Effective Non-Felony Prosecution

CHAPTER 2

This chapter describes goals, actions, and best practices related to effective non-felony prosecution. We base the goals on existing statutes, rules, and standards pertaining to prosecutors. The actions are general steps that prosecutors' offices can take to help meet the goals.

Together the goals and actions present a framework to help identify best practices in the prosecution of non-felony offenses in Minnesota. Following a description of this framework, we present specific examples of effective practices in use by counties and cities around Minnesota.

In this chapter we ask:

- **What are the principal established goals that apply to non-felony prosecution in Minnesota?**
- **What actions should prosecution offices take to reach the goals?**
- **What practices now in use reflect these actions?**

Prosecution offices should fulfill statutory and ethical duties, encourage efficient proceedings, communicate clearly with law enforcement, and balance societal with individual rights.

GOALS

The legal profession has established professional guidelines and standards for its members. State statutes and rules also govern attorneys' actions. These standards, rules, and laws lay out general duties for attorneys – including specific responsibilities for prosecutors – and define professional conduct. From these established standards and laws, we identified four primary goals for effective and efficient prosecution offices.

Goals are broad statements describing desired outcomes for an agency. These four goals are based on measures with which prosecutors are already familiar, emanating from state statutes, rules of criminal procedure and professional conduct, and existing national standards for criminal justice. We believe these goals apply to all prosecution offices regardless of size or location. The prosecutor's office should:

1. **Fulfill its statutory obligations and adhere to relevant ethical standards.**[1] This includes seeing that laws are faithfully executed by prosecuting non-felony offenses as provided by law for the jurisdiction; notifying victims regarding their rights and opportunities

1 This goal is based in part on *Minn. Stat.* §§388.051, subd. 1(c); 487.25, subd. 10; and 611A.015-611A.06. It refers to the requirements and guidelines of *Minnesota Rules of Criminal Procedure* and *Minnesota Rules of Professional Conduct*, in particular rule 3.8 on special responsibilities of the prosecutor and rules 1.7-1.10 related to conflicts of interest. It also relies on standard 1.5 from: National District Attorneys Association, *National Prosecution Standards*, 2nd edition (Alexandria, VA: NDAA, 1991), 9-10.

for input; complying with relevant codes of professional conduct and responsibility; and fulfilling other duties as prescribed by statute or rule.

2. **Encourage just and fair criminal proceedings and resolutions of infractions that are unhampered by unjustifiable expense and delay.**[2] This goal addresses the realities of adequate staff and facilities for prompt dispositions of criminal charges. It also recognizes that prosecutors serve the interests of justice when they set priorities that apportion greater resources to cases of more importance while developing strategies for resolving less important cases with dispatch.

3. **Communicate clearly with the sheriff and/or police departments and other local law enforcement personnel, and encourage effective communication from law enforcement, in a shared effort to combat crime and promote law-abiding activity.** [3] This goal acknowledges the interdependent nature of the work performed by prosecutors and peace officers. It recognizes that effective communication requires mutual effort and cooperation between prosecutors and law enforcement.

4. **See that justice is served by maintaining a judicious balance between protecting the rights of society and those of individuals involved in cases.** [4] This goal embodies the principle that the prosecutor has ultimate responsibility to all of society, unlike other legal advocates who are accountable to individual clients.

ACTIONS TO REACH THE GOALS

We identified nine actions that we believe will help prosecution offices reach these goals of fulfilling their statutory obligations, seeking justice without unnecessary expense and delay, communicating clearly with peace officers, and serving the interests of society as a whole. In contrast to the goals, these actions represent specific objectives that are typically quantifiable and can be measured.

These are not the only actions that affect the performance of prosecution offices. Other factors may also play a role and these nine are not intended to be exclusive. Clearly, for example, the performance of individual attorneys is extremely important. But our focus was on the institution of non-felony prosecution, not the performance of individuals.

The nine actions are:

1. **Provide efficient and effective service delivery.**
2. **Maintain good relations with local law enforcement.**
3. **Encourage administrative processes and pretrial diversion for suitable cases.**
4. **Use a victim and witness assistance program.**
5. **Establish guidelines to help set priorities among cases.**
6. **Maintain access to adequate equipment and facilities.**
7. **Assure prosecutorial competence, productivity, and independence.**
8. **Set goals and objectives for the prosecutor's office.**
9. **Communicate with others involved in the criminal justice system and participate in efforts to improve the system.**

2 This goal is based primarily on standard 3-2.9 regarding prompt disposition from: American Bar Association Criminal Justice Standards Committee,*ABA Standards for Criminal Justice Prosecution Function and Defense Function,* 3rd edition (Washington D.C.: ABA, 1993), 40-43.

3 This goal is based in part on standard 3-2.7 from: ABA,*Standards,* 33-35. It also encompasses standards 19.1, 19.2, 20.1, 20.2, 21.1, and 22.1 from: NDAA,*Standards,* 79-83.

4 This goal is based on standard 1.3 from: NDAA,*Standards,* 9 and on rule 3.8 from: *Minn. Rules of Professional Conduct.*

We describe below each of these nine actions, followed by examples of the actions in practice.

BEST PRACTICES RELATED TO THE ACTIONS AND GOALS

Prosecution offices can implement these actions in a variety of ways. Following a brief description of the actions, we provide some information on how each action relates to offices of county attorneys and city prosecutors in Minnesota. This information comes from a survey we conducted of all Minnesota counties and a representative sample of cities. (Appendix A contains details about the survey methodology and responses.)

To illustrate how the nine actions can be reflected in actual practice, we provide concrete examples of how some counties and cities have implemented these actions. The examples come from prosecution offices in six cities and five counties which are listed in Figure 2.1.

These 11 jurisdictions were among many that employ effective practices. We chose these 11 because they were some of the local jurisdictions that ranked high in key areas of effectiveness and efficiency, such as providing misdemeanor-related training to law enforcement, using a diversion program for diverting certain cases from prosecution, and number of non-felony cases per attorney. (Appendix C describes the full set of performance measures we considered.) We also selected these communities based on their size and location because we wanted to examine a cross section of different jurisdictions in Minnesota.

Figure 2.1: Jurisdictions Selected for Interviews, 1996-97

Carlton County	Hubbard County
Coon Rapids	Minnetonka
Fairmont	Morrison County
Freeborn County	Roseville
Gibbon	Washington County
Grand Rapids	

Many other prosecution offices also qualified but time and resources limited our more in-depth review to just a handful of local governments. The practices described in this chapter are by no means limited to only the jurisdictions we selected to visit.

In our examples we describe why the prosecution offices adopted the practice, the advantages they gained, and problems they encountered. The practices may not be universally applicable. We try to identify what features of a practice might impede other jurisdictions from adopting the same practice. Along with descriptions of the practices, we include the names and telephone numbers of contacts who can provide more information to readers with additional questions.

The practices help save time, reduce labor, cut costs, or improve service.

Although we did not independently test the practices described, we present only those practices that others have found useful. The examples are of practices that certain local governments have tried and found to help them save time, reduce labor, cut costs, or otherwise improve their ability to get the job done. In each case the practice may be appropriate for some, but not all, jurisdictions.

Next we present the nine actions and related practices.

1. Provide Efficient and Effective Service Delivery

From our analysis we found that some indicators of effectiveness and efficiency tended to vary by a jurisdiction's arrangement for delivering the service of prosecution. Other indicators of effectiveness and efficiency applied statewide through all arrangements for jurisdictions' prosecutorial services. We discuss next some indicators that varied by type of prosecution arrangement.

As described in Chapter 1, the arrangements for delivering the service of non-felony prosecution vary around the state. We compared non-felony prosecution services in (1) counties, after grouping them according to the breadth of the county attorney's responsibility for prosecuting non-felonies on behalf of cities, and (2) cities, after dividing them between those relying on the county attorney and those relying on private law firms. The results of our comparisons follow.

Comparing Counties by Prosecution Arrangement

When comparing county attorney offices, we found that:

- **Regardless of the extent of the county attorney's responsibility for prosecuting misdemeanors, county attorney offices generally appeared equally effective in non-felony prosecution in 1995.**

To analyze prosecution arrangements, we clustered counties into three groups (see Figure 2.2.):

(1) Counties where all or most of the responsibility for prosecuting non-felonies lay with the county attorney and at least 80 percent of the cities did not have their own city prosecutor (15 counties, all but one outside the metropolitan area).[5]

(2) Counties where the county attorney's office had non-felony prosecution responsibility for some but not all cities — at least 1 and up to 80 percent of all cities in the county (30 counties).

(3) Counties where the county attorney's office prosecuted no non-felony offenses on behalf of any city and every city had its own city prosecutor (17 counties).[6]

In our comparisons, we looked at a variety of indicators of effectiveness, including the percent of non-felony cases in 1995 that were disposed that year, availability of programs such as victim and witness assistance, extent of involvement with law enforcement, and adequacy of equipment and facilities. Among the three groups of counties, we saw some slight variation in performance depending upon the measure under study, but none of the three groups consistently rated higher than the others on our yardsticks of effectiveness. For instance, a slightly larger share of the county attorneys in counties with countywide-prosecution authority for non-felonies had higher than median conviction rates for cases disposed of prior to trial.[7] When considering cases that went to trial, however, slightly fewer of these same counties were above the median in conviction rates.

We also compared counties by total expenditures per case. To do so, we added the expenditures from the county attorney's office to expenditures for all city prosecution offices in the county. This represented total non-felony prosecution expenditures by county. We found little difference in median expenditures per case when comparing counties with countywide prosecution and those with other arrangements.

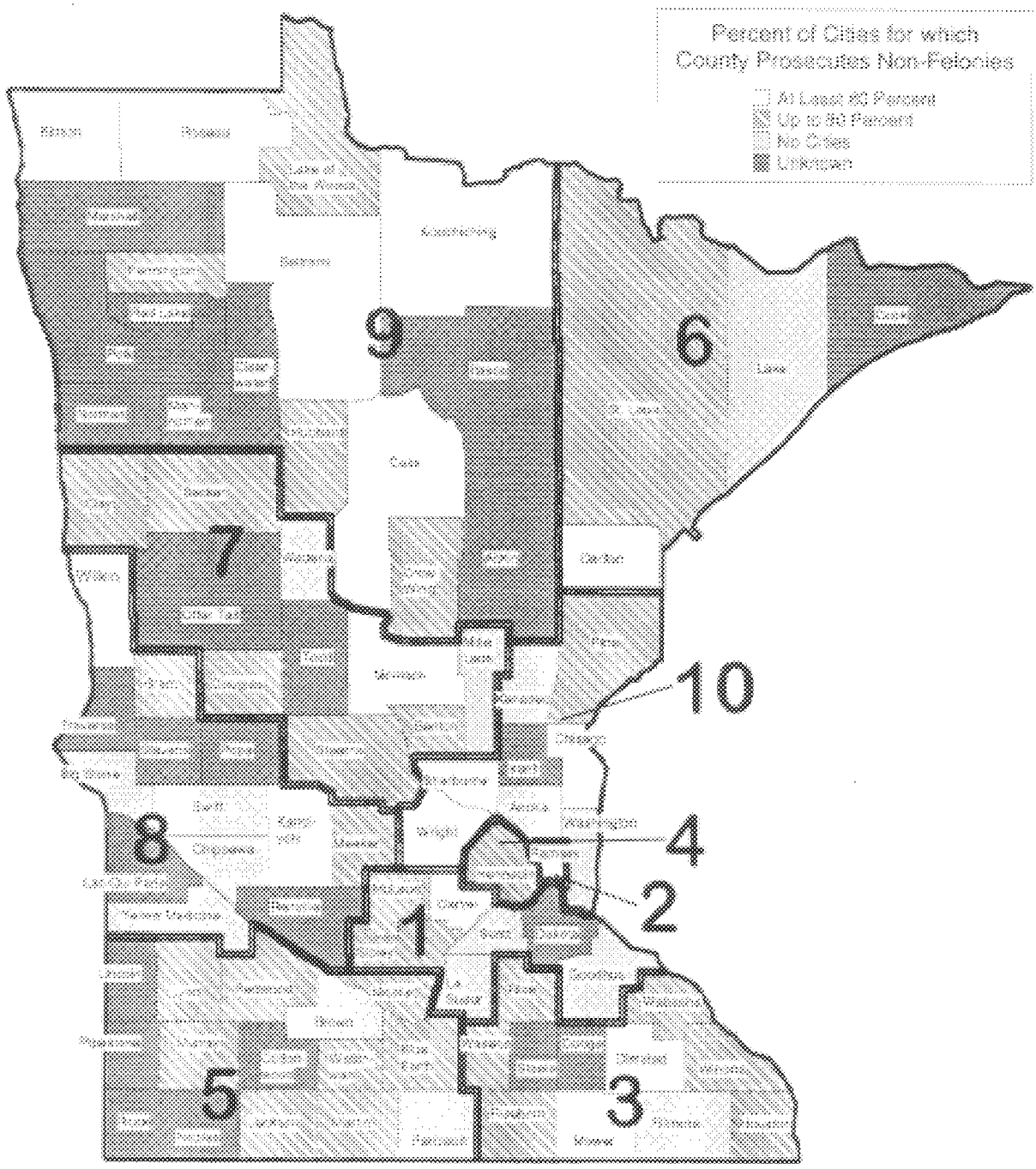
By contrast, we noted some differences among the three groups of counties in terms of personnel when comparing cases per one full-time equivalent (FTE) attorney and cases per one FTE other prosecution employees. To determine whether personnel levels in counties with countywide prosecution differed from those in other counties, we compared total prosecutors in each county using a count of full-time equivalent attorneys from both the county

5 We included in this group 9 counties in which none of the municipalities had their own prosecutor and 6 where 80 percent or more of the cities relied on the county attorney for misdemeanor prosecution.

6 The remaining 25 counties not in our analysis either did not respond to our survey or did not provide adequate information to be clustered into 1 of the 3 groups. Most of the county attorney offices in the third group still had prosecution authority for certain non-felony offenses, such as many gross misdemeanors in non-metropolitan counties.

7 Conviction rates by themselves can be misleading measures because they assume erroneously that all cases are of equal importance and that resources are equally available to pursue all cases. We looked at conviction rates along with numerous other measures of performance.

Figure 2.2: Counties by Prosecution Arrangement



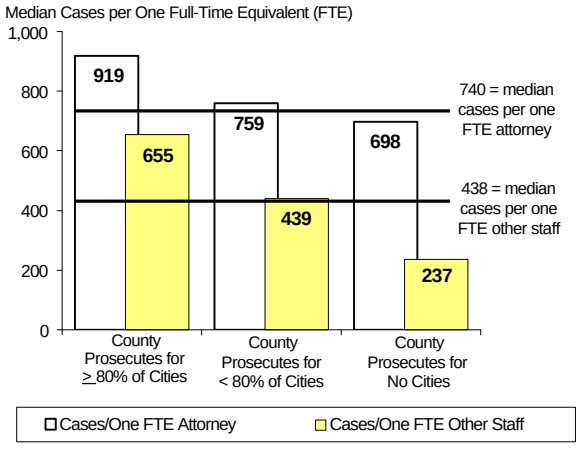
Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

attorney's office and all city prosecutor's offices in the county.[8] We found that:

- **Counties where the county attorney has responsibility for prosecuting non-felony offenses on behalf of all or most cities tended to handle more cases per attorney and per other staff than other counties.**

These counties with countywide prosecution responsibility in the county attorney's office tended to have more efficient levels of attorneys and other staff than other counties. Figure 2.3 shows that the median ratio of cases to one FTE attorney was higher in counties in which authority for all or nearly all non-felony prosecution is lodged in the county attorney's office than in other counties. The same was true in regards to the ratio of cases to other FTE personnel, which includes secretaries, legal assistants, investigators, interns, and other support staff.

Figure 2.3: Non-Felony Cases/Staff, by Prosecution Arrangement, 1995



Note: "Other staff" includes secretaries, legal assistants, investigators, and other support staff.

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

Even though we saw a relationship between the arrangement for prosecution responsibility and personnel efficiency, we cannot conclude that the type of arrangement was the sole cause of differences in cases per FTE personnel. Other factors can contribute to the size of an office's work force, such as the extent to which gross misdemeanors, which typically require more time and resources than less severe offenses, are part of the office's caseload.

Besides efficiencies in personnel, county attorneys with countywide prosecution responsibility enjoy other advantages because of their arrangement. Some of these advantages may not be easily quantifiable yet still are significant.

Countywide prosecution of non-felonies offers:

- consistency in charging crimes throughout the county,
- reduction in the duplication of effort because one prosecutor appears in court for several jurisdictions,
- ease in determining defendants' involvement in multiple offenses, and
- continuity with crimes that can be charged differently depending on criminal history, degree of injury, and the defendant's relationship to victims.

It also eliminates questions about referring cases to another office. This is helpful in that one office can evaluate all the relevant factors of a case and prosecute the offense at the appropriate level rather than referring the case from the county to the city prosecutor or vice versa.

At the same time, counties moving toward countywide prosecution would likely have to add attorneys and other staff to handle the influx of non-felony cases. Without additional staff, questions would likely arise over the amount of attention the county attorney could provide to all misdemeanors, petty misdemeanors, and ordinance

8 To compare total FTE prosecutors per county, we added the number of prosecutors from the county attorney's office to the number from city prosecution offices within that county. To that sum we added an estimate of the number of FTE attorneys for other cities in the county for which we did not have data. We based the estimates on actual data reported to us from city attorneys' offices in each of four regions of the state. We followed this same process to estimate numbers of other personnel, such as legal assistants, and caseloads.

violations when the office also has to prosecute the more serious crimes and felonies. Especially in larger cities where the number of non-felony offenses is higher, the likelihood is greater that some offenses would not get prosecuted. Indeed, this was part of the reason that the Legislature gave city prosecutors greater authority for prosecuting gross misdemeanors in the metropolitan area than elsewhere in the state. Counties have to weigh the costs of additional staff against the benefits of unified prosecution to decide whether the net effects would be advantageous to the public at large.

Carver County is Minnesota's only county in the metropolitan area to prosecute non-felony offenses on behalf of all its cities; it has done so since the early 1970s. Initially, the Chaska City Attorney assumed prosecution responsibility for other cities in the county that were located far from the county seat and had small caseloads that did not justify the expense of full days spent in arraignment hearings. Based on time efficiencies gained from this consolidated effort, the Chaska attorney and other city attorneys discussed the potential for countywide prosecution with the county attorney and municipal judge at the time. They decided to pursue countywide prosecution and pay for it by allocating two-thirds of fine revenues generated from offenses to the county and one-third to the city in which the offense occurred.

Countywide prosecution can offer staffing efficiencies.

The arrangement is still in place today. Carver County has a high non-felony caseload — near the 85th percentile of non-felony cases for counties in the state. Although the fine-revenue split does not cover the full cost of prosecution on behalf of the county's 12 cities, the county attorney sees advantages such as consistency in charging, uniformity in prosecuting regardless of where in the county the offense occurs, and effective communication among law enforcement, the courts, and the single prosecution office. This communication is enhanced because the county sheriff's office provides law enforcement services on a contract basis to 11 of the 12 cities.

Comparing Cities by Prosecution Arrangement

As mentioned in Chapter 1, about 49 percent of Minnesota cities relied on the county attorney's office for non-felony prosecution in 1995, according to our survey. About 46 percent of cities relied on private law firms. The rest either had their own attorneys as city employees or joint powers agreements for prosecution services. Only the largest communities had their own attorneys on staff. We found that:

- **Only the largest cities — those in at least the 88th percentiles of population and number of offenses — had their own prosecutors on staff in 1995. These city attorney's offices consistently performed well in terms of effectiveness and efficiency when compared with other cities.**

For most of our measures of performance, the cities with their own prosecutors on staff performed as well as or better than other cities. This was true for measures of effectiveness, such as availability of and satisfaction with written guidelines for charging decisions, and for measures of efficiency, such as costs per case or personnel per case.

Of the cities that contracted for their prosecution services, a small number had successfully joined with others in a cooperative arrangement for their prosecution service. We learned of four cities in western Hennepin County that contracted with the Minnetonka City Attorney's Office, which has its own staff attorneys. According to some of the participating cities:

- **Cities contracting with the in-house prosecution office have been able to reduce their costs for prosecution while receiving effective service.**

Efficiencies are gained in part because the five cities' venues are in a single district court location, enabling one attorney to represent all five cities in court. Details on this arrangement are provided later in this chapter.

Similar efficiencies may be gained when one prosecutor prosecutes for multiple cities in close proximity. Of cities that use private law firms for prosecution, we found that 64 percent had prosecutors who represented at least one other city in 1995. This arrangement was common for cities of all sizes in both the metropolitan and non-metropolitan regions.

We also learned that as of 1995, six cities in Scott County and three others in Hennepin County had each formed joint powers agreements to jointly contract for prosecution services with private law firms.[9] The joint powers agreements offered participating cities advantages over their previous arrangements. For instance, the Joint Prosecution Association in Scott County provided full-time prosecutors working on behalf of the member cities. According to members of the Association,

- **The joint powers agreement has brought consistency in prosecution, improved relations with law-enforcement officers, better working relationships with judges, efficiency in the dispositions of cases and in court appearances, and often lower overall prosecution expenditures for the cities.**

Outside of cities with in-house prosecutors and shared prosecution arrangements, the rest of Minnesota cities were divided fairly evenly between those that used private law firms and those that relied on the county attorney for non-felony prosecution.[10] Around Minnesota, smaller cities tended to rely more heavily than larger cities on the county attorney for non-felony prosecution. In nearly 70 percent of smaller cities — those with populations of 1,000 or less — the county attorney was responsible for all non-felony prosecution in 1995.

When comparing cities that relied on private firms with those relying on the county attorney we found that:

- **In general, cities that contracted for prosecution services in 1995 received comparable levels of service, regardless of whether they used a private firm or the county attorney.**

For instance, we saw little difference when comparing city prosecution arrangements by number of personnel. We found that in 1995:

- **The number of cases per FTE attorney for cities using private law firms was similar to that of cities relying on county attorney offices.**

Shared prosecution arrangements can improve services and reduce expenses.

Equal percentages of cities using private law firms and cities using county attorneys (48 percent of each) had cases per FTE attorney greater than the median of 838. Because we do not have expenditure data for cities that contract with county attorneys for prosecution, we cannot compare costs between those cities and others that relied on private law firms.

On the other hand, we noted five exceptions to the generalization about comparable levels of service

9 The Scott County cities were: Belle Plaine, Elko, Jordan, New Market, Prior Lake, and Savage, ranging in population from 225 to 14,000. The Hennepin County cities were: Excelsior, Shorewood, and Tonka Bay, ranging from 1,500 to 6,600 in population.

10 Some cities have actual written contracts with counties to have the county attorney prosecute non-felony offenses on their behalf; others do not. Among cities that use private law firms for prosecution, some have contracts and others retain attorneys only on an as-needed basis. For the purposes of our study, we analyzed all cities relying on county attorneys as one group and all those using private law firms as a second group.

between cities using private firms and those using county attorneys. First, according to our survey:

- **About 79 percent of cities that used the county attorney's office in 1995 received prosecution services that included the availability of a victim/witness assistance program, compared to 57 percent of cities that used private law firms.**

Of cities using private firms, the smaller population cities were less likely than larger ones to have a victim/witness program available.

At the same time, most cities typically do not need a full-time victim/witness program given the size and nature of their caseload. For instance, the need is less when there are few crimes against persons as opposed to traffic offenses. According to our survey, a median 81 percent of city prosecutors' non-felony cases in 1995 did not involve victims or crimes against a person.

For this analysis, availability of a victim/witness program included jurisdictions that employed their own clerks or advocates working with victims as well as those using external, independent organizations that provided victim services. The breadth of services provided by the victim/witness programs varied and is described later in this chapter.

Most cities did not finance their own victim/witness program exclusively but instead depended on programs financed by private organizations, the county attorney's office, or a combination of organizations. Only about 10 percent of city prosecutors we surveyed reported that the city was primarily responsible for financing the victim/witness program and all but one of those had large caseloads — higher than the median caseload for city prosecutors in the state.

Second, we found differences regarding prosecutor-provided training for law enforcement.

- **Cities using county attorneys' offices, whether occupied by full-time or part-time county attorneys, were far more likely than cities using private law firms to have their prosecutors indicate that they offered misdemeanor-related training to local law enforcement in 1995.**

According to our survey, about 84 percent of cities receiving prosecution services through counties had county attorney offices that provided misdemeanor-related training to law enforcement in 1995, compared to 43 percent of cities relying on private firms. This does not necessarily mean that officers in the other 57 percent of cities using private firms received no misdemeanor-related training. For instance, officers might have received such training from the county attorney's office even though they worked for cities that did not use the county attorney for non-felony prosecution. The majority of those private firms that did not offer law enforcement training prosecuted for smaller cities — with populations of less than 1,000. These small communities with their own police departments typically have small, one-person police forces.

In addition, cities relying on the county attorney's office for non-felony prosecution were more likely than others using private firms to have prosecutors with formal or informal ways of allowing peace officer input to case dispositions. Such input helps ensure the exchange of complete information and reinforces cooperation between officers and prosecutors.

Resolving cases at arraignment can reduce expense and delay.

Third, we noted differences in the percentage of cases disposed of at arraignment hearings. Resolving misdemeanor and petty misdemeanor cases at early stages in the judicial process, such as at the arraignment, can reduce expense and delay. We found that:

- **Cities relying on county attorneys for prosecution were more likely than cities using private firms to have a significant**

share of their misdemeanors and petty misdemeanors resolved at arraignment.

Cities using county attorneys had a median 35 percent of misdemeanors and petty misdemeanors resolved at arraignments in 1995 compared to a median 20 percent of such cases in cities using private law firms.

Statewide, the median percentage of misdemeanor and petty misdemeanor cases resolved at arraignment was 29 percent for county attorneys and 26 percent for city prosecutors. However, the range of misdemeanor and petty misdemeanor cases resolved at arraignments in 1995 varied greatly from 0 up to more than 80 percent. Among city prosecutors, those resolving larger percentages of their non-felony offenses at arraignments tended to have higher caseloads than other city prosecutors.[11] We saw no significant differences in percent of cases disposed at arraignment when comparing cities by geographic region, size, or by ratio of gross misdemeanors to other, less serious non-felonies.

Placing a high priority on arraignments and ensuring that all parties — prosecutors and defense attorneys — appear at the arraignment hearing, can lead to earlier dispositions and fewer overall court appearances per disposition. We learned that some city prosecutors have informal agreements with their colleagues whereby one attorney is present for arraignments on behalf of several jurisdictions and the responsibility for appearing circulates among the group.

Judges and the court process have roles in arraignments too; for instance, in some judicial districts, judges have strongly encouraged attorneys to appear at arraignment hearings. For cases to be resolved at arraignment, both prosecution and defense attorneys have to be available. Some prosecutors' charging practices may preclude them from resolving cases at arraignment. On the other hand, in some cases, defense attorneys may have little incentive to appear at the arraignment because by postponing the hearing they may be able to delay jail time for defendants.

Fourth, we noted a difference in the likelihood of prosecutors presenting information to local elected officials, citizens, and civic groups. According to our survey,

- **About 66 percent of cities relying on county attorneys' offices had prosecutors that provided information and advice to local elected officials, citizens, and civic groups compared to about 26 percent of cities using private law firms.**

Among cities using private firms, those with larger populations were more likely than less populated cities to have prosecutors that presented information to local officials and citizens. Although less central than other activities to the prosecutor's traditional role, communication and outreach to persons outside the criminal justice system is important for public understanding of the prosecution office as well as support for reducing crime opportunities and improving responses to crimes.

The fifth difference was related to employee training. By contrast with the other differences, in this case, private law firms were more likely than county attorney offices to concurrently offer employee training, reimburse for training expenses, and require training that was targeted to specific training needs. We found that in 1995:

- **About 83 percent of cities using private law firms and 34 percent of cities relying on county attorneys for prosecution had law offices that were above the median in offering in-house and outside training opportunities, providing training reimbursements, and requiring courses or seminars that were specific to identified training needs.**

This does not mean that employee training was unavailable for attorneys serving the remaining 66

11 We did not see a similar statistical relationship between caseload size and percent disposed at arraignment reported by county attorneys.

percent of cities that used the county attorney's office for non-felony prosecution. Rather, it means that these offices were less likely to provide all of the following: a variety of in-house and external training, reimbursements for training, and courses targeted to identified training needs. Of the cities using private firms, those with larger populations were more likely than smaller cities to have all these features of employee training. Additional information on employee training can be found later in this chapter.

Examples of Effective and Efficient Arrangements

The following examples illustrate arrangements for effective or efficient service delivery in some Minnesota counties and cities.

Fairmont

Fairmont, a city with 11,300 residents located in Martin County on the Minnesota-Iowa border, hired a full-time, in-house city attorney in 1989. The city had previously contracted with a private law firm for its legal services. When the lead attorney representing Fairmont resigned from the position, the city looked at two options: continuing to contract with a private law firm or hiring an attorney on staff as a city employee.

After considering its options and opening a search process, Fairmont hired an in-house city attorney. The attorney came from the private law firm with whom Fairmont had formerly contracted. She had assisted the city's lead attorney on Fairmont legal issues approximately 60 percent of her time. Because the attorney was well acquainted with Fairmont, the city council hoped hiring her would increase accessibility to the attorney and result in a more aggressive effort in supporting a preventive, instead of reactive, approach to legal matters.

In 1994, the city council decided to re-evaluate this arrangement. The council sent out a request for proposals to provide legal services. One firm responded, with a proposal for an annual contract of $68,000 plus additional expenses. Fairmont was paying $86,000 for the salaries, benefits, and training of a full-time attorney and full-time legal assistant. The council decided that the $18,000 difference was worth the added benefits of the existing arrangement: expertise in the issues most important to the city, personal contact with police officers involved in prosecution efforts, and time to communicate on an individual basis with Fairmont's citizens, city employees, and public officials.

The in-house attorney's prior knowledge of Fairmont legal issues made the choice more appealing to the city council. However, this rather unique situation is unlikely to be available in many jurisdictions. Also, because smaller cities may not need the services of a full-time attorney, hiring a permanent position might not be cost effective for them.

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Hubbard County

In Hubbard County, a sparsely populated county of 15,500 residents located in north central Minnesota, the assistant county attorney participates in regularly scheduled, weekly arraignments and pretrial conferences. This arrangement allows the prosecutor to efficiently dispose of a significant share of cases at early stages in the judicial process. In Hubbard County the county attorney is a part-time position; an assistant county attorney, also part time, is responsible for prosecuting non-felony offenses in the county including on behalf of two of the county's four cities.

About two years ago, the prosecutor, public defender, and court administrator collaborated to increase the efficiency of arraignments and pretrial conferences. They agreed to schedule pretrial conferences and arraignments every Monday morning. As a result, the prosecutor and public defender meet at the courthouse each Monday at 9:00 a.m. to review the pretrial conferences

scheduled from preceding weeks. Arraignments begin at approximately 10:30 a.m.

To make the preset times for hearings work, the deputy court administrator has compiled by each Thursday morning a list of arraignments and pretrial conferences for the upcoming week. The prosecutor's assistant picks up the list of arraignments and pretrial conferences at the courthouse and initial complaint reports from the sheriff's office. She sends the appropriate reports and all discovery material to the public defender assigned to Hubbard County, giving the public defender time to discuss matters with his clients. This routine enables the prosecutor and public defender to be ready for arraignments the following Monday.

Prosecutor and defense attorney appearances at regularly scheduled arraignments resolve cases earlier.

Having a set time for arraignments has saved time for the attorneys involved. Because the attorneys generally have all the information they need for the arraignments each week, they can avoid requests for continuances which delay dispositions of cases. Trips to the courthouse have been consolidated. Police officers benefit because they have a regular, predetermined time for court appearances.

The arrangement has succeeded because of cooperation and a good working relationship between the prosecutor and public defender. They have had to reach an understanding on what dispositions the other believes acceptable for given crimes. The arrangement requires both the prosecutor and public defender to work in advance of the arraignments, with the expected payoff of less time needed later in the judicial process. Practically speaking, they have to remain committed to Monday mornings at the courthouse which reduces scheduling flexibility for that time period; for instance, when the prosecutor cannot appear, he must pay another attorney to serve in his place.

Another key to the arrangement's success is getting timely reports from law enforcement officers. If officers do not complete initial complaint reports quickly, the attorneys will not have the information they need to present their cases each week.

Jurisdictions served by numerous public defenders may not be able to set a similar arrangement because of the logistics involved with gathering all public defenders before a sufficient number of judges at one time and location. The arrangement in Hubbard County accommodates 20 to 30 arraignments each Monday. Areas with much higher caseloads may find it difficult to resolve their arraignment calendar in the same manner.

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Minnetonka

Minnetonka's city attorney prosecutes non-felony offenses not only for that city but also on a contract basis for four nearby communities. Minnetonka is a city of 50,600 residents in western Hennepin County and has its own in-house attorney staff. The four cities with whom it has contracts for prosecution services are: Minnetonka Beach (population of 600), Minnetrista (3,700), Orono (7,500), and St. Bonifacius (1,200). The contract arrangement provides prosecution services at lower costs for the contracting communities than they paid to private firms and allowed Minnetonka to supplement its legal services.

In preparing their budgets for 1992, several cities in Hennepin County explored ways to reduce their costs for prosecution services. Discussions among several city administrators led the Minnetonka City Attorney to determine how many additional cases her office could handle if it were to provide prosecution services to other cities and how much she would have to charge. The calculations

revealed that the volume of cases represented by Orono, Minnetrista, and St. Bonifacius combined with Minnetonka's own increasing caseload would justify adding another attorney to the city attorney's office. The contracts also meant working with two additional police departments; Minnetrista and St. Bonifacius had an existing joint powers agreement for police services.

Cities can reduce costs for prosecution when they join in cooperative arrangements for service.

The contract arrangement began in 1992 and has been mutually beneficial. The Minnetonka City Attorney's office was able to divide the time of the additional attorney between non-felony offenses for the contract cities and other Minnetonka cases. Initially, fees paid by the three contracting cities covered the compensation costs for an additional attorney while Minnetonka covered expenses for space, secretaries, computers, and other overhead items.

About a year later, the city of Minnetonka Beach contacted Minnetonka about the possibility of contracting for prosecution. Minnetonka Beach officials had a joint arrangement with Orono for police services; they thought that using the same provider for prosecution services would be a natural fit. Minnetonka agreed to the additional contract because adding Minnetonka Beach would provide the city attorney's office with sufficient revenues to pay for an electronic connection to the Hennepin County computer information system.

Currently, the four cities (under two police departments) have contracts, renegotiated every two years, that split the costs of the additional lawyer based in part on the number of cases in each city. The biennial contract includes a cost adjustment factor for the second year to account for inflation. The contracting cities have reduced their expenditures for prosecution services significantly — by up to one and a half times what they paid to private law firms prior to the Minnetonka contract. Amounts paid by the contract cities cover the direct expenses of the lawyer (including salary, continuing legal education certification, and license fees) plus 15 percent overhead to pay taxes and other indirect expenses.

The city attorney's office does not distinguish among the contracting cities in providing prosecution services. That is, the prosecuting philosophy and type of service provided for the four contracting cities is consistent with the service Minnetonka itself receives. The office divides its work on a functional basis so that attorneys work on cases in their areas of expertise as opposed to cases that arise by city. Upon request, the office participates in training with police departments from any of the cities.

From the perspective of the Minnetonka City Attorney's Office, it is important to come to a common agreement with the affected police departments on enforcement policies and priorities. For Minnetonka, this required communicating with the police departments and working out differences in priorities over time. In addition, it is important for cities to agree on whether civil or criminal prosecution is appropriate for certain matters, such as questions about data practices or zoning violations. Although it is not always clear cut, drawing as explicit a line as possible between civil and criminal matters can help avoid a situation where a city expects criminal prosecution for a matter that is not covered by the contract. All four contracting cities still retain private attorneys to provide legal services with civil cases.

With the four contracts, the Minnetonka City Attorney's Office is at a threshold. Minnetonka could not contract with additional cities unless it both hired another attorney and secretary and moved into expanded quarters. Consequently, even though Minnetonka has been approached by other cities interested in pursuing a contract, it has declined.

The efficiencies achieved in the contract arrangement are possible in part because of the cities' proximity to a common court facility. All the cities' venues are in the same district court

location in Hennepin County's Ridgedale Division located in Minnetonka. Efficiencies are gained by having one attorney represent all five cities in hearings at the same time rather than having each city represented by a different prosecutor.

Although the city attorney's office in this instance is comprised of attorneys who are city employees, jointly provided prosecution services need not be restricted only to this arrangement. Cities could pursue joint proposals for prosecution with private firms to achieve similar efficiencies.

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Morrison County

In Morrison County, with about 30,300 residents located in central Minnesota, the county attorney is responsible for prosecuting all non-felony offenses committed anywhere within the county. The county attorney has written contracts with each community to provide prosecution services.

The countywide prosecution arrangement has been in place in Morrison County for a little more than a decade. When Little Falls, the county seat and most populous city in the county, decided to contract with the county attorney for prosecution in 1984, the countywide prosecution arrangement became possible. Other cities, all with far smaller caseloads, followed suit within a few years, following meetings between the county attorney and city officials.

Cities were reluctant to pay the county for prosecution services. The county attorney's office met with representatives of the 15 cities to discuss compensation and offered payment options from which they could choose. Cities could opt to pay for prosecution services on an hourly basis, a monthly retainer basis, or by exchanging fine revenues for the service.[12] In choosing to forfeit their share of criminal fine revenues, cities would not make direct payments to the county; rather, cities' fine revenues that in the past accrued to them would instead go to the county.

Because one office charges all offenses, crimes are treated the same countywide.

A unified arrangement for prosecuting non-felonies throughout the county produced several advantages. First, because one office is responsible for charging all offenses, crimes are treated the same countywide. The county attorney pursues similar crimes equally aggressively, regardless of where in the county they occur. For instance, a crime committed in Pierz is charged at the same level as the same crime committed in Little Falls.

Second, the county and its cities as a whole gain efficiencies when one prosecutor represents multiple jurisdictions in court. The county prosecutor in court for one jurisdiction can represent other communities at the same time. For example, when appearing for arraignments, one prosecutor can appear at the hearings for several jurisdictions instead of having multiple prosecutors

12 Exclusive of the counties of Chisago, Hennepin, and Ramsey, criminal fine revenue paid by offenders for gross misdemeanors and misdemeanors is generally distributed as follows: one-third accrues to the political jurisdiction that employs the officer making the arrest, one-third to the jurisdiction that prosecutes the offense, and the remainder to the county. All revenues from parking violations for which complaints or warrants have not been issued remain in the community where the offense occurred. *Minn. Stat.* §487.33, subd. 5.

appear, each representing a single community. This reduces duplication of effort and can save time overall.

Third, because the county is responsible for all juvenile and adult prosecutions, it has the advantage of maintaining consistency in charging decisions for crimes that involve both juvenile and adult offenders. In these situations contacts with victims are also consistent and simplified.

Fourth, one prosecution office prevents disputes over which office will prosecute certain crimes that can be charged at different levels depending on factors such as the defendant's criminal history, degree of injury, amount of loss, or relationship to victims. For instance, Morrison County's arrangement avoids questions about which office will handle a theft or damage to property case when the amount stolen or damaged is close to the misdemeanor limit or to the gross misdemeanor limit. As another example, cases involving domestic assault may be prosecuted as felonies, gross misdemeanors, or misdemeanors depending in part on whether the defendant has prior convictions for assault. Under a countywide prosecution arrangement, one office prosecutes all offenses.

Fifth, having one office in charge of all non-felonies offers benefits to law enforcement agencies. Law enforcement enjoys the efficiencies of dealing with a single prosecution office using consistent methods of operation. Communications between law enforcement and prosecutors are enhanced because officers receive a single message instead of multiple, sometimes conflicting messages from several prosecution offices.

To accommodate prosecution of offenses in Little Falls, the county attorney's office added an attorney position to its existing staff. After that, it was not difficult for the office to assume responsibility for the other communities in the county because of their small size and caseload. Although five cities had their own police departments they did not generate a sufficiently large increase in caseload to overwhelm county attorney staff, in part because they were one-person law enforcement departments. In counties containing several large cities, assuming responsibility for prosecuting all non-felonies is unlikely to occur without adding the requisite staff. Further, the cost of additional attorneys and support staff may not be completely offset by cities' cumulative payments for prosecution services, as was true in Morrison County.

Some of the success of the unified prosecution arrangement in Morrison County is due to cooperation with and acceptance by local law enforcement. As is true elsewhere, the working relationship between prosecution and law enforcement is a close one; the success of one relies heavily on the other. If the police department in Little Falls, for instance, disagreed with prosecution provided via the county attorney's office, it is unlikely that the city would have pursued that contract. To make countywide prosecution succeed, law enforcement must be convinced of its benefits.

In addition, caseload size may make a difference. In counties where one or more communities have caseloads that justify a full-time prosecutor some of the advantages of efficient court appearances may be lost.

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2. Maintain Good Relations with Local Law Enforcement

Prosecutors and law enforcement must work together to have a criminal justice system that operates smoothly and functions well. Because successful prosecution is closely tied to effective police work, prosecutors should take steps to maintain good relations with law enforcement agencies.

One of these steps relates to ongoing, reliable contacts between the offices. Such contacts serve

as a conduit for informing law enforcement of cases as they proceed, such as providing information on court dates and scheduled appearances. Proactive communication by prosecutors with peace officers generally results in less prosecutor time in court, more effective prosecutions, and, in turn, less time spent by officers in court awaiting appearances for hearings that are frequently postponed. A designated individual or an automated mechanism, such as a shared database between prosecution and law enforcement offices, can provide this contact. Maintaining these contacts between prosecutors and law enforcement also fosters a cooperative working relationship between the agencies.

Prosecution and law enforcement contacts can prevent unnecessary court appearances by officers.

At the same time, prosecutors have to be careful to avoid extensive involvement in police work, such as the police investigative function. Extensive involvement goes beyond the prosecutorial function and may make the prosecutor a witness to a case, presenting a potential conflict of interest and threatening the loss of immunity from civil damages.

According to our survey, in 1995:

- **Nearly 48 percent of county attorney's offices and 44 percent of city prosecutor's offices had established a liaison with their local law enforcement agencies for communicating information such as the status of cases and court appearances.**

Such contacts can promote effective working relationships between prosecutors and law enforcement, assist the prosecution in completing its job, and help avoid officers' unnecessary court appearances. Furthermore, many prosecution offices provided ways for peace officers to have input in the disposition of cases. Involving officers in these matters can help ensure that all information necessary for successful prosecution is available. It also reinforces the importance of mutual cooperation between prosecutors and officers. We found that:

- **About 88 percent of county attorney's offices and 66 percent of city prosecutor's offices had either formal or informal ways of allowing officer input into case dispositions in 1995.**

Another practice related to maintaining good relations with law enforcement is offering training to peace officers on issues associated with non-felony investigations and prosecution. Prosecutors rely heavily on the abilities of local law enforcement. For example, without successful investigations by officers, prosecutors may be forced to decline bringing a complaint.

Prosecutors should assist in educating law enforcement personnel to help alleviate problems that can occur during searches, property seizures, arrests, and interrogations, as well as other evidentiary problems. Training developed by prosecutors can also promote awareness of recent developments in relevant laws and court cases. We found that, particularly among county attorney offices, misdemeanor-related training for peace officers is common. According to our survey:

- **About 85 percent of county attorney's offices offered misdemeanor-related training to peace officers in 1995 while 47 percent of city attorney's offices offered such training. Misdemeanor-related training can prevent evidentiary problems and also keep officers apprised of law changes or recent court decisions that relate to their work.**

Examples of Maintaining Good Relations with Law Enforcement

The following examples describe some ways that county attorneys and city prosecutors have implemented practices for good relations with local law enforcement.

Carlton County

The county attorney's office in Carlton County, located in northeastern Minnesota with 30,000 residents, has used law-enforcement liaisons to assist non-felony prosecution for 14 years. The liaisons are active law officers, employed by the sheriff or police department, designated to coordinate case information and testimony between law enforcement and county attorney personnel. The county sheriff's department and Cloquet police department each provides two liaisons for this purpose. If a case does not have a formal liaison, the arresting officer serves as the contact for the prosecutor.

The county attorney's office uses the law enforcement liaisons to request specific information or receive additional information on a case, get names of witnesses and victims, and communicate information on court appearances or postponed appearances. Prosecutors also consult liaisons for their professional opinions of possible negotiated pleas. The attorney's office and liaisons have worked together to establish a police report form that also serves as a complaint form, saving time and resources otherwise spent duplicating information.

Liaisons relay information on investigations, victims, and court appearances.

While the county attorney's office does not pay any direct financial costs for the law-enforcement liaisons, prosecutors spend more time up front with officers discussing case matters than they otherwise would. However, liaisons allow prosecutors to use their time more efficiently because they spend less time overall with police on a particular case. Additionally, the liaisons reduce administrative hassle by serving as a central source for interactions with prosecutors, such as to answer questions, sign complaints, schedule officer appearances in court, and further interview witnesses.

Although jurisdiction size would not necessarily hinder the use of liaisons, larger jurisdictions might realize greater benefits because individual prosecutors may not be as able to easily contact a particular officer. The county attorney stresses the importance of keeping the arresting officer involved in a case; while a liaison can simplify some of the procedural matters, the arresting officer is still an integral part of the prosecution process. The success of an effective liaison program requires cooperation and a joint desire of law enforcement personnel and prosecutors.

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Freeborn County

The Freeborn County Attorney's Office makes a point of keeping peace officers informed on cases. The office uses a contact person to proactively communicate directly with officers who arrest or ticket the offender and provide testimony, and field calls from officers wanting details on specific cases.

One prosecutor has the specific responsibility of informing officers about the status of cases. This contact person advises officers of what is needed from them for a particular case, informs officers when to appear in court, and calls them when a scheduled appearance is canceled. Generally, the officer who arrests an offender receives a call from the contact in the county attorney's office. The contact prosecutor also sends a letter to inform officers when a case is scheduled for trial. Additionally, after an officer testifies in court, the contact person either calls or sends a thank-you note to express the office's appreciation.

Consistently initiating communication with law enforcement requires an investment of time. Nonetheless, the county attorney believes the benefits of the investment are numerous: increased confidence by law enforcement in the quality of prosecutors' work, heightened trust between prosecutors and officers, and better cooperation between agencies in resolving cases. This close communication is possible in part because the office has a manageable number of non-felony cases, allowing it to devote the time necessary for ongoing, proactive communication.

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Gibbon

The city attorney for Gibbon, a city of 700 residents located in central Minnesota, makes systematic input from the chief of police a part of his approach to non-felony prosecution. The prosecutor, who is with a private law firm, relies on the chief for information on non-felony cases, insight with plea negotiations, and observations regarding charging and sentencing. This team approach begins with the initial charge and carries through the term of the case.

Gibbon's city attorney and the chief of police, who is the only full-time officer in the department, have fostered their relationship over 15 years. As soon as the prosecutor is notified of a case, he contacts the chief of police who serves as the liaison between both offices. Over the course of the case, the prosecutor and chief coordinate information needed pertaining to the case and notify each other of related investigative discoveries. The prosecutor and chief typically communicate three to five times through the completion of a case.

According to the city attorney, the actual time spent communicating with the police chief up front is minimal compared to time savings gained. Because the prosecutor communicates with the chief throughout the case, he usually does not have to backtrack to retrieve missing pieces of information, documentation, or testimony. This results in a savings of time for the prosecutor and expense for the city. Additionally, effective communication leads to resolving cases earlier in the process.

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Roseville, Vadnais Heights, White Bear Township

Roseville, Vadnais Heights, and White Bear Township, all located in Ramsey County, contract for prosecution services with a private law firm. The city prosecutor who represents these communities makes regular contacts with their peace officers, produces written materials for them, and provides training for these officers and others in the north suburban police departments. Roseville has its own police department while the Ramsey County sheriff provides law enforcement in Vadnais Heights and White Bear Township.

In September of each year, the prosecutor puts on a general training session. Begun specifically for peace officers in the communities she represents, the training has since expanded to include other law enforcement officers in the area. Each officer participating in the training receives a manual produced by the prosecutor that covers relevant legal topics. Officers are not charged for the manual, but the city prosecutor has received subsidies from a peace officer training organization for distributing the manual.

The training and accompanying manual typically cover information on new laws, the traffic code (particularly statutes regarding driving while intoxicated or DWI), and court decisions that are relevant to officers' work. In addition, the prosecutor discusses do's and don'ts for situations that officers commonly face such as searches and seizures, taping suspects, and collecting evidence at an accident scene.

The prosecutor makes a point of meeting with the police chief and sergeant to discuss training needs. These meetings allow her to tailor training to issues of greatest interest and importance to the officers.

Officers receive information on new laws, the traffic code, and court decisions relevant to their work.

Intermittently during the year, the prosecutor provides brief training sessions on timely topics. Timing the training to make it convenient for officers is important. The prosecutor usually provides the training at the department near the beginning or end of a shift so that most officers can attend. Officers receive some of their required annual training credits for attending.

The law firm also produces and distributes a one-page guide to all traffic and criminal violations that officers can carry and use as a reference tool. On this sheet the prosecutor includes each traffic violation, petty misdemeanor, misdemeanor, and gross misdemeanor, along with its corresponding statute number, and pertinent city ordinances and their numbers. The violations are grouped together so that officers can easily find all regulations pertaining to a given topic, such as motorcycles, school buses, or failure to yield. Each year the law firm updates this traffic and criminal violations guide with new or changed laws.

Throughout the year, the prosecutor has periodic communication with police officers. For instance, she may write memos to officers informing them about the outcome of a court case that could affect the way they do their jobs. If a change in law or procedure is especially vital, the prosecutor attends the officers' roll call to inform them about the change. Attending roll calls ensures that officers receive the message and gives the prosecutor an opportunity to meet the officers and answer their concerns. The prosecutor also may write to individual officers when she feels she should call their attention to cases for which they did not follow proper procedures, to the detriment of the case. At times, officers have called the prosecutor from an accident scene to verify some information; she encourages this contact because investigations done properly from the start aid the prosecution.

The prosecutor devotes resources to communicating with officers because it generally results in less time in court and more effective prosecutions. This in turn can reduce the officers' time spent in court. For instance, although officers may complain about the time it takes to properly complete a DWI report, the prosecutor is more likely to resolve the case early with a complete report and avoid the need for the officer to appear in court.

Prosecutors serving larger jurisdictions may not have the opportunity to get to know officers on a one-on-one basis. The largest cost involved with these practices is the time needed to develop training materials, hold training sessions, and continue ongoing communications with law enforcement. Nevertheless, providing these services can strengthen the relationship between officers and prosecutors and enable them to see that they are working toward the same ends.

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Washington County

The county attorney's office in Washington County, located in the metropolitan area with a population of 169,300, provides training opportunities each year for law enforcement personnel around the county. The training offers educational benefits for law enforcement officers and, in turn, produces advantages for attorneys who work with officers and rely on their expertise in making arrests and investigating cases.

Each annual training session is focused on areas of interest to law enforcement officers. The training includes a legal update to describe statutory changes or court decisions that may affect officers' work, as well as instruction on effectiveness as a trial witness. Other topics for training vary according to current needs and interests. During monthly meetings between the county attorney and chiefs of police, the county attorney learns of potential topics for training, such as instruction on chases or reasonable use of force. The office customizes training sessions to meet these local needs.

To attract law enforcement officers to the training, the office arranges the training sessions to officers' advantage. In addition to gearing the instruction towards topics of interest to officers, the county attorney's office offers training at no charge, during evening hours or on officers' compensatory time, and has arranged with the Peace Officer Standards and Training Board to award credits for course completion that help officers meet their continuing education requirements. The annual training is held in the county facility which provides a centralized meeting location, but the county attorney also holds training in locations around the county, as a convenience to the officers, when specific training needs have been identified. Despite these steps, it can still be difficult to entice officers to attend if they have to forfeit non-work time to do so.

Law-enforcement training offers direct benefits to officers and indirect benefits to prosecutors. The training can enhance officers' skills at tasks that affect cases, such as improving the collection of evidence. As important, the training interests officers in how to best investigate a case from the point of view of presenting it to a jury, as opposed to simply closing a file. Thus, officers are more likely to take the steps necessary to help prosecutors make the best case possible.

From the perspective of the county attorney's office, the training builds interpersonal bonds that enhance the working relationship between law enforcement and prosecutors. During the instruction, county attorney staff make it clear that they want and need to involve the officers in various aspects of cases, such as the plea negotiation process. Attorneys feel it is important to address officers' concerns in plea negotiations because of their intimate knowledge of the case and because attorneys view them as representatives of the local standards of acceptability for the communities in which they work. Officers come away from training knowing that prosecutors want to work with them in ways that will allow both offices to accomplish their mutual goals of maintaining law and order.

Training peace officers enhances the working relationship between law enforcement and prosecutors.

All attorneys employed in the county attorney's office take part in organizing and offering this training. Time spent preparing for the training is an upfront cost; however, participating attorneys view the preparation and training as one of the obligations of their profession.

Although prosecutors' offices in most other jurisdictions can likely arrange similar law-enforcement training and reap comparable benefits, time limitations may be a roadblock. Setting aside time for planning and organizing the initial training may be the most difficult step, particularly where prosecutors are already stretched for time to meet court responsibilities. Working with organizations that have training experience, such as the Minnesota County Attorney Association, can help. Prosecutors in jurisdictions with one law-enforcement agency may find it easier to identify training needs and arrange the instruction than those where several different law enforcement agencies operate.

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3. Encourage Administrative Processes and Pretrial Diversion for Suitable Cases

For some cases, avoiding court proceedings may be a better and less costly alternative than prosecution. This can be done in essentially two ways: (1) through administrative processes designed to resolve violations of ordinances before they reach the criminal justice system and (2) through the criminal process by diverting cases from prosecution when the prosecutor deems them appropriate. Even though the first of these two options occurs outside of the prosecutor's office, we include it here because it can serve as an efficient alternative to the prosecution process; issues resolved through administrative processes would otherwise arise for prosecution through normal adjudicative channels.

Administrative Processes

Local governments use administrative processes to handle certain violations before they enter the criminal justice system. Administrative processes are intended to provide an effective, efficient, and less formal alternative to court proceedings. Cities with processes for resolving building code violations prior to or in lieu of prosecuting such violations are one example. These processes avoid using the criminal justice system unless the defendant appeals the decision rendered administratively. Administrative processes are akin to the violations bureaus in Hennepin and Ramsey counties (described in Chapter 1).

Typically the administrative process involves writing administrative citations for alleged violations of local ordinances, such as those regulating the sale of tobacco. Often these ordinances are related to licensing or regulation of businesses. The jurisdiction designates impartial, independent hearing officers before whom persons who have violated these ordinances have an opportunity to be heard. The hearing officer may impose fines for violations from a schedule of fines adopted by the jurisdiction, set conditions that the violator must meet to have the fine waived, or dismiss the citation. Usually the process provides an appeal route for the violator.

Jurisdictions using administrative processes often are more interested in compliance with the ordinance, such as violations of noise ordinances, than in bringing the matter to court. In addition, penalties imposed by the court may be insufficient to justify the expense of prosecuting these relatively minor offenses. Jurisdictions typically use the administrative process for offenses that may otherwise go unenforced because the threat of jail (through prosecution in the courts) is perceived as too severe for the level of offense.

Administrative processes are less formal alternatives to court proceedings.

However, questions about the use of administrative processes have made some jurisdictions proceed cautiously in this area. Although statutes authorize jurisdictions to adopt ordinances, they do not provide express authority for imposing administrative penalties. Cities without home rule charters have found this an especially gray area. Jurisdictions using administrative processes have justified the use as a means of enforcing ordinances they have express authority to adopt. Some observers have raised questions about whether the administrative processes are a substitute for municipal courts which were phased out in Minnesota years ago.

Recognizing these issues, the Non-felony Enforcement Advisory Committee (NEAC) recommended in its 1997 report that the Legislature authorize local governments to enact ordinances providing for administrative civil penalties.[13]

NEAC would require local governments using administrative processes to provide an opportunity for alleged violators to be heard before a neutral party or the elected council. The recommendation also included prohibiting ordinances with civil penalties that exceeded the sanctions provided for in comparable state statutes, with exceptions for certain activities such as the licensing of alcohol or food.

Pretrial Diversion

A second alternative for resolving certain cases outside of the formal courts comes into play after a case enters the criminal justice system. Diversion allows the prosecutor to decide against prosecution when more can be gained by offenders attending treatment or providing community service than by having their cases adjudicated. In turn, when used appropriately diversion can help serve the interests of the public when victims are compensated and defendants complete education or rehabilitation programs and are encouraged to avoid re-offending.

Diverting certain cases from prosecution can be more beneficial than going to court.

Pretrial diversion of appropriate cases can be useful when limited resources force prosecutors to use their discretion in setting priorities among cases and spend higher proportions of resources on cases where more are warranted. The decision to divert suitable cases can also reduce the number of less serious offenses on the court docket, again focusing resources on more severe crimes.

Although the decision to divert an offender from prosecution rests with the prosecutor, state statutes limit to some degree eligibility for pretrial diversion in certain counties. Counties participating in the Community Corrections Act were required by the 1993 Legislature to establish a pretrial diversion program.[14] Statutes limit eligibility in these programs to defendants who are first-time offenders, charged with property crimes, and who have not previously participated in a pretrial diversion program.[15] However, this statute does not require all prosecutors throughout the state to use this particular program of pretrial diversion.

Minnesota's Rules of Criminal Procedure list conditions that defendants may have to meet during the period that prosecution is deferred, although the conditions are not exclusive. The conditions are that the defendant: may not re-engage in activities related to the crime charged; may be required to participate in a supervised rehabilitation program including education or counseling or perform community service; and may be required to make restitution for losses caused by the charge.[16]

To make pretrial diversions effective and fair, prosecutors should establish standards for the program and ensure that they are enforced uniformly. We found that:

- **In 1995, about 70 percent of county attorney's offices reported that they diverted certain adult cases from prosecution and 40 percent had specific adult diversion programs designed for certain non-felony offenses. Among city prosecutor's offices, 80 percent reported diverting cases and 40 percent had specific diversion programs.**

Prosecutors' offices with diversion programs for specific offenses have focused the programs on

13 Non-felony Enforcement Advisory Committee, *Final Report* (St. Paul, January 1997), 50-51.

14 The 31 counties participating in the Community Corrections Act are: Aitkin, Anoka, Blue Earth, Carlton, Chippewa, Cook, Crow Wing, Dakota, Dodge, Fillmore, Hennepin, Kandiyohi, Koochiching, Lac Qui Parle, Lake, Morrison, Nobles, Norman, Olmsted, Polk, Ramsey, Red Lake, Rice, Rock, St. Louis, Stearns, Swift, Todd, Wadena, Washington, and Yellow Medicine.

15 *Minn. Stat.* §401.065, subd. 1.

16 *Minn. R. Crim. P.*, 27.05, subd. 1.

crimes such as worthless checks, shoplifting, and theft. Some also have specific programs for domestic assault and certain DWI cases.[17] Project Remand and Operation De Novo are two independent, non-profit agencies that provide diversion services in the metropolitan area under contracts with Ramsey and Hennepin counties, usually in cases involving first-time property offenses such as theft. They work with prosecutors, defense attorneys, and victims to identify appropriate defendants for their diversion programs. Even though prosecutors may use diversion programs for these specific offenses, not all first-time defendants of these charges are necessarily diverted; the prosecutor may have additional eligibility criteria such as a dollar threshold for theft offenses.

Most of the diverted cases in 1995 were ones for which prosecutors either later dismissed the charges or did not charge. Charges can be dismissed when the defendant meets the conditions of the diversion or new charges arise for the same defendant. According to our survey:

- **A majority of county attorneys reported that at least 95 percent of their diverted cases resulted in charges dismissed or not filed in 1995. City prosecutors reported similar success rates.**

Examples of Pretrial Diversion and Administrative Processes for Suitable Cases

The following examples describe how prosecutors' offices developed and used specific diversion programs and an administrative process for resolving certain issues.

Coon Rapids

In Coon Rapids, a city in Anoka County with about 62,000 residents, the city attorney's office instituted programs to divert violations of parking ordinances and nuisance codes from prosecution. The diversion programs have had success in focusing city attorney resources on more serious offenses and inducing violators to pay fines or repair properties, as appropriate.

In 1995, the city attorney's office began a diversion program for parking violations. Part of the motivation behind this diversion effort was strong interest from district judges in having attorneys appear at all arraignment hearings. To avoid numerous appearances for arraignments on parking violations, Coon Rapids prosecutors joined with the police department in a program to divert these violations from prosecution.

Under this program, parking violators receive notices on their windshields describing the offense and informing them that they have the option of paying a $20 fine to the city or face prosecution. Because the city uses special forms for these parking violations, the police department found it necessary to train officers on the new practices. After officers write these notices, police department employees enter information from them — the officer's badge number, location of offense, and name and address of the defendant — into a police database. This is a common database shared electronically with the city attorney's office via network link, although the link could be accomplished using modems and dedicated telephone lines.

The prosecutors' computer system automatically generates a warning letter to violators with unpaid violations after 20 days. The system uses a form letter from its word processing program linked to relevant information in the shared database. Upon receipt of the letter, violators have a chance to pay the fine by a given date or face prosecution. The office prints the date in boldface to catch more people's attention and increase the likelihood of payment. For cases where violators do not respond, the city attorney issues a criminal complaint, again using data and a form generated by the database. Such complaints then proceed through the court system as do other misdemeanors.

17 Several jurisdictions have diversion programs specifically for juveniles although juvenile offenses are beyond the scope of this report.

Response to this system has been quite favorable from the perspective of the city attorney's office and police department. Between 75 and 80 percent of violators respond to the letters by paying the required fine. For instance, out of about 560 parking violations in 1995, 450 were successfully diverted from prosecution. Diverting a significant volume of parking violations allows the city attorney's office to focus resources on more complicated or serious offenses.

The automated arrangement produces warning letters efficiently and promptly. It negates the time-consuming and mistake-prone activity of re-entering necessary data, such as the defendant's name and address or location and date of offense. Instead, information stored in the database is automatically inserted in the warning letter and, if necessary, in the complaint.

Although Coon Rapids handles the majority of parking violations this way, the arrangement offers flexibility. Vehicle owners who wish to contest their parking violation notice will be issued a citation and have an opportunity to contest it in court. Furthermore, the police captain has authority to cancel the violation notice and fine if mitigating circumstances justify it. With computerized data, prosecutors can readily spot when new charges are filed for the same defendant and, thus, help determine whether to divert.

A shared database between police and prosecutors allows efficient diversion of parking violations.

For this program to work, the police department and the city attorney's office each had its own computer terminals which were then connected electronically via network cabling and Novell network software. This permitted the two offices to share a parking violations database developed by an assistant city attorney. Coon Rapids passed an ordinance stating that persons who agreed to pay would not receive a court citation, giving an incentive to citizens to heed the warning letter and pay the fine.

Jurisdictions contemplating a similar arrangement would need sufficient resources to develop or purchase software for the database, as well as the computer hardware and network connections or a modem system, if they are not already in use. Computerized systems also require ongoing maintenance and periodic upgrades as communities' needs evolve and laws change. Jurisdictions with their own information-systems personnel may find it easier adapting this arrangement than others. Training is necessary for users in both the police department and attorney's office.

Moreover, the city attorney's office must set eligibility standards that determine who may and may not have prosecution diverted. For instance, the standards may allow diversion only for parking violations and not moving violations; prosecutors may not wish to divert charges in cases when new charges have been filed subsequent to the parking violation.

In addition to the parking violation diversions, the city attorney's office developed a nuisance code enforcement program in the middle 1980s to divert these cases from prosecution. The city's main interest was in having code violations cleaned up as opposed to taking violators to court. Consequently, instead of being prosecuted, these code violators receive a notice describing the code, the violation, and what needs to be corrected.

Violators have the opportunity to discuss their situation with the city's code enforcement manager and, failing that, for a hearing before an administrative law judge hired by the city. If dissatisfied, the violator may appeal the results of the hearing to the city council, and finally to district court. The city takes action to abate the problem with the property and assesses charges for doing so against violators if they fail to clean up their

properties or request a hearing. An unpublished appeals court opinion validated the basic process.[18]

Most code violations in the city are remedied this way. Abatement action is common; however, in only one instance since 1986 has the process yielded a case that eventually went to court. Coon Rapids' code enforcement manager administers the program which keeps it out of the city's legal department. To adopt this program, other jurisdictions would need personnel equivalent to a code enforcement manager to administer the program and conduct hearings; they could choose to hire qualified persons on contract to preside at hearings.

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Morrison County

In Morrison County the county attorney's office instituted a diversion policy for certain low-level crimes. The diversion policy affects a relatively small percentage of total non-felony cases yet helps focus county attorney resources on cases of greater magnitude. Prosecution is diverted only for specific crimes and only for defendants likely to respond to conditions attached to the diversion.

In 1989, Morrison County started a diversion program for juvenile crimes. Both the county attorney's office and the Central Minnesota Community Corrections agents worked on developing the program. It was made clear that the decision whether to charge or divert a case rested solely with the prosecutor. The probation office determined the parameters for appropriate conditions that the defendant would have to meet to avoid prosecution.

When the Minnesota Legislature passed a law in 1993 requiring certain counties to establish pretrial diversion programs for adults, Morrison County adapted the operating procedures in place for diverting juvenile offenders.[19] Under procedures for non-felony offenses, when the county attorney decides to divert a charge, the offender meets with a probation officer to sign a contract. The contract specifies conditions, such as community work service, completion of chemical dependency treatment, or payment of restitution, that the offender is obligated to meet. If the offender fails to comply, the probation officer reports it and the county attorney brings a complaint against the offender for the original offense.

Most of the diverted non-felony offenses in Morrison County involve writing bad checks, illegal liquor consumption, certain theft cases, or disorderly conduct. The county attorney only diverts offenders when he is comfortable that he could prosecute them successfully. Otherwise, offenders would view the program as one with no penalty for failure to comply. As mentioned earlier in this report, for specific pretrial diversion programs in certain counties, state law limits eligibility for diversion to first-time offenders who have not previously participated in a diversion program and whose offenses are not crimes against a person. In addition to these criteria, the office of the Morrison County Attorney will only divert offenses under a $2,500 limit where value is involved.

Diversion reserves court and prosecution resources for more serious crimes.

For Morrison County, the main benefits of using pretrial diversions are that they (1) help reduce the backlog of criminal cases, (2) offer a speedier response to criminal behavior, and (3) reserve court and prosecution resources for more serious crimes. From the county attorney's perspective, the diversion program saves money and time because

18 Ternes vs. City of Coon Rapids, No. C8-87-2456 (Minn. Ct. App., June 21, 1988 unpublished).

19 Minn. Stat. §401.065.

the office can avoid certain steps such as drawing up the complaint and making court appearances. However, probation officers incur costs because they must handle and monitor the cases of diverted offenders. In Morrison County, diverted offenders have added between 3 to 5 cases per month to the adult probation caseload and about twice that number to the juvenile probation caseload.

From Morrison County's experience, prosecutors need to involve law enforcement as well as the probation office in developing the diversion program to make it succeed. Unless officers are aware of the program they could provide contradictory information to the defendants. Plus, officers are interested in knowing why offenses they investigated or ticketed are not prosecuted.

Staff in the probation office have to be willing participants for a successful diversion program. Because they interact with diverted offenders and monitor the cases, probation officers' cooperation is key. If a pretrial diversion program increased the probation officers' caseload to a point where they needed additional staff, jurisdictions would have to weigh the costs and benefits of doing so. In these situations, the county has to determine whether the additional costs of probation officers are offset by the advantages accruing to society at large, the victim, the prosecutor's office, and court system due to the diversion.

One difficulty arises when prosecutors try to determine whether the offender has committed previous misdemeanors. Although prosecutors may be able to detect offenders with criminal records within the county, they cannot easily determine what misdemeanors these offenders may have committed elsewhere. This data limitation hampers the ease of making appropriate diversions.

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4. Use a Victim and Witness Assistance Program

Prosecutors should, either through their own office or by using community organizations or other offices, avail themselves of a victim/witness assistance program. Such programs can work to the advantage of both prosecutors and victims. Prosecution efforts to develop effective relationships with victims and witnesses encourage these individuals and others to report crimes and follow through with identifications and testimony. This assists the prosecutor's case.

State statutes require county and city attorneys to develop plans for domestic abuse cases and provide certain information to victims.[20] Prosecutors must involve domestic abuse advocates, law enforcement officers and others in the development of the domestic abuse plans. Statutes also require all prosecutors to: inform victims of plea agreement recommendations and their right to be present at the hearing, seek input from victims before using pretrial diversion for specific offenses, notify victims of certain actions the prosecutor takes regarding domestic assault or harassment, and make efforts to notify victims of final case dispositions.[21] However, statutes do not require universal availability of victim/witness assistance programs.

Programs to aid victims and witnesses can also benefit prosecutors.

Beyond aiding the prosecution, victim/witness programs provide direct benefits to the victims and witnesses served. Assistance to victims and witnesses can include many services, from notification about case developments to advice on issues of personal safety. Not all services are necessarily appropriate for prosecutors to provide directly and some services require cooperative efforts among various agencies. For example, prosecutors may have an

20 Minn. Stat. §611A.0311.

21 Minn. Stat. §611A.03-611A.039.

obligation to pursue a case even when the victim is reluctant to cooperate; in these instances, victims may be more receptive to an intermediary such as a victims' advocacy organization. The advocates are generally trained to help provide appropriate services, such as information on emergency shelters, which frees attorneys to perform their legal duties.

A majority of county and city prosecutors reported that a victim/witness program was available in 1995, with a variety of services provided at times by multiple agencies. Our survey showed that:

- **About 75 percent of county attorneys and slightly more than 55 percent of city prosecutors indicated that victim/witness assistance programs were available in 1995.**

Jurisdictions where victim/witness programs were available tended to be those with larger populations and heavier caseloads. About 61 percent of counties with victims services had populations greater than the 23,400 median and 53 percent had higher than median non-felony caseloads. Cities indicating availability of victim programs had a median population that was twice that of other cities and 65 percent of them had higher than median non-felony caseloads.

Cities with their own prosecution staff were more likely to have a victim/witness assistance program available than were cities using private firms for prosecution. About 78 percent of the in-house prosecutors reported having such a program available, compared to 57 percent of cities using private law firms.

Responsibility for financing and operating victim/witness programs varied from jurisdiction to jurisdiction. The county attorney's office was primarily responsible for financing victim/witness assistance programs in many counties. Many cities used victims programs financed by private organizations or by the county. Private organizations providing victims services were available both in counties where county attorneys had their own victim/witness program and in counties without such a program. As shown in Table 2.1:

- **About 41 percent of county attorneys reported that their office was primarily responsible for financing the victim/witness program in 1995 and another 20 percent said a private organization was primarily responsible. About 33 percent of city prosecutors where victim programs were available reported that private agencies primarily**

Table 2.1: Primary Source of Financing for Victim/Witness Assistance Programs, 1995

Financing Source	Counties where Victim/Witness Programs were Available (n = 46)	Cities where Victim/ Witness Programs were Available (n = 141)
County Attorney's Office	41.3%	27.8
Multiple Organizations[a]	23.9	11.4
Private Agency	19.6	32.9
State	13.0	1.3[b]
Sheriff	2.2	2.5
City	N/A	17.7
Unknown	N/A	6.3

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

[a]For counties, "multiple organizations " typically meant a combination of county, state, and /or non-profit or other private sector grants. For cities, it typically meant a combination of financing by the city, non-profit agency, and /or county.

[b]One city indicating the state or county financed the program was included with those indicat ing county financing.

financed the programs and about 28 percent said the county did so.

In a few counties, financing victims services was a joint responsibility among more than one agency, such as a combination of county, state, and non-profit or other private sector grants. The state finances victim services through 15 county attorney offices serving 17 counties, according to the Minnesota Department of Corrections.

About 24 percent of city prosecutors indicating that victim/witness programs were available reported that the city was primarily or partially responsible for program financing. Most of these were large, metropolitan-area cities with 10,000 or greater populations and were represented by private firms.

In areas with victim/witness programs available, there is a wide range of services offered. As described earlier, Minnesota statutes afford certain rights to victims in adult criminal cases (as well as in juvenile proceedings), some of which relate to prosecutor responsibility for communication or notification. But many prosecutors had available in 1995, or worked with other organizations that made available, additional resources for victims. The range of services provided by the victim/witness programs varied around the state from those that simply notified victims of court events to others with a comprehensive set of victim services. Table 2.2 shows that in 1995:

- **At least 70 percent of counties with victim/witness assistance programs available had, as part of that program, services to address victims' immediate emergency care needs, as well as legal information, assistance with seeking compensation, or other services.**

In cities where a victim/witness program was available, 67 percent of the programs provided referrals for emergency needs.

Offices of county attorneys and city prosecutors also offered specific services in conjunction with the victim/witness program in their areas. We found that in 1995:

- **In areas with victim/witness programs available, about 57 percent of county attorney's offices offered opportunities**

Table 2.2: Services Available Via Victim/Witness Assistance Programs, 1995

Service	Percent of Counties With Victim/Witness Programs Where Service Was Available	Percent of Cities With Victim/Witness Programs Where Service Was Available
Notification of court dates	87.0%	63.3%
Assistance in preparing victim impact statements	87.0	54.4
Information on results of proceedings	80.4	60.8
Referrals for emergency shelter, food, other needs	78.3	67.1
Assistance with return of property or seeking victim compensation	71.7	53.2
Providing legal information on civil or criminal remedies	71.7	50.6
Assistance in applying for witness fees	56.5	41.8
Transportation to court	56.5	36.7
Child care or escort services during court appearances	39.1	29.1

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

for their staff or program volunteers to participate in victim-related training.

Another 63 percent reported interacting with other professionals to improve responsiveness to needs of victims and witnesses. About 46 percent of city prosecutors in cities with programs available said they offered services in conjunction with the program.

Examples of Using Victim and Witness Assistance Programs

In the examples that follow, we describe different methods of using victim and witness assistance programs, both within and outside of prosecutors' offices.

Carlton County

The county attorney's office in Carlton County makes use of a victim/witness assistance program that operates with federal, state, and county funding. The goals of the program are to help ease the physical, emotional, and financial hardships caused by crimes and to reduce potential confusion and inconvenience caused by involvement in the criminal justice system. The Carlton County Attorney's Office prosecutes non-felony offenses on behalf of all communities in the county.

The victim/witness program was initiated in 1995, replacing a previous victim/witness service in which the county had participated but not coordinated. Staffed by one coordinator, Carlton County's victim/witness program provides: victim notification of rights, assistance in preparing subpoenas, information on organizations to contact, safe places for victims to stay, updates on cases, and liaisons with law enforcement and probation workers. In fiscal year 1995, the program provided assistance to over 300 individuals directly victimized by a crime and over 100 individuals indirectly victimized. Of the victims assisted, roughly 65 percent were victims of misdemeanor offenses while the remainder were split between gross misdemeanor, felony, and juvenile offenses.

The victim/witness coordinator in Carlton County, who lives in the community and has a law enforcement background, worked with county law enforcement to develop a process for initial contact with victims. When an officer charges a crime, the officer gives the victim a card that shows the report number, offense, officer badge number, and date and time of the report. The back of the card outlines crime victim rights and services and the number of the county's victim/witness assistance program, as well as six additional organizations for victims to call for further assistance. Via the county attorney's office, the victim of any defendant scheduled for pretrial also receives a personalized letter outlining the rights of the victim and the name and number of the victim/witness coordinator. Typically, over 85 percent of the victims who receive written information contact the coordinator.

Standardizing a process for contacts with victims and witnesses has increased their cooperation.

The state and federal grant for the program, administered through the Department of Corrections, requires a 25 percent match by the county. The total cost of the program, with the county match, is approximately $41,000 per year. Although the county contribution comes from the county's general fund and fine revenue, the program is housed in the county attorney's office to facilitate communication between the coordinator and prosecutors.

The benefits of the victim/witness program realized by Carlton County's attorney's office include increased victim and witness cooperation and a standardized program in which all victims and witnesses can participate. While the county attorney and the victim/witness coordinator believe all counties could benefit from a similar program, both stress the advantage of having a coordinator with strong ties to the community. In addition, the coordinator believes the program could benefit

from volunteers, who would allow him to devote additional time to more serious cases. A strong volunteer base has not yet emerged in Carlton County due to its relatively small population. In a community where most individuals know one another, discomfort over sharing crime victim information may discourage some people from volunteering.

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Coon Rapids

The Coon Rapids City Attorney's Office developed a victim/witness assistance program to improve its opportunities for resolving misdemeanor domestic assault cases at pretrial conferences. Since instituting the program in 1994, the victim/witness program has achieved great success in contacting and working with the overwhelming majority of victims. Early and persistent contacts with victims have provided the information prosecutors need to dispose of many misdemeanor assault cases at pretrial conferences. Coon Rapids' success has become a model for other jurisdictions in the county.

In 1994, district judges in Anoka County abolished pretrial conferences for misdemeanor domestic assaults because insufficient contacts with victims resulted in very few case resolutions by the pretrial date. Instead, such cases were immediately scheduled for trial. At that time, the Coon Rapids City Attorney's Office proposed a pilot project to increase and improve contacts with victims. With the approval of the judges, the office proceeded with an intensified program of victim contacts.

One of the support staff in the city attorney's office was given responsibilities for communicating with victims and collecting and screening information from them. When hearings on misdemeanor domestic abuse cases are scheduled, the city attorney's screener sends a letter to the victims with information about the hearing and a request for the victims to contact her. Because many victims are reluctant to call the screener, she telephones any victims that do not respond to the letter.

To guide the screener in collecting appropriate information from victims, the office developed a victim impact worksheet. Typical information gathered on the worksheet includes the victim's verification of incidents listed in the complaint, whether a no-contact order was issued or whether the victim wanted such an order, and the victim's cooperation and availability for trial. This impact worksheet fulfills statutory requirements as well as provides information necessary to the case.[22]

Not only does the screener elicit important information from the victims, but she also provides victims with information they may find useful. During conversations, the screener tries to establish a high comfort level for the victims. With cases of domestic assault, she is mindful that victims may not be able to speak freely because of the possible presence of the defendant. When victims are unsure of what the criminal justice system can provide, the screener describes what to expect. For instance, she explains that the charge can be upgraded to a gross misdemeanor if another offense occurs. As another example, when victims want the perpetrators to attend counseling, the screener explains that the judge cannot order counseling unless the case is prosecuted, which requires victims to cooperate with the prosecutor.

The screener is not a victims' advocate per se, but can provide information about advocacy programs. Although police officers typically give victims information about safe-house programs, the

22 Minn. Stat. §611A.037 states that a presentence investigation report shall include victim impact information*Minn. Stat.* §609.115, subd. 1 says that the court may require presentence investigations, including information relating to victims, when a defendant has been convicted of a misdemeanor or gross misdemeanor.

screener also has information about resources in the community to which victims can turn for help with transportation, child care, or emergency shelter needs.

With this approach the screener reaches between 90 and 95 percent of the victims. Even when victims do not want to pursue charges, the screener will instruct them to appear in court to tell the judge that the incident did not happen. If the screener cannot reach the victim by letter or telephone, she prepares a subpoena for a pretrial conference. Community service officers deliver the subpoenas within the county.[23]

A high rate of contacts with victims leads to earlier case dispositions.

Due in part to the high rate of contacts with victims, the city attorney's office is able to resolve most of the misdemeanor domestic assault cases at pretrial conferences instead of awaiting trial. Early disposition creates advantages for victims because sanctions tend to have more impact when they occur nearest the time of the offense. It is also beneficial to prosecutors and the court system because of resources saved in avoiding trial. In addition, the screener acts as an intermediary for prosecutors, freeing them for other duties. The city's success with the program led judges to agree in 1996 to extend the pretrial conference option to other jurisdictions that adopt similar victim-contact procedures.

Adequate time is needed for the screener to communicate with victims. In Coon Rapids, the city attorney's office managed this in part with efficiencies gained through office computerization. Because automation allows letters and forms to be quickly generated using data from a database shared between the police department and attorney's office, it frees time for the screener to contact victims. Other jurisdictions that stand to benefit from a program of enhanced victim communication need personnel resources to make the written and oral contacts.

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Freeborn County

The Freeborn County Attorney's Office works with the county's crime victim crisis center to provide a victim/witness assistance program. In operation since 1988, the program is staffed by a victim/witness coordinator and financed with state and county revenues.

The county attorney's office and the county human services' Crime Victim Crisis Center jointly applied for state grants to finance a victim/witness position that would serve both offices. While the victim/witness coordinator initially divided her time equally between the two offices, she now devotes a larger amount of time to the county attorney's office to facilitate case coordination with prosecutors.

Among other services, the victim/witness program coordinator: acts as a liaison between victims of and witnesses to crime and the county attorney's office, assists the county attorney's office with the preparation and trial of criminal cases by notifying and coordinating witnesses to testify in court, educates witnesses as to their role in the criminal justice system, notifies victims of their rights and provides assistance to victims seeking to secure those rights, assists crime victims in seeking reparations, and maintains and provides records necessary to the management of the victim/witness services program. The county attorney's office also provides community outreach through formal and informal speaking events, community education on victimization and the availability of victim/witness services, and training on victim/witness issues for law enforcement personnel.

23 Although the subpoena may be necessary before certain victims will appear in court, some prosecution offices view such use of subpoenas as a revictimization of the victim and, therefore, avoid using them for this purpose.

State grant money pays the $27,000 salary of the victim/witness coordinator. The attorney's office pays for the coordinator's training, as well as all other operating expenses. Costs incurred by the county attorney's office are minor compared to the returns. The county attorney cannot adequately provide the personal contact important to maintaining the cooperation of victims and contributing to successful prosecution. Not only does the coordinator provide this contact, but she also supports communication between prosecutors and victims.

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Grand Rapids

The prosecuting attorney's office for Grand Rapids, a city with 8,000 residents located in Itasca County, works with the county to provide information on rights to victims of crimes. Although a victim-assistance program has been available in Grand Rapids for over eight years, the prosecuting attorney's office has increased its efforts to inform victims within the last four years.

When the prosecuting attorney's office first initiated its victim-assistance program, it sent only a restitution form to the victim. By contrast, the office now sends a personalized letter to the victim that outlines restitution rights and informs victims of local services available to them. The letter also informs them of the services offered by the county attorney's victim-assistance program, including the name and phone number of its victim-assistance coordinator. Along with the personalized letter, the office sends a packet of victim rights information. This packet includes a restitution and affidavit claim form and instructions for filing, a bulleted list of victim rights, and what to do if the victim receives a subpoena. The information also contains the prosecuting attorney's office number to contact with additional questions and a list of six organizations the victim can call for further information.

The prosecuting attorney's office receives the names of victims to notify in one of two ways. If the prosecuting attorney charges the offense, his office immediately sends the packet of information to the crime victim. If an alleged defendant receives a ticket or tab charge, the clerk of court notes any victim status on the file and forwards the victim information to the prosecuting attorney's office. A form letter allows the office to insert the personal name and address of the victim as well as defendant information (the name of the defendant, the date of the offense, and the court file and initial complaint report numbers) and the date of the defendant's first appearance.

The city prosecutor works in concert with the county's program for victims and witnesses.

Since implementing the program, the prosecuting attorney has noted a marked increase in the number of victim calls received by the office. The prosecuting attorney believes all jurisdictions could benefit from a similar program, but thinks a good working relationship with the county victim-assistance program is an important element in ensuring the program's success. The practice succeeds in Grand Rapids because the county has an established victim/witness program.

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5. Establish Guidelines to Set Priorities Among Cases

Written guidelines establish parameters and provide uniformity and predictability for charging and prosecuting decisions, within the scope of prosecutors' discretion. They steer an office's priorities toward the crimes that the chief prosecutor defines as more serious or more prosecutable. Guidelines should reflect the prosecutor's discretion in determining which cases will be accepted for prosecution, which cases can acceptably be disposed of by a plea to a reduced charge, and which cases are most appropriate for disposition by either pretrial diversion, plea agreement, or trial.

Guidelines are the manifestation of prosecutors' decisions on how to balance resources — time and personnel — against their caseload and how to assign resources to cases with highest priority.

- **Using guidelines helps ensure that similar cases are treated similarly, protects against unfairness and the use of inappropriate criteria (such as religious affiliation), and provides a basis for justifying prosecutors' discretionary decisions.**

Especially in jurisdictions where more than one prosecutor is reviewing and charging cases, written guidelines promote consistency among assistant prosecutors and assure uniformity and predictability in executing the county or city attorney's philosophy and prosecutorial discretion. Written guidelines can also be advantageous in training new staff.

Each prosecutor's office must write its own guidelines for charging decisions because no single set could reasonably apply statewide. Guidelines may vary from jurisdiction to jurisdiction depending upon local needs and priorities. On the other hand, we learned about city prosecutors who joined others from within the same county to develop guidelines that promoted consistency in charges across the county. We found that:

- **In 1995, about 52 percent of county attorneys and 25 percent of city prosecutors had or were developing written guidelines.**

Smaller counties (below the median 23,400 in population) were less likely to have written guidelines than more populous ones. This might be because a prosecutor's office with a single attorney has less need for written guidelines as uniformity is not as much of an issue. These smaller counties were also more likely than larger counties to have less than one full-time equivalent (FTE) attorney for non-felony prosecution. Similarly, among city prosecutors, about 83 percent of those with or developing written guidelines were in larger cities with over 1,000 population.

Of the county attorney's offices with written guidelines, 79 percent considered them either very helpful or moderately helpful in setting priorities among cases. More than 88 percent of city attorneys with written guidelines considered them very helpful or moderately helpful.

Example of Establishing Guidelines

The following example describes one approach to developing and using written guidelines.

Freeborn County

The county attorney's office in Freeborn County, a county in south central Minnesota with 33,000 residents, uses written guidelines for charging and plea negotiation. The office adopted the guidelines in 1992 and revises them periodically. In Freeborn County, the county attorney's office is responsible for prosecuting non-felony offenses on behalf of about three-quarters of the cities there.

The guidelines for charging outline: prosecutorial discretion, propriety of charges, factors to consider in making the charging decision, and inappropriate considerations. For example, in their charging decisions, prosecutors consider the probability of conviction and the interests of the victim, among other factors.

Additionally, the guidelines address specific charging considerations for misdemeanors, victim interviews, suspect statements, forfeitures, victim and witness identification, firearms, and drug testing. For instance, the guidelines state that in cases involving a crime against a person, ''the victim should be contacted prior to charging'' and if the victim cannot be contacted prior to charging, ''efforts should be made to contact the victim as soon as possible.''

Plea negotiation guidelines define the negotiation process and the dispositions allowed by the county attorney's office in resolving cases. The guidelines also outline some of the factors the office will use in examining and considering appropriate pleas, including the offense, the victim, the offender, and the strength of the case. For example, a strong case with a cooperative victim means the prosecutor will be less likely to accept a plea bargain. The policy specifically prohibits negotiating pleas based on personal or political advantage; race, gender, social or economic status of the accused, victim, and/or witness; and for reasons solely related to economy of time or expense.

Written guidelines assure consistency among cases around the county.

The county attorney's office distributes the guidelines not just to prosecutors, but also to officers in the sheriff and police departments, public defenders, and judges. The only real cost is the time involved in writing the initial guidelines and revising them. The guidelines offer advantages to the county attorney's office, the largest being the benefit of having explicitly defined prosecution policies to which all prosecutors adhere. Guidelines help assure consistency not just among similar cases from community to community, but among prosecutors as well.

While jurisdictions of any size could benefit from the use of guidelines, smaller communities may have an advantage in implementing them. Smaller communities have fewer stakeholders involved in working with the guidelines which can make implementing the guidelines easier.

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6. Maintain Access to Adequate Equipment and Facilities

Prosecution effectiveness and employee productivity depend on the availability of equipment and facilities needed to perform the job. Here we examine two components: (1) automation of case management and (2) access to research equipment and facilities. Other aspects of facility use important to prosecutors' work, such as the need for private office space for confidential matters, are not explored here although other resources exist for this purpose.[24]

First, as described in Chapter 1, the computerization of information systems related to non-felonies is lacking. The state's criminal history data do not include misdemeanor or petty misdemeanor offenses and the state maintains a database of only misdemeanor traffic offenses. We learned of no jurisdictions where all participants in the criminal justice system — prosecutors, police, probation officers, the courts — share access to common information systems.

From the perspective of a single jurisdiction, however, several prosecutors' offices have improved their efficiency and accuracy by computerizing their case management techniques. Effective record keeping allows the prosecutor's office to manage the current caseload as it flows through various stages in the judicial process and as it affects different personnel in the office. It is also a useful management tool for planning and administering the office's budget and staffing and

24 For instance, see NDAA,*National Prosecution Standards*, 48-72.

measuring internal performance. For most offices, this means computerizing records. Furthermore, computerization is often among the first steps in establishing automated connections to other offices with whom prosecutors have ongoing contact, such as court administration or law enforcement. In Minnesota, prosecutors' offices with computerization for managing cases are in the minority. (Appendix F lists jurisdictions that used or were developing computerized-case management systems in 1995.) According to our survey:

- **About 37 percent of county attorney offices and 26 percent of city prosecution offices had or were developing computerized case-management systems in 1995.**

These offices represented jurisdictions that were typically among the larger ones in population and caseload. About 78 percent of county attorney offices using or developing computerized case management had populations greater than the median county population of 23,400. These offices accounted for about 60 percent of all non-felony offenses reported by county attorney offices in our survey.

Most prosecutors using computers to manage cases represent counties and cities with large populations.

Similarly, city prosecutors using or developing computerized case management in 1995 were typically in large cities with heavier caseloads. About half of city prosecutors reporting the availability or development of computerized case management prosecuted for cities with populations of at least 8,000 — about 10 times the median 740 population for all cities in our survey. Cities using or developing computerized case management accounted for about 79 percent of the non-felony caseload reported by city prosecutors in our survey. Only 18 percent of city prosecutors using or developing computerized case management were in cities smaller than the statewide median.

We found that:

- **Computerized case management commonly gave the prosecution office the ability to track cases through the judicial process, automatically produce disposition reports, monitor information on victims and witnesses, and avoid redundant data entry.**

In addition, some offices used computers to maintain communication with other agencies. For instance, 10 percent of county attorney's offices and 16 percent of city prosecutor's offices used computers for connections to police or sheriff offices, according to our survey. About 15 percent of each had computerized connections with court administrators. These automated connections were not necessarily part of an integrated information system but were instead provided through separate computer terminals within prosecution offices.

A second tool is adequate access to research materials and facilities. In the legal profession, information and knowledge are fundamental to effectiveness — making library facilities and research databases especially important. For efficiency, lawyers need easy access to information to prepare their cases. The advent of computerized legal research enhances prosecutors' professional skills and may make geographic proximity to law libraries less important. We found that for 1995:

- **Almost three-quarters of county and city prosecutors' offices reported that they had access to adequate law libraries and about 43 percent of each said they had access to legal research databases.**

Examples of Maintaining Access to Adequate Equipment and Facilities

In the following two examples, we describe how offices for a county attorney and city prosecutor use computers to better manage their cases and provide access for research needs.

Roseville, Vadnais Heights, White Bear Township

The private law firm that provides prosecution services to Roseville, Vadnais Heights, and White Bear Township in Ramsey County has used a computerized system for managing its non-felony cases since 1992. The computerized system helps provide the organization needed for the city prosecutor to handle a sizable caseload of about 2,000 non-felony cases annually.

The computer system relies on database and word processing functions. With the computerization, the office can automatically generate notices and forms, such as complaints or Rule 7 notices regarding evidence; track witnesses and victims; monitor defendants' probation conditions; call up any file electronically for quick answers to questions from callers; group files by common characteristics such as court date; and keep and print current court calendars for multiple cases and attorneys.[25]

One of the databases includes all criminal and traffic offenses and their statutory language. Using a specific code that is keyed to each offense, the user automatically retrieves language that can be inserted into a complaint, letter, or other form. With the word processing component, the office can take information from the database, tailor it to the specifics of a case, and print whatever forms are necessary. For instance, with the victim database, the system can automatically generate a letter to a victim, yet customize it by describing when to be in court and what evidence to bring. This process saves time by eliminating the need to re-enter repetitive information and by automatically generating letters and forms.

Each case has a summary sheet generated by the computer system. The prosecutor relies on the summary sheet in court as a quick reference to a case and its history. The summary sheet contains important case information including the offense and its statutory reference; defendant's name, address, and date of birth; defense attorney; court dates; victims and witness' names; and actions taken. Every time the prosecutor takes any action on the case, the office records it and the summary sheet is automatically updated. For instance, if the prosecutor speaks with victims who are reluctant to appear in court, she adds comments about their reluctance into the database and the information appears on the summary sheet.

Because the office uses a computer network, case information is available internally to all prosecutors and the administrative assistant. The common data base allows support staff to answer routine questions about cases from telephone callers, such as police officers. Consequently, this frees up time for attorneys.

The prosecutor uses the calendar function to know what cases are scheduled to be heard on any given date. If witnesses need to be notified, the computer automatically prints out notices using information from the witness database. The system pulls out the necessary information to order certified records for a case, lists dates on which the office requested the records, and tracks when they were received.

The office also records case dispositions with the computer. This is useful in producing reports on case outcomes every three months and annually for the firm's clients. From the case disposition reports, clients know what cases were prosecuted, the offender and date of the offense, the peace officer involved, when the case was decided and before which judge, disposition, and the sentence. The police

The computer tracks what cases will be heard on any given date.

25 Minn. R. Crim. P. 7 pertains to prosecutor notification regarding certain evidence against the defendant.

department can use the disposition reports to determine whether case outcomes were related to the actions of its officers, such as when ‘‘no probable cause’’ was found.

The firm used commercially available software to customize a system that met the office's needs. Updates to the system and changes to the structure of the databases are ongoing. Most of these modifications are made by a computer specialist who comes into the office as needed. However, office staff make some of the less complex changes themselves.

The original cost of the network, software, programming, and five computers was approximately $60,000, excluding ongoing maintenance and employee training costs. The office is currently upgrading its computer terminals for faster response time and ease in transferring from database to database. Other jurisdictions contemplating computerized case management should plan for regular system maintenance and upgrades. Unless personnel in the office already have computer expertise, the office will likely need to hire information specialists to help develop and customize a computerized system.

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Washington County

The county attorney's office in Washington County uses computerization to improve its efficiency and help manage its workload. In addition to having computer terminals at the desk of each attorney and each support staff assigned to attorneys, the office maintains separate terminals for special functions such as criminal history checks.

A high and increasing volume of cases was the impetus behind automating the county attorney's office in about 1991. Computerization was viewed as an investment that would allow the office to manage its growing non-felony and felony caseloads at less overall expense than what would otherwise be needed to hire additional employees.

The primary computer system for managing cases is a free-standing, closed network in the county attorney's office, independent of Washington County's central AS 400 computer that serves other county departments. For county attorney use, the computer system needed to be designed as a free-standing network due to security concerns over potential unauthorized access to protected data. The local area network consists of a central server cabled to IBM-compatible terminals at employees' work stations. Because of the network, attorneys and support staff can share files electronically.

The computer system offers case management capabilities, a calendar function, internal office electronic mail, and task management. To manage case files, the office combines database and word processing software, both commercially available software packages. The system allows the office to automatically and expeditiously generate formal complaints, letters, and other forms that can be easily customized to a particular case.

For instance, the office follows the following steps when opening a file due to an officer's initial report or a defendant pleading not guilty to a ticket or failing to appear in court. First, support staff assign a number to the case and enter relevant information, such as name and address of the defendant, into the database.

Next, the prosecutor reviews the case. If after review the prosecutor decides there is probable cause to believe the defendant committed the crime, the attorney provides information to support staff to draft a complaint. Using characteristics from a ‘‘variables list’’ compiled by the office, such as statutory citations for specific crimes, and information codes from the office's master charging book, the prosecutor dictates pertinent details: the offense, defendant, charging agency, and description of what was necessary to charge the crime at the level chosen.

Finally, support staff enter these data into the database which then pulls the appropriate language into pre-set formats that produce a complaint form for the attorney to review and sign. The process avoids the re-entry of repetitive information and produces the needed paperwork in a minimum of time.

In cases where prosecutors determine insufficient ''probable cause,'' support staff pull case information from the database to generate a letter to the police officer who made the report. This letter describes the case and why the prosecutor found no basis for probable cause.

The software also provides a calendar function with several features. Attorneys have personal electronic calendars to keep track of appointments and alert them of pending events. Separate electronic court calendars are on the network for felony, misdemeanor, civil, and juvenile matters. Support staff enter court information in these calendars as it comes into the office. On the calendars prosecutors may see, for any given day, the case name, name of the attorney scheduled to appear, and type of hearing, such as first appearance, pretrial, or omnibus hearing. The calendar also alerts staff to certain task deadlines; for instance, two weeks prior to a trial date staff receive a message stating this is the last day to send notices to witnesses.

For each case, the system maintains a ''case memo'' that provides a chronological history of the status of the case. The case memo describes relevant information about the case as well as each action taken for it, such as when the officer was provided notice of the pretrial conference, date the conference occurred, and the sentence and any conditions attached to it. The office retains case memos for all cases, even after closing a case and destroying other documents related to it.

In addition to this system for managing cases, the county attorney's office uses other automation. An electronic mail system internal to the office allows attorneys to communicate with each other even though they are frequently in and out of the office for court appearances and other matters. The office operates a separate computer terminal with access to the Criminal Justice Information Service (CJIS) maintained by the Bureau of Criminal Apprehension to check defendants' criminal histories. Another separate terminal is connected to the county's computerized network allowing attorney access to electronic mail from other county offices.

The computer helps manage the caseload at less expense than hiring additional employees.

For tracking information on employee activity and performance, the office has access to the county's automated payroll system. Managers in the county attorney's office use timesheet data from this system as a management tool to track how much time was spent on different offenses and by service area or by employee on various pre-coded activities, such as preparing for court or court appearances. The data help in the management of caseloads and setting prosecution priorities.

Computerization requires an initial investment in hardware and software as well as additional expenditures for ongoing maintenance. Single computer terminals with monitors and printers similar to those in the county attorney's office may cost approximately $4,000, depending on the features desired. Software packages typically cost several hundred dollars per licensed user. Employee training is also necessary for optimal use of the system. Additional costs are involved with customizing programs to meet the particular needs of an individual office if such changes are deemed necessary. Steps must be taken to guarantee the security and integrity of the data. Upgrading the system is also necessary, such as when criminal statutes change; this is often completed in Washington County by the county's information systems staff.

While the computerization in the Washington County Attorney's Office is relatively sophisticated

to handle the caseload and complex needs of that office, smaller offices could benefit from scaled down versions of this arrangement. Particularly in offices with more than one attorney or where numerous court calendars must be tracked, the benefits of case monitoring, electronic inter-office communication, and automated court calendars can pay off with increased office efficiencies and organization.

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7. Assure Prosecutorial Competence, Productivity, and Independence

Because an office's greatest asset is its employees, prosecution offices need to foster a high caliber work force and help employees work most productively. In addition, because prosecutors must avoid conflicts (or potential conflicts) that impair their independence or impede their ability to ensure just and fair criminal proceedings, they have to be prepared to call on help from outside their own employees when circumstances warrant. Many things contribute to a productive, independent work force, such as offices' hiring practices and employee training. Here we discuss four such elements for prosecutors' offices: (1) appropriate training for attorneys and other office employees, (2) hiring practices that assure high professional skills, (3) standards for dealing with conflicts of interest, and (4) use of paralegal staff.

First, prosecution offices should encourage and assist with ongoing training for their employees. Training can enhance employees' knowledge and improve their skills, contribute to productivity and professionalism, and improve overall morale. The legal profession requires its members to attain a certain level of training to maintain their licensure. But beyond minimal requirements, to be valuable, training should be specific to the job at hand and tailored to employees' own skill levels and identified needs. Paying for or defraying the expenses of prosecutors' training shows that the office values continuing education and helps ensure that prosecutors participate in necessary training.

County attorney's offices in Minnesota typically put a high premium on training. We found that:

- **About 82 percent of county attorney's offices and 38 percent of city prosecutor's offices reimbursed their prosecutorial staff for continuing legal education in 1995.**

A smaller share identified employees' work skill needs and matched courses to meet those needs. By comparing the knowledge and abilities required for employees to perform well with current levels of employees' knowledge and skill, agencies are better prepared to recommend appropriate training. Targeted training that builds on individual workers' knowledge and skills to perform their jobs also helps the agency meet its own goals and objectives. This is true for both the professional and support staff. According to our survey:

Training must be tailored to employees' skill levels and identified training needs.

- **About 37 percent of county attorney's offices and 15 percent of city prosecutor's offices reported that they required specific courses to meet identified training needs.**

Most of the training in which attorneys participated was through seminars provided by trainers outside

the office. Two-thirds of county attorney offices reported that attorneys had training provided by others and 15 percent said they had in-house classes or seminars in 1995. Among city prosecutors, 55 percent had training available outside the office and 11 percent had in-house training.

A second tool for a quality work force is hiring practices that assure high standards of professional skill. Regardless of whether the chief prosecutor is an elected or appointed official, prosecutors should select their assistants and staff based on merit rather than on political connections. Competency more than partisanship helps provide the high-level skills needed for an effective prosecution function. Removing partisanship from the selection process reduces political pressures that could otherwise come to bear on individual prosecutors.

Third, prosecutors' offices must establish standards to deal with conflicts of interest. Activities that divide, or appear to divide, the interests of a prosecutor's office can undermine that office's efforts to fulfill its duties. This is a particularly important need for prosecutors because they do not choose where their cases come from; instead, the jurisdiction in which an offense occurs becomes automatically responsible for prosecution.

Therefore, prosecutors must prepare in advance for a consistent and fair process to identify and handle cases that present conflicts of interest. Although the standards for identifying conflicts of interest will vary depending upon the range of functions performed by the office, the process should include: (1) defining conflicts so they can be identified when they occur, (2) deciding correct courses of action to take given the circumstances surrounding the conflict, and (3) finding and appointing an appropriate special prosecutor, if one is required. It is common around the state for jurisdictions at both the county and city levels to create reciprocity agreements, such as that in Minneapolis and St. Paul, whereby prosecutors will work on cases from the other community when conflicts of interest arise.

Fourth, prosecution offices that use legal assistants, such as staff trained as paralegals, can assign certain duties to these staff and reserve for attorneys other functions requiring a law degree and legal experience. Because paralegals have some legal skills but not the full education of an attorney and are paid accordingly, they provide an efficient way for some prosecution offices to handle certain tasks. Paralegal staff cannot substitute for attorneys-at-law and are prohibited from functions such as giving legal advice, preparing legal documents, or conducting a jury trial.[26] However, paralegals can be used for other duties, such as performing records checks. According to our survey,

- **In 1995, paralegals and legal assistants were typically used in counties and cities with high non-felony caseloads and commonly worked only part time on non-felony offenses.**

Of those jurisdictions responding to the personnel question on our survey, 23 percent of counties and 28 percent of cities reported using a paralegal or legal assistant in 1995 for some misdemeanor-related functions. More than half of the jurisdictions reporting use of paralegals were those with very high caseloads — above the 75th percentile in number of non-felony cases. In most cases, the paralegals worked on non-felony cases for only part of the time.

Examples of Assuring Competence and Productivity

The following examples illustrate the value of paralegals and ongoing employee training.

Fairmont

Fairmont, a city with 11,300 residents located in Martin County on the Minnesota-Iowa border, employs a legal assistant in the city attorney's office. Trained as a paralegal, the legal assistant is

26 Minn. Stat. §481.02.

responsible for multiple tasks that would otherwise require extensive time by the city attorney.

The legal assistant had previously worked with the current city attorney at a private firm, but Fairmont hired both of them in 1989. Duties of the legal assistant include: scheduling cases, notifying law enforcement of court appearance dates, responding to case inquiries by law officers, notifying victims of their rights, drafting initial complaints, organizing case files, readying files for trial, and fielding questions from the public. The legal assistant's paralegal training allows her to perform more extensive tasks than would be possible for other administrative staff. This permits the city attorney to focus on matters requiring the skills and training of an attorney-at-law.

The legal assistant frees the prosecutor to focus on matters requiring an attorney-at-law.

For Fairmont, the legal assistant is more cost efficient than hiring an assistant attorney. The legal assistant works three-quarters time in the attorney's office and one-quarter time as an administrative assistant for another city department. Because the salary of a legal assistant is less than that of a lawyer, the city's expense for legal services is lower than it otherwise would be while the city attorney is able to make the most effective use of her own time.

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Roseville, Vadnais Heights, White Bear Township

A private law firm provides prosecution services for Roseville, Vadnais Heights, and White Bear Township. The firm places a priority on attorney and administrative-assistant training to gain new knowledge and for networking purposes.

The firm fully reimburses the cost for two to three training sessions per year for attorneys. In addition, prosecutors encourage their administrative assistant to attend annual training, such as that provided by the Bureau of Criminal Apprehension, for which the firm pays. Employees are reimbursed for mileage to attend the courses. While the courses are specific to the employees' own work requirements, staff have leeway to identify training opportunities from which they are most likely to benefit.

Ongoing training is viewed as a way to stay current with evolving legal information and, thereby, do a better job for clients. Moreover, attending training sessions allows employees to build networks with their counterparts around the region. Networking can be as valuable to staff as the training course material itself because the working relationships they develop often yield contacts or help that are useful in the future.

Costs to the firm for reimbursing training are relatively low, at about $1,050 for continuing legal education credits for three attorneys to attend two courses each, and about $60 annually for the administrative assistant's training, plus travel. The expense of training is considered an investment to increase productivity and improve staff effectiveness. Being located in the metropolitan area may present an advantage because of proximity to numerous training opportunities.

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8. Set Goals and Objectives for the Prosecutor's Office

A prosecutor's office should set goals and objectives for its work and periodically measure how well the office meets those objectives. Formally setting goals and objectives makes office priorities clear and explicit to employees, generates information for internal monitoring of the office's success, and creates incentives for employees to work productively toward the office's common goals. Formal goals and objectives also communicate the prosecutor's priorities clearly to law enforcement, other professionals who interact with the office, and the general public. Prosecution offices that set goals for themselves, and design measurable objectives to assess how well those goals are met, are positioning themselves to improve their own performance. (Appendix C lists the objectives and performance measures that we considered during this review for prosecution offices and that local governments may choose to use in their own evaluations.)

Establishing performance measures is not easy, particularly for public institutions and for services, like prosecution, in which results are not always tangible or quantifiable. Nonetheless, without measuring performance it is difficult for an office to answer basic questions such as: What should the office be trying to accomplish with the resources available? How can the office identify strategies that are working well? What changes could improve strategies that are not successful?

Performance measurement allows offices to assess how well they are doing.

We do not suggest that all prosecution offices use a single set of performance standards. Goals and especially objectives will likely vary from jurisdiction to jurisdiction. Measuring progress toward those goals will also differ.

Some goals, however, may be common to most if not all prosecution offices. We believe the four goals listed at the outset of this chapter apply to all prosecution offices. For instance, prosecutors generally share the goal of maintaining open and clear communication with local law enforcement personnel.

How this is put into practice, on the other hand, will differ among jurisdictions based on variables such as the jurisdiction's size, number of non-felony offenses, and local preferences. One jurisdiction might work toward this goal by increasing efforts to involve law enforcement input in the disposition of cases. Another might add or improve training for law enforcement on issues related to successfully bringing cases to court. A third might work on reducing the number of officers' unnecessary court appearances.

While many prosecutors in Minnesota appear interested in measuring office performance, few follow a formal process of setting goals for prosecution and measuring progress towards those goals. We found that:

- **About 55 percent of county attorneys and 50 percent of city prosecutors had or were developing informal methods for measuring office performance in 1995.**

Only two county attorneys and no city prosecutors indicated they followed a formal process of setting goals and objectives for non-felony prosecution.

9. Communicate with Others Involved in the Criminal Justice System and Participate in Efforts to Improve the System

Prosecutors should participate in efforts to improve communication with other actors in the criminal justice system as well as with members of the public. As stakeholders and visible participants in the judicial process, prosecutors should also be

involved in legal reforms and efforts to improve the effectiveness and fairness of the system. This requires being proactive in communication with law enforcement, court personnel, and legislators, representing the interests of prosecutors in reform efforts, and dealing with special concerns raised by *pro se* litigation. According to our survey,

- **Nearly 39 percent of county attorneys and 24 percent of city prosecutors said they assisted in efforts to improve procedures for the judicial process in 1995.**

Such efforts extend to interacting and improving relations with the Legislature. During our review, several prosecutors mentioned the need for better information to legislators on the implications of laws they pass. Prosecutors said that initiatives approved by the Legislature often have financial impacts for local governments. The practitioners are frequently in the best position to inform legislators about what effects can be expected from proposed law changes. According to our survey:

- **About 27 percent of county attorneys and 8 percent of city prosecutors reported working on proposed legislation or appearing before legislative committees as part of their prosecution duties in 1995.**

Another practice related to improving the criminal justice system is communicating with the public regarding criminal activity and crime prevention. Positive interaction between the prosecutor's office and the public fosters citizen support of efforts to reduce opportunities for crime. Public education promotes the goals and priorities of the prosecution office and encourages citizen involvement on behalf of those goals. In addition, citizens' involvement in their communities' crime prevention activities, such as block clubs, neighborhood patrols, and drunk driving prevention organizations, can help deter crime, which in turn affects prosecutors' caseloads. Prevention can be an efficient tool in the justice system that prosecutors can encourage. According to our survey, in 1995:

- **More than three-quarters of county attorney's offices and 31 percent of city prosecutors reported participating in speaking engagements with civic organizations or the general public as part of their prosecution duties.**

Finally, a large proportion of misdemeanor offenses are cases in which defendants represent themselves, known as *pro se* litigation, although precise numbers are unknown. Many *pro se* litigants lack a general familiarity with the courts or understanding of the criminal justice system, creating special concerns and complications for the court and for prosecutors. Because of the great volume of *pro se* litigation associated with non-felony offenses, these issues are of particular concern for misdemeanor prosecutors, although they affect all members of the judicial system. *Pro se* litigants also force prosecutors to face ethical questions about dealing with persons not represented by lawyers because rules on professional conduct proscribe giving advice to a person unrepresented by a lawyer except advice to secure counsel.[27]

Many pro se litigants lack understanding of the criminal justice system.

Prosecutors have a responsibility to deal fairly with *pro se* litigants and take steps that reduce complications associated with them. This may include ensuring that prosecutors are present or available for arraignments when defendants appear to reduce the need for rescheduling hearings. The *Pro Se* Implementation Committee of the Minnesota Supreme Court Conference of Chief Judges has been studying issues related to *pro se* litigants and is expected to publish a report of its recommendations in the first half of 1997.

27 Minn. R. Professional Conduct 4.3.

Example of Communicating with Others

The following example is one illustration of interactions between the county attorney's office and others interested in the criminal justice system.

Hubbard County

The assistant Hubbard County attorney, who is responsible for non-felony prosecution in the county, volunteers time to speak on criminal justice issues with students and other community organizations. He views these contacts as a natural extension of his role as a prosecutor.

Every year the prosecutor visits classrooms in local high schools or speaks on criminal justice issues with community groups such as the Rotary or Boy Scouts. Sometimes the discussions are in conjunction with a ''career day'' when students learn about the job of prosecuting, current issues prosecutors are working on, and advice for students. At other times, a teacher may ask the prosecutor to address a specific topic of interest to the class, such as students' rights in the justice system.

These visits are volunteer opportunities, usually for no more than an hour at a time during the workday. Preparation time for the contacts varies. For sessions related to career days, virtually no preparation is required; for topics of special interest to a particular group, an hour or two of research may be necessary.

Feedback from the sessions suggests that the contacts are helpful to students and others. Besides fulfilling a public education need, the contacts represent a way of maintaining favorable public relations between the prosecutor's office and the community. In addition, the prosecutor refreshes his own expertise as he collects information in preparation of the presentations. The only cost is the time needed to prepare and present, in exchange for better community relations. The impact of these contacts may be more easily seen in smaller jurisdictions where residents tend to know more of their neighbors, but the need for such contacts exists in larger communities as well.

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SUMMARY

In this chapter we identify goals for non-felony prosecution and recommend nine actions that can help prosecution offices meet them. Most of the goals and actions are appropriate for prosecution offices around the state, although some may be better suited for particular locations or caseload sizes. We used these goals and actions to help identify best practices related to effective and efficient prosecution offices. We recommend these practices for consideration by prosecution offices, while realizing that they are not the only practices that contribute to effective misdemeanor prosecution.