

# PROSECUTION MANAGEMENT IN MICHIGAN

2001

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# PROSECUTION MANAGEMENT IN MICHIGAN, 2001

## INTRODUCTION

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

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

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

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

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

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

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

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

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

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

## **PURPOSE AND OBJECTIVES**

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

## **METHODOLOGY**

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

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

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

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

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

## **ORGANIZATION OF THE REPORT**

The report is divided into three sections.

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

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

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

Appendix A contains a copy of the survey instrument.

## I. CRITERIA FOR EVALUATING PROSECUTION MANAGEMENT

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

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

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

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

The value of management principles lies in their ability to:

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

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

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

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

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

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

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



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

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

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

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

The statewide scope of the survey examines the delivery of prosecution services at the state level. For example, one practice that strengthens intake and charging decisions is using experienced trial attorneys for review and charging. The statewide examination looks at the percent of offices that use this practice. A high percent of use reflects the acceptance of a good management practice statewide. On the other hand, if most offices allow any assistant to review cases and make charging decisions, then the 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<sup>2</sup>
2. The use of alternatives to criminal prosecution
3. Administrative not adversarial prosecution
4. Reductions in case processing time
5. Accountability in the decision making process
6. Uniform and consistent plea negotiation and dismissal policies

### **Organization and Administration**

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

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

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

## **Space, Equipment and Automation**

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

Sufficiency includes:

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

## II. SUMMARY OF FINDINGS

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

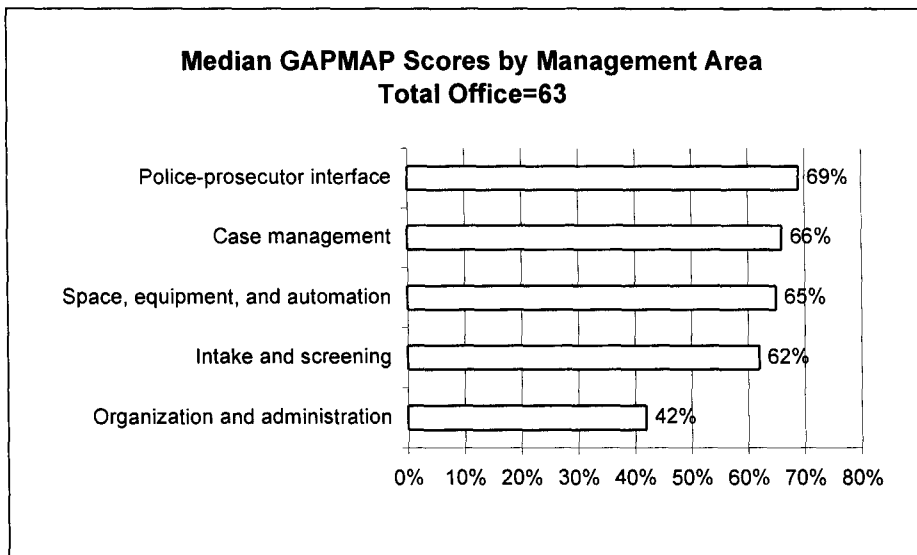
We assess compliance with GAPMAP by recording the percent of offices that have practices that conform to generally accepted management principles within each of the five management areas and then weight the practices by their relative importance to the establishment of good management in each area.

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

### **Summary of levels of compliance**

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

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



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

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

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

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

### **III. COMPLIANCE LEVELS IN EACH MANAGEMENT AREA**

#### **POLICE-PROSECUTOR INTERFACE**

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

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

#### **Summary of Statewide Compliance Levels**

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

##### *Strengths*

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

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

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

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

#### *Weaknesses*

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

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

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

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



## 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 Michigan,



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 44.

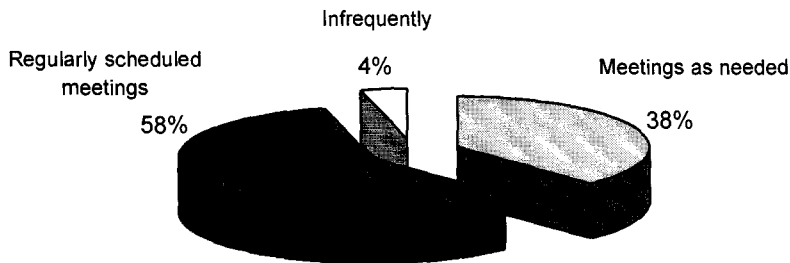
QB1



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.

**58 % 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=53

## 2. Timely, complete and responsive investigative reports

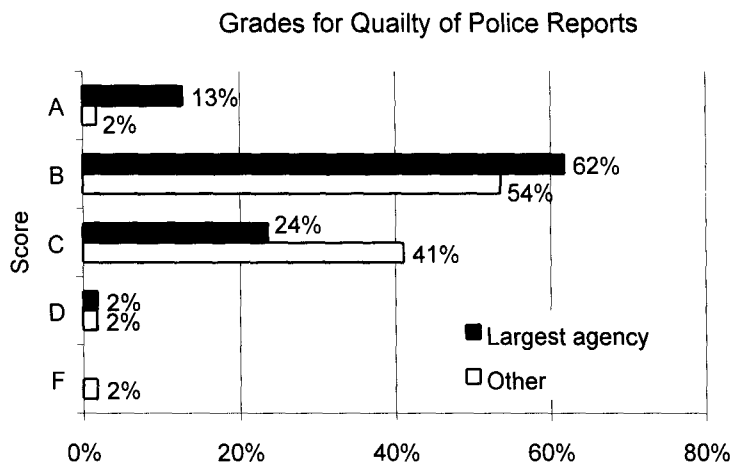


When prosecutors have multiple law enforcement agencies in their jurisdictions, they encounter wide variations in the quality of reports, evidence collection and handling because of differences in employment criteria, training, and pay. Many of the problems associated with multiple agencies are reduced 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 regardless of the size of the agency.**

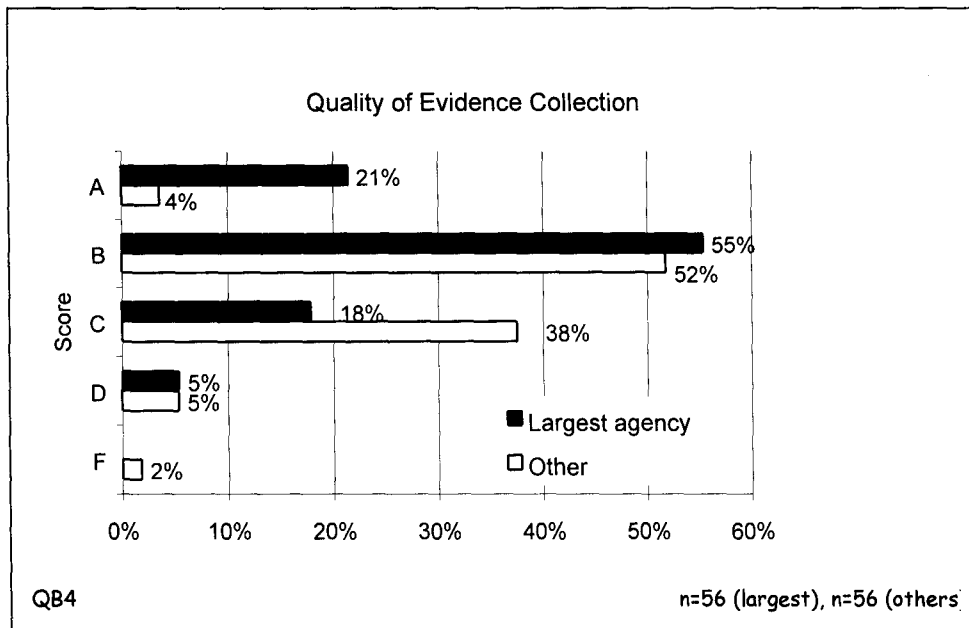


Large departments do not typically supply the majority of cases to the prosecutor. The median percent of cases referred by the largest agency is 40 percent of all cases.



QB3

n=55 (largest), n=56 (others)

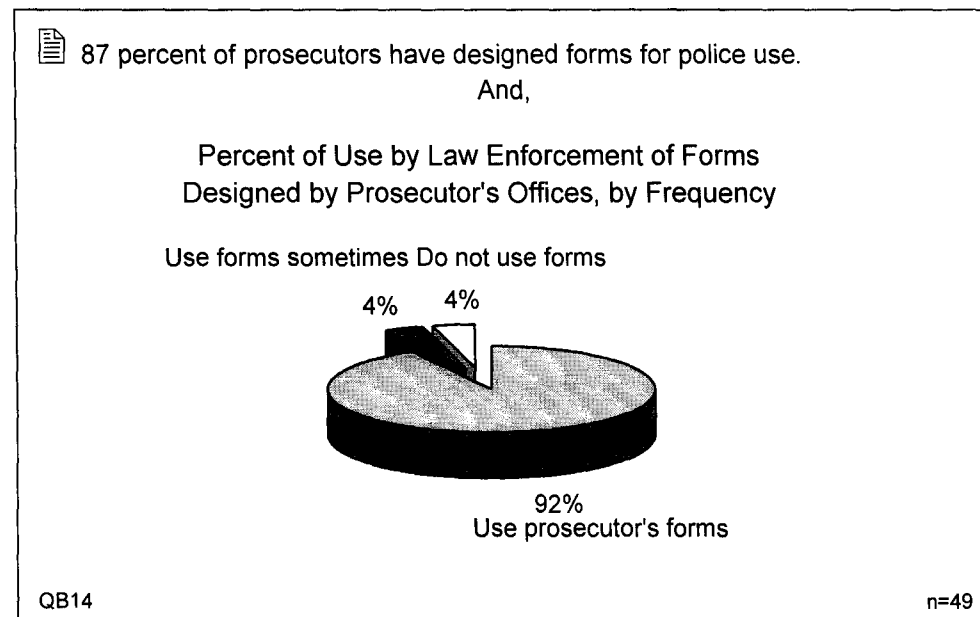


**The median grade for the quality of evidence collection is B regardless of the size of agency.**



**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.

**87 percent of prosecutors have designed report forms for law enforcement use. They are used regularly by law enforcement almost all the time (92 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 Michigan,

Median Number of Days to Receive Felony Reports for:

Violent Crimes	1
Property crimes	1
Drug crimes	1

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

Violent Crimes	98%
Property crimes	98%
Drug crimes	94%

QB7

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



**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.

In Michigan,

No offices reported that law enforcement routinely submits the defendant's misdemeanor and serious traffic case records for misdemeanor and serious traffic cases. Likewise, no offices reported routinely receiving this information before the first court date.

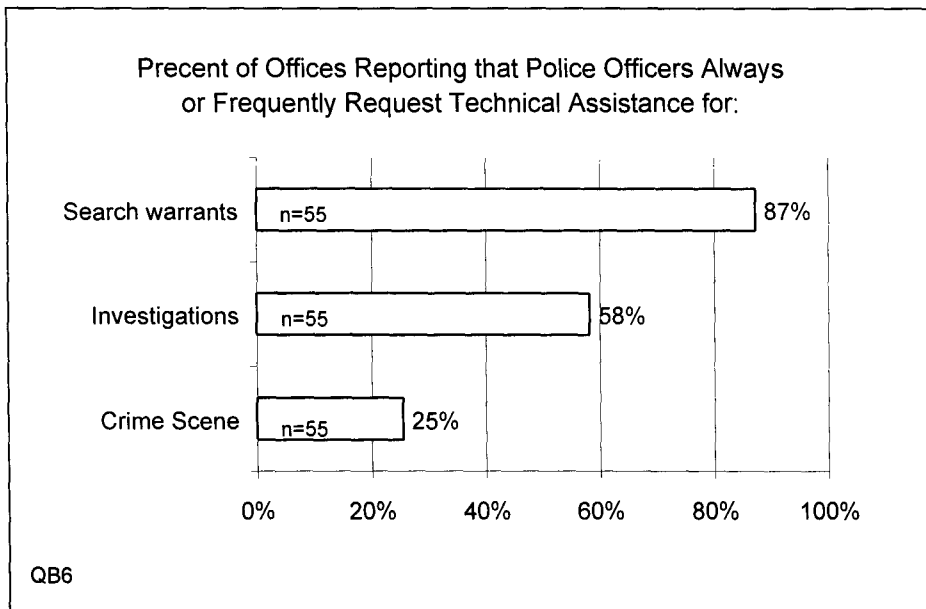
QB16 & QB17

### 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.



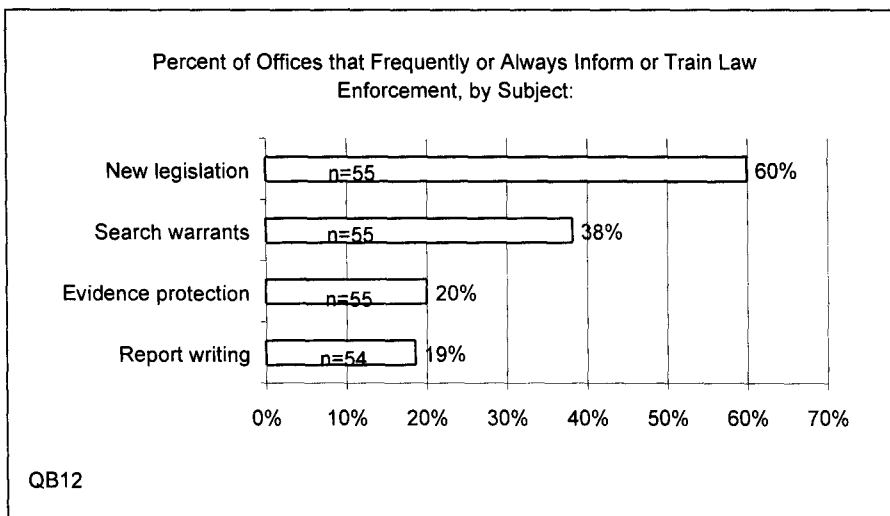
**Prosecutors are more likely to interact with law enforcement when preparing search warrants (87 percent) and during investigations (58 percent) than at crime scenes (25 percent).**



### 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, three out of five prosecutors frequently provide law enforcement with information about changes in legislation. Few prosecutors provide information about report writing, evidence protection or search warrants.**



The advantages of close working relations between law enforcement agencies and prosecutors are many, including:

- Prosecutors can provide informal on-the-job training to police
- Both agencies, law enforcement and prosecutors, gain an understanding of the needs and demands faced by each other
- Police are more responsive to prosecutors' requests and accountability is increased in both agencies
- Coordinating with law enforcement on mutually agreed upon priorities can expand the relatively limited resources of prosecutors






**The prosecutor's participation in joint programs is one**

indicator of the level of police-prosecutor coordination. Joint programs with law enforcement may include career criminal programs, violent offender prosecution programs, domestic violence, child sexual abuse and drug programs. Grant funding agencies have played a major role in fostering coordination with increases in funding opportunities and emphasis on joint police-prosecutor programs.

**Almost three out of four prosecutors (73 percent) have taken advantage of joint police/prosecutor programs and their benefits.**

In Michigan,

-  73 percent of prosecuting attorneys' offices have joint programs with law enforcement.
-  The median number of programs in these offices is two.
-  The most prevalent programs focus on domestic violence (61 percent), child sex abuse (46 percent) and drugs (38 percent).

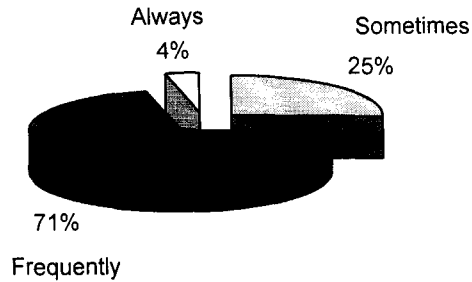
QB5

**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.

Percent of Offices Discussing Felony Cases with Law Enforcement Before Charges Are Filed, by Frequency



QB8

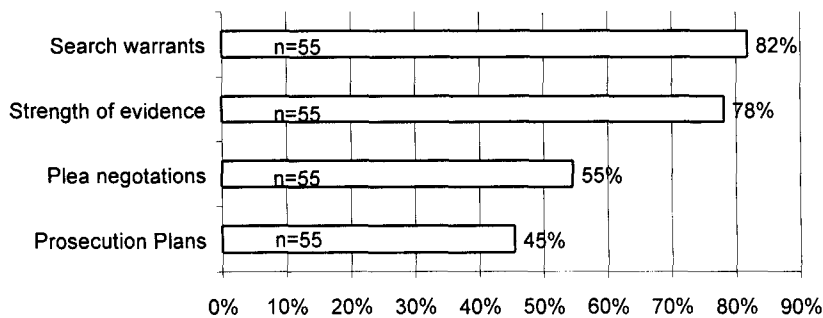
n=55

The results indicate that three out of four offices always or frequently discuss felony cases with police before charges are filed.



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.

Percent of Offices Frequently Discussing Felony Cases with Law Enforcement, by Subject



QB15

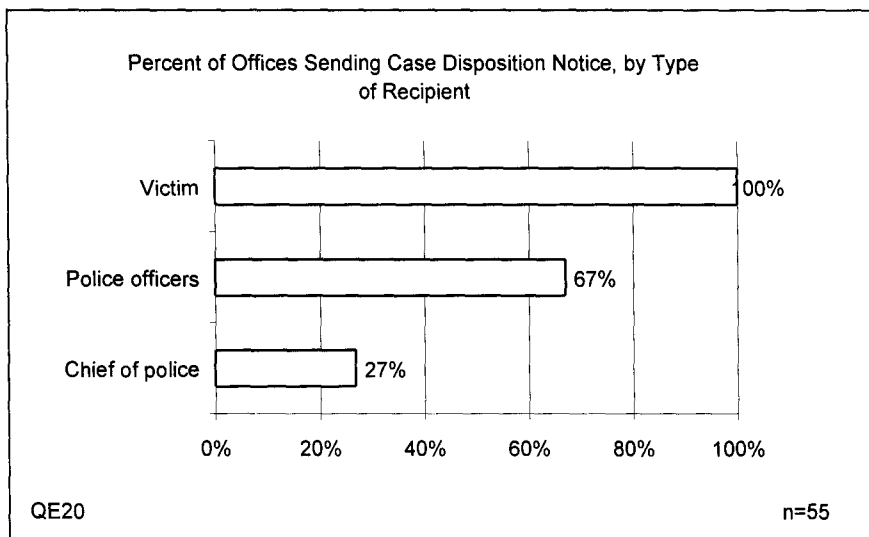
Prosecutors are more likely to discuss search warrants (82 percent) and evidentiary tactics (78 percent) with police than prosecution tactics such as plea negotiations (55 percent) and prosecution plans (45 percent).





**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.

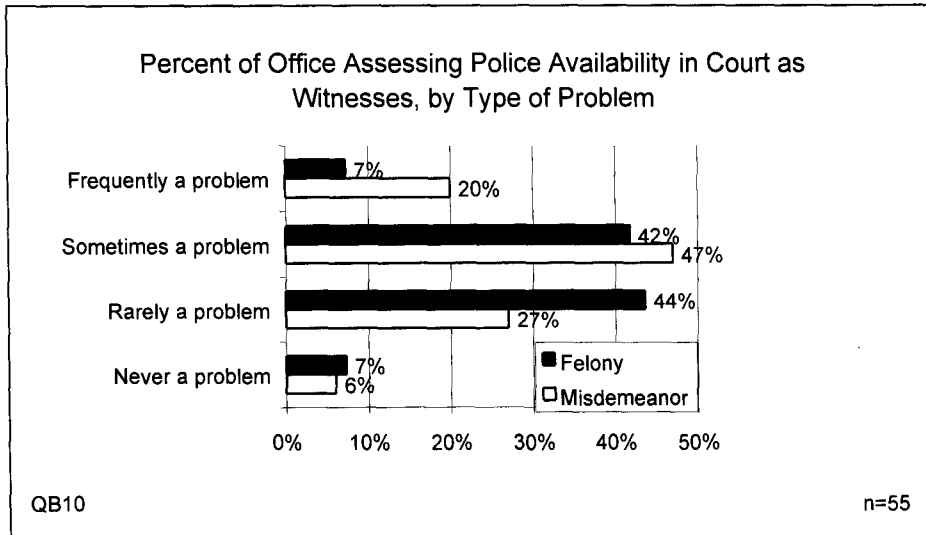
**Case disposition notices are routinely provided to victims (100 percent) but less often to police officers (67 percent) and chiefs of police (27 percent).**



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



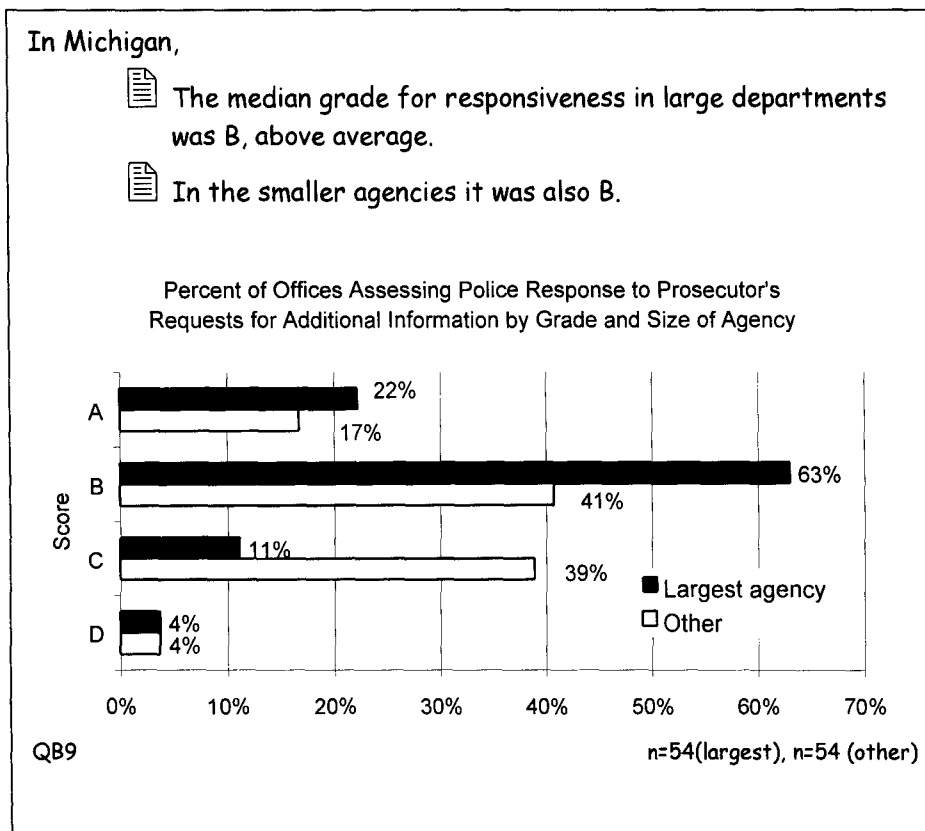
**Law enforcement availability in court has a significant effect** on the prosecutor's ability to bring cases to disposition in a timely and acceptable fashion. The worse scenario is to have cases dismissed because the officer was not present. It is important that prosecutors develop simple procedures that reduce situations impeding police availability. These can take the form of using pagers or call backs for court scheduling, making appointments for police and prosecutors, and establishing single points of contact for the receipt of notices.



**One out of every two offices report few problems with police availability for court appearances for felony court. For misdemeanor court, only one third of the offices reported few problems with police availability.**



**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.



**85 percent of offices view law enforcement's responsiveness to prosecutors' requests for additional information as excellent or good in the largest agencies. 58 percent view law enforcement's responsiveness as excellent or good in smaller agencies.**

## **Intake and Screening**

Prosecutor offices were examined for practices that enhance and support the ability of the office to make decisions about acceptance and charging that are uniform and consistent with office policy, are based on complete investigative information, and are made in a timely manner. These practices include:

1. Felony and misdemeanor cases reviewed prior to filing in the court or at the earliest possible time
2. Charging and declination policies communicated to all interested parties
3. Charging decisions made by experienced trial attorneys based on adequate information
4. Citizen complaints screened by law enforcement, not magistrates or prosecutors
5. Programs are available as alternatives to prosecution

Intake and screening is that part of the prosecution process where decisions are made about what charges to file and at what level. It may occur under three conditions: pre-arrest, when complaints or warrants are authorized by prosecutors; post-arrest, when police reports are forwarded to the prosecutor's offices for review and charging; or after charges have been filed in the court.

This part of the adjudication process activates one of the most important elements of prosecution, namely, the unreviewable discretionary power of the prosecutor to accept or decline prosecution and to set the charge. The prosecutor controls the gate to the courts. How well this control is exercised and managed makes the difference between accepting prosecutable cases or supporting the GIGO principle (Garbage In, Garbage Out).

State statutes or court rules may limit the ability of the prosecutor to exercise charging discretion until after arrests are made and cases are filed in the court. In these instances, it is all the more important that case review be conducted at the earliest possible point in the adjudication process. Even if statutory authority does not exist to provide for case review before filing,

some prosecutors have introduced screening through cooperative agreements with law enforcement agencies.

### *Statewide Compliance with GAPMAP*

The median state level of compliance for intake and screening is 63 percent. The range of scores among individual offices is between 84 percent and 18 percent. Of all management areas, intake and screening is the most important since it represents the "gate" to the adjudication process.

The fact that cases must be reviewed and authorized before they are filed provides prosecutors with an opportunity to exercise control over the gate and establish policies and practices that support uniform and consistent decisionmaking.

#### *Strengths.*

As expected, all of the offices reported that they reviewed felony cases before they were filed. Of great interest is the high percentage of offices (92 percent) that reviewed misdemeanor cases. Also supporting the screening process is the fact that most officers receive files that routinely contain reports about the offense, arrest and criminal history. Prosecutors in Michigan have the tools and the opportunity to conduct good screening.

#### *Weaknesses*

Much of the variation among offices occurs in the scope of the supplemental reports provided by law enforcement agencies. Some offices routinely receive written summaries of witness testimony, property sheets, medical reports etc. Others do not.

Few offices report that they have access to programs that serve as alternatives to prosecution such as mediation and dispute resolution programs.

With a good intake environment based on timely and complete police reports, prosecutors can afford to apply more restrictive acceptance standards to cases. But 21 percent accept cases if they are legally sufficient and only 41 percent use a standard that assesses whether they can be sustained at trial.

Finally it appears that there may be a need to focus on the development of policy guidelines for charging declinations and dismissals. Only about one half of the offices report that they have guidelines in these areas.




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.

In Michigan,

-  Thirteen percent of offices *authorize* felony charges before arrest.
-  All offices *review* felony cases before charges are filed in the court.
-  Ninety-two percent of offices review misdemeanor cases before charges are filed.

