

**AN ANALYSIS
OF THE
NORTH CAROLINA DISTRICT ATTORNEYS'
RESOURCES**

*Conducted for the
NORTH CAROLINA CONFERENCE OF DISTRICT ATTORNEYS*

By

Joan E. Jacoby
Edward C. Ratledge
Ronald J. Taylor
Noddie Barrion

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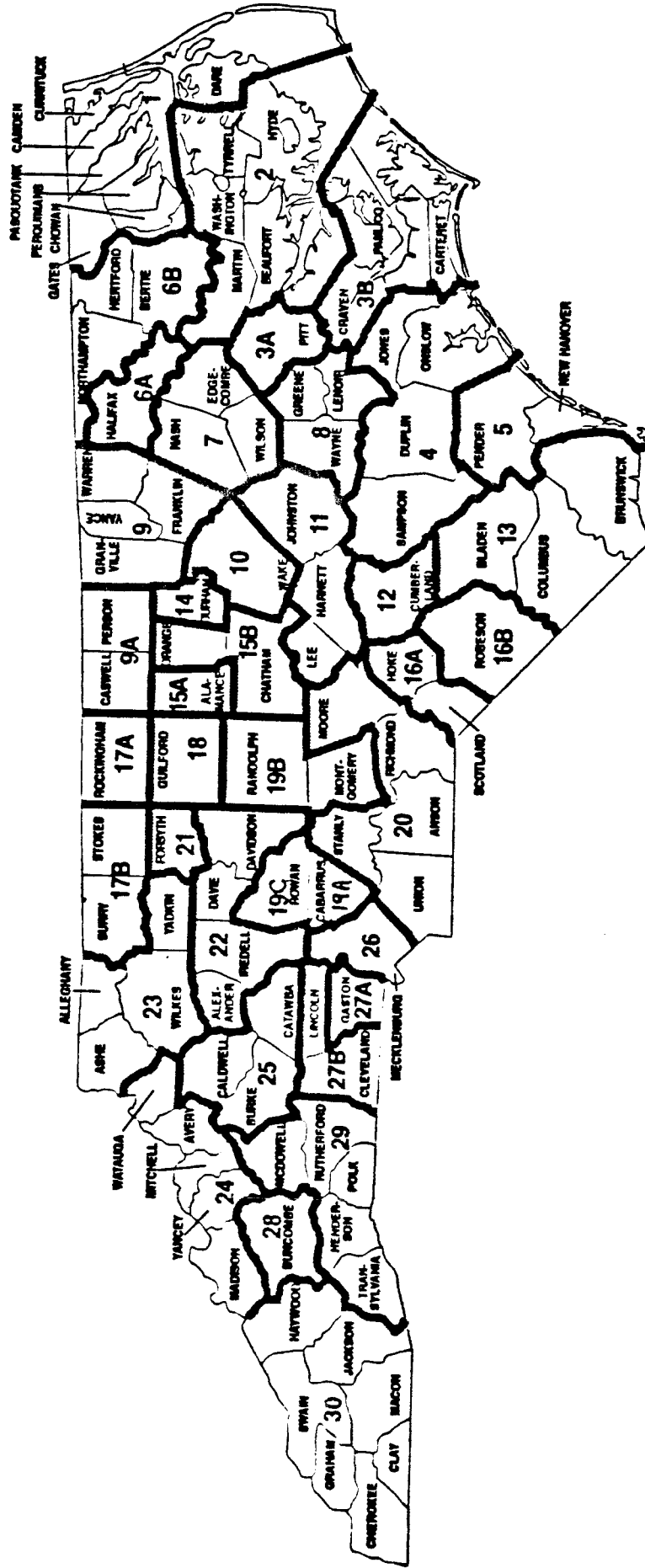


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AN ANALYSIS OF THE NORTH CAROLINA DISTRICT ATTORNEYS' RESOURCES

PREFACE AND ACKNOWLEDGMENTS

The Jefferson Institute for Justice Studies is pleased to present this report assessing the resource requirements of district attorneys in North Carolina. We are proud to have been selected for this project because it is the first, to our knowledge, that has systematically addressed the resource requirements of prosecution statewide. The members of the Governor's Crime Commission which funded this study should be commended for their foresight and vision in supporting this essential but not media-exciting project. We hope that it will meet and exceed their expectations.

Because of our previous work in evaluating resource requirements for the criminal justice system, and the paucity of guidelines and standards, we drew upon findings from other research and assessments to aid us in this task. We believe, therefore, that this report is comprehensive and that its assumptions and premises are valid.

North Carolina is now the leader in conducting a statewide resource analysis. We recognize that this topic is of great interest to many persons both within and outside the state. Therefore, we have attempted to educate those not familiar with the criminal justice environment in North Carolina about some of the factors that affect the nature of prosecution in this state. One cannot and should not develop state studies without accounting for some of the distinctive characteristics of the criminal justice system. Even though others will look to this report for guidelines and standards in developing resource allocation models, we urge them to tailor their needs to their own environments.

This has been an exciting study for us professionally because it challenges the breadth of our knowledge and demands that the results be fair, simple to understand and easy to use. We may not always be successful in meeting these criteria in writing this report, but we urge the reader to bear with us.

If there was one factor that contributed to the validity of this study, it was the high level of cooperation and assistance that we received from everyone to whom we turned for advice, assistance, and information. Without the positive and active support of the AOC, at that time Mr. James Drennan and his staff, and especially Tom Havener, we would not have had access to the baseline data that formed the basis for this study and permitted us to do the trend analysis over a 10 year period.

In like manner, the cooperation and assistance of the State Bureau of Investigations, especially Julia Nipper, was critical in assembling the statistics we needed to develop proxies for felony filings and provide information for the trend analysis. The Office of State Planning, especially Nisha Datta, willingly shared its demographic data and projections which provided part of the baseline for future trends.

When it comes to the bottomline, however, there is no way that this study could have been undertaken and completed without the active assistance and participation of the Conference of District Attorneys. We cannot commend or thank enough Peg Dorer, Executive Secretary and her staff, Patty Currin and Mary Allen for their help. They made our working relationship a pleasure and were more influential than anyone in getting this report done on time. Not once were we ever made to wait for any request. We believe that the district attorneys in North Carolina can be very proud of the professionalism and courtesy exhibited by their Conference.

Finally, we would like to thank the district attorneys, especially Peter Gilchrist, III and Tom Keith, for their assistance and advice. All the district attorneys should be aware that they now belong to a very small, select group of people who can claim that they provided a 100 percent response to a survey. We are very proud of them and hope that they will view this study as being supportive of them and their duties.

We recognize that prosecution never stands alone and that the police and courts are inextricably linked to the prosecutor. For that reason, we would also like to thank the many district and superior court judges that gave freely of their time and advice and the police officials who provided valuable input. We hope that this study is worthy of the effort and time contributed by others to it.

Joan E. Jacoby, Jefferson Institute for Justice Studies,

Edward C. Ratledge, University of Delaware

Hon. Ronald Taylor, Judge, Berrien County, MI

Noddie Barrion, