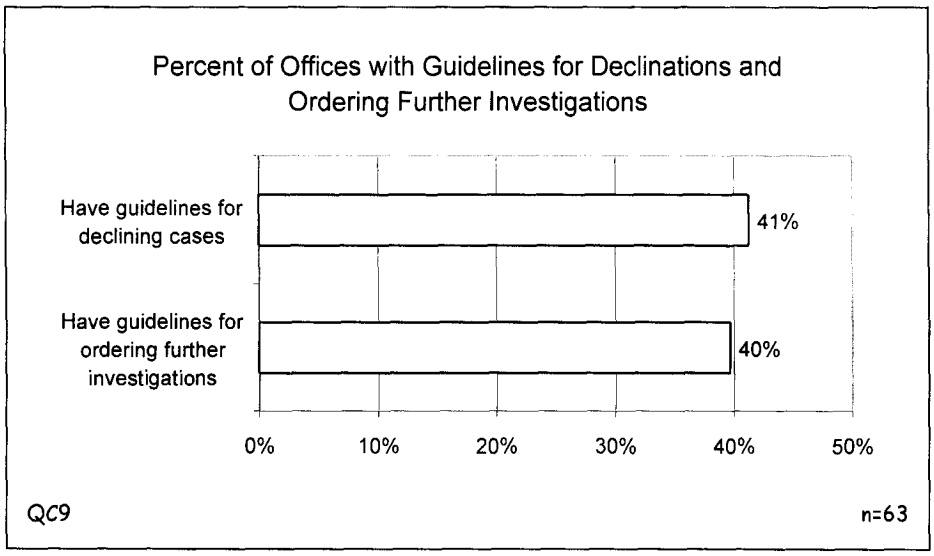
The median number of days between arrest and filing felony charges is two.

QC4 n=44

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.

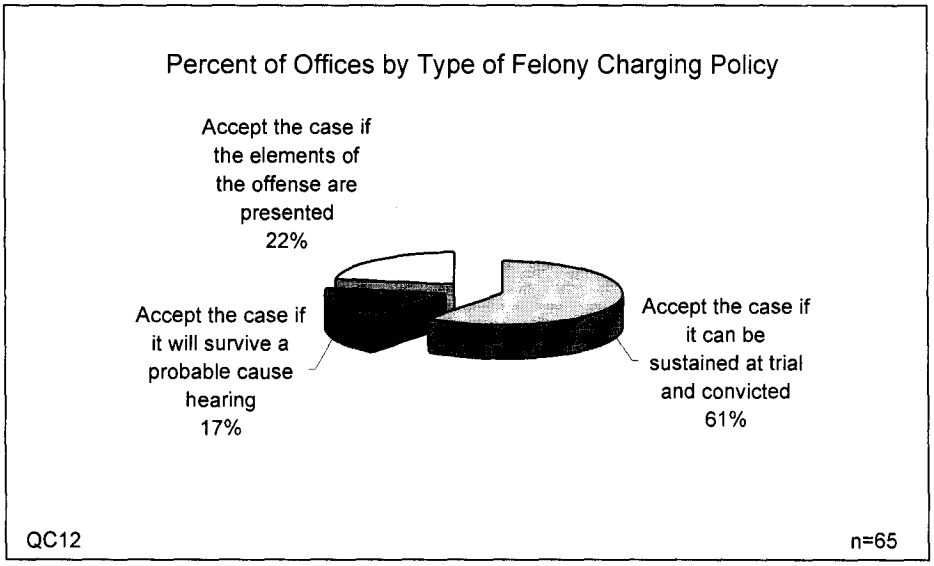
About two out of five offices have guidelines for declinations or further investigations



QC9 n=63

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.

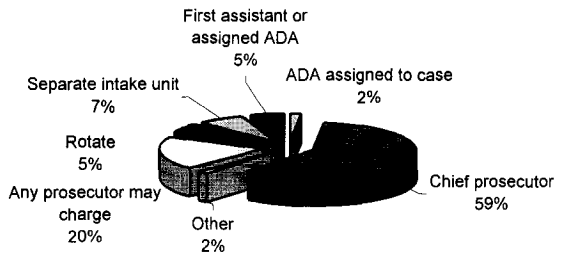
61 percent of the offices accept only cases that can be sustained at trial.



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.

Percent of Offices by Type of Felony Intake and Charging Organization

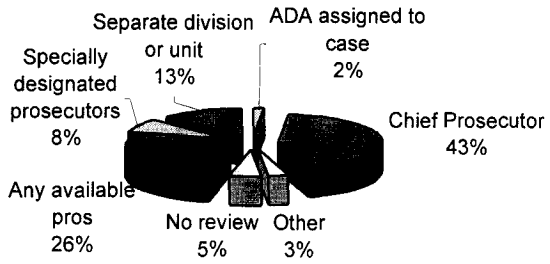


QC7-1

n=56

73 percent of the offices have organized felony intake and charging to support accountability in decision-making and uniformity in charging.