QC1& C2

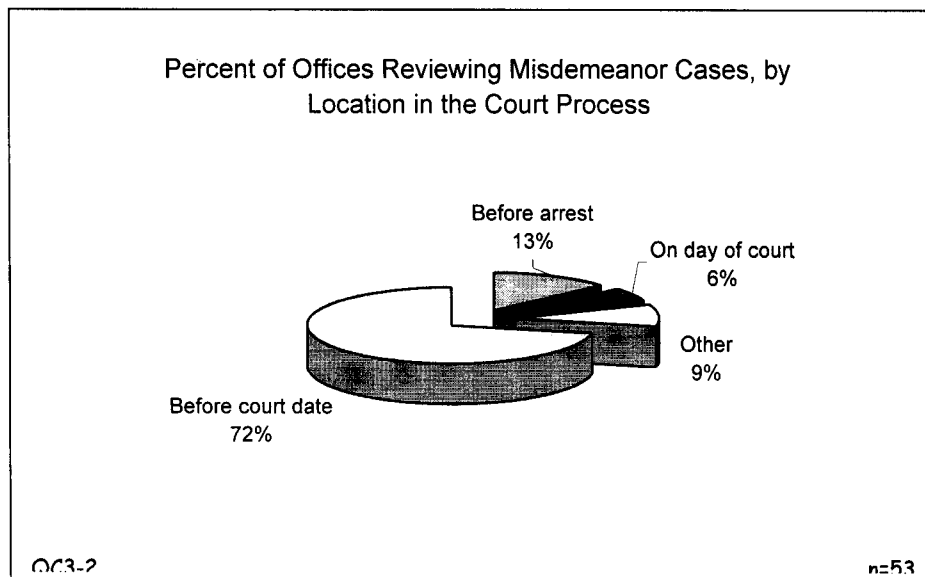
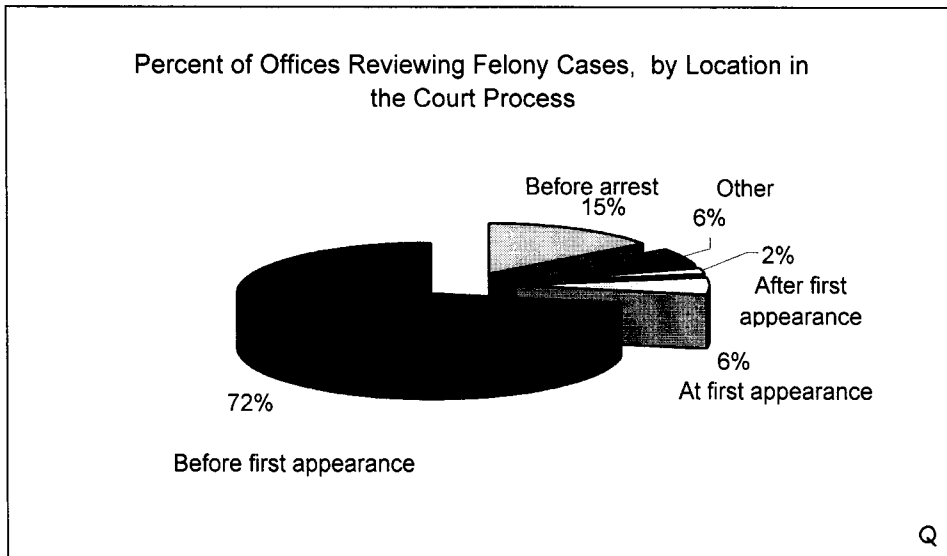
**By statute, all offices review felony cases before charges are filed in court. 92 percent of offices review misdemeanor cases before filing charges**



**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.

**87 percent of offices review felony cases before the first appearance.**



**85 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.

**67 percent of offices have 24 hours or less to indict or file a bill of information, increasing the need for complete police reports.**

In Michigan,



67 percent of prosecutors must indict or file a bill of information in 24 hours or less after pretrial detention.

## **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 one out of two offices have guidelines for declinations or further investigations**