Percent of Offices by Type of Misdemeanor Intake and Charging Organization



QC7-2

n=62

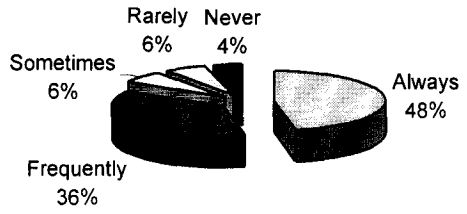
66 percent have similar organizations supporting accountability in review and charging for misdemeanors.

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.

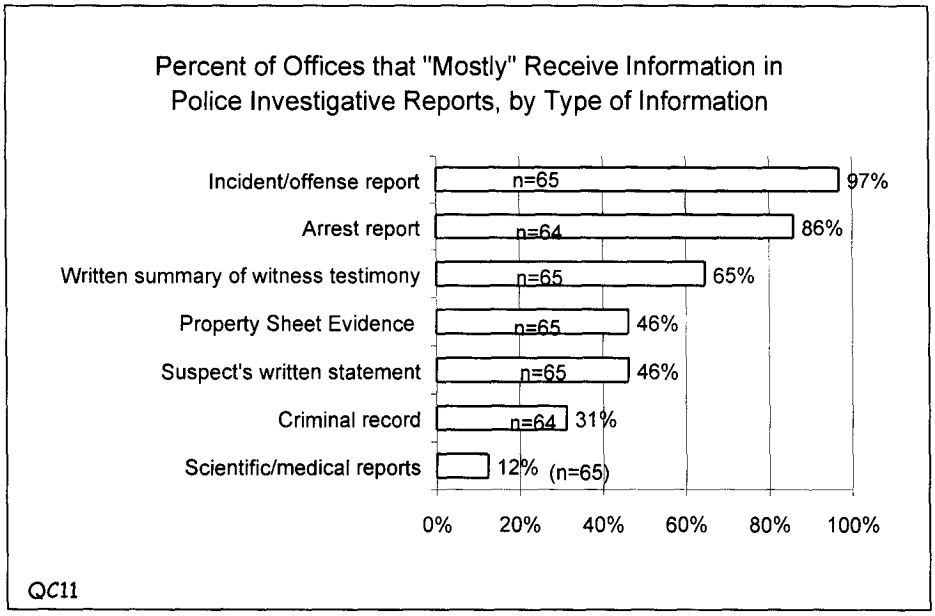
Almost half of all offices (48 percent) always use attorneys with prior felony experience to review felony cases.

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



QC8 n=47

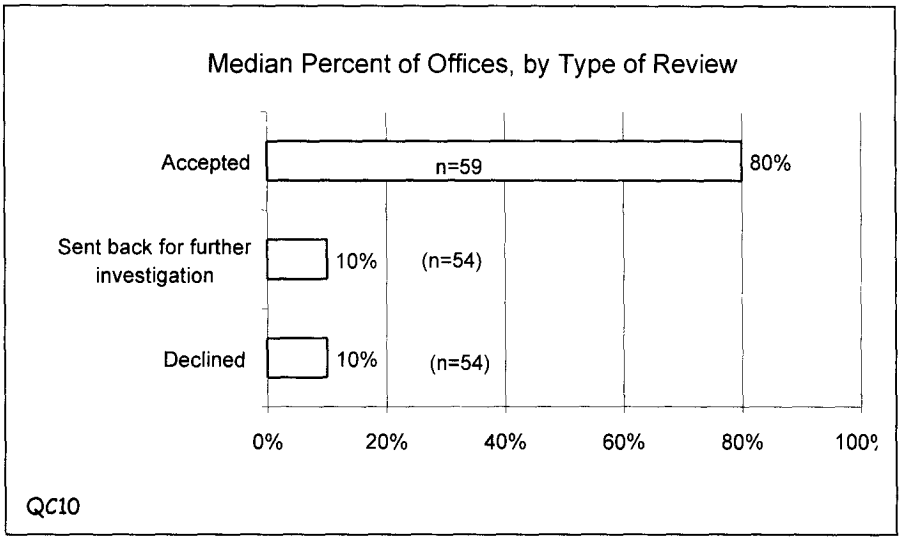
The foundation upon which charging decisions are made is a written record of the facts surrounding a case. The more complete the information, the better are the decisions of the intake and screening attorneys. Reports from law enforcement agencies should contain information about the incident, the arrest, 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 (97%), arrest (86%), and a written summary of witness testimony (65%).

Fewer offices receive information about property evidence (46%), the suspect's written statement (46%), criminal record (31%) and scientific or medical reports (12%).

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.

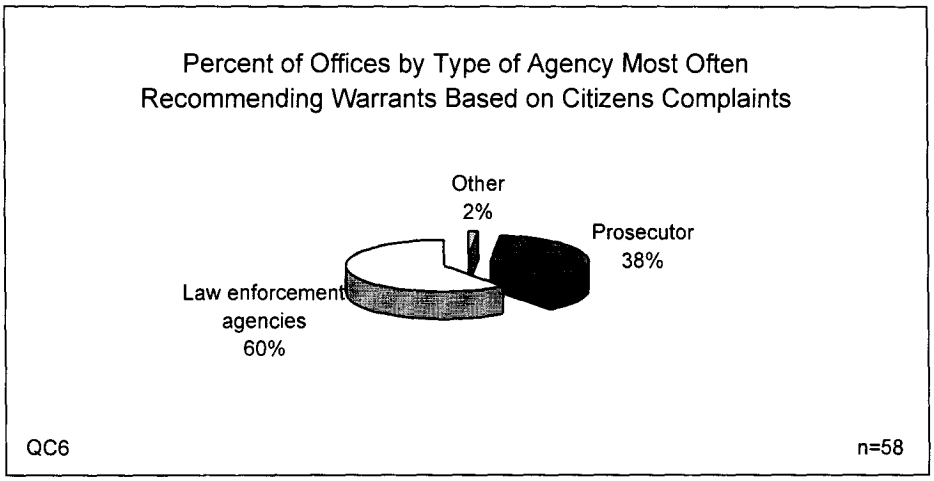


Statewide the screening pattern shows a relatively high acceptance rate (80 percent) and a relatively low declination rate (10 percent). Referrals for further investigation are relatively low (10 percent).
Only 10 percent of the offices decline more than 20 percent of their felony cases.

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.



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

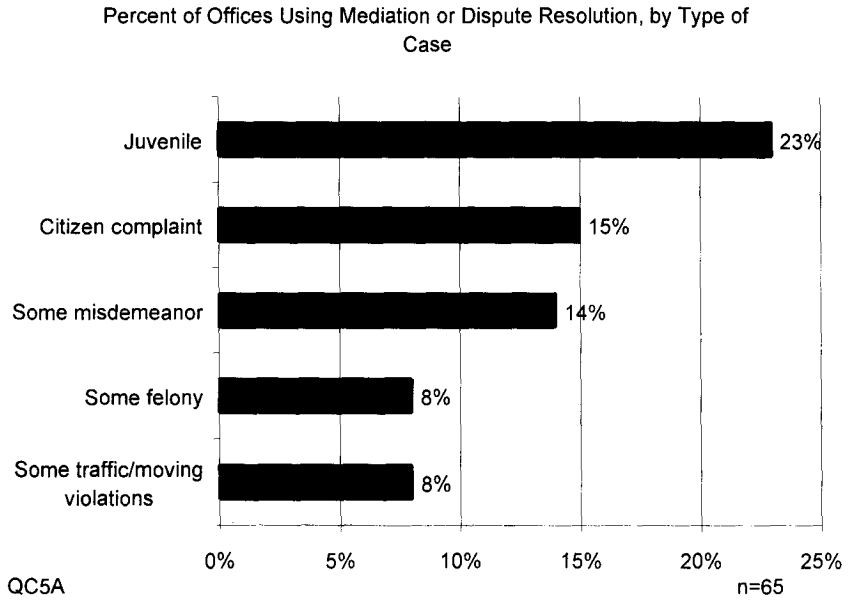
5. Programs available as alternatives to prosecution

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 Illinois,

- Only 27 percent of offices reported the use of mediation or dispute resolution.

QC5



Only 27 percent of the offices reported using mediation or dispute resolution for cases or citizen complaints. 23 percent used these programs for juvenile cases.

CASE MANAGEMENT

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

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

Statewide Compliance with GAPMAP

The median state level of compliance for case management is 63 percent. The range of scores among individual offices iis between 90 percent and 1 percent. The wide variation suggests opportunities for improvement in individual offices.

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

Strengths

Illinois 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 used 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 needed to be considered for diversion. Although almost all offices report using informal discovery, very few provide it promptly before preliminary hearing or grand jury. Finally while most offices have plea negotiation policies, most give discretion to assistant state's 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 are reduced by the number of days set for civil cases annually.

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

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

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

Court calendaring and organizational responses

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

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 Illinois

The court system statewide has the following characteristics:

- It is typically small.
  The median number of judges in a prosecutorial district is 3
  Typically 2 judges regularly hear felony cases, 2 hear misdemeanor cases, 1 hears juvenile cases and 1 hears traffic cases.

- In 70% of the reporting jurisdictions, judges carry a mixed docket of criminal and civil cases, 14% carry a mixed docket sometimes, and 16% do not have mixed dockets.

- Less than half of all judges ride the circuit. 41 percent of offices reported that felony judges "ride circuit", i.e. reside in different courthouses for a specified period of time. 59 percent said felony judges do not routinely sit in other jurisdictions.

- The practice of taking guilty pleas to felonies in district court varies.
  86 percent of the offices said lower court judges will take pleas
  8 percent said judges will not take pleas, and
  6 percent said judges took pleas to felonies "some of the time". [4]

[4] These responses may be due to different interpretations of the question.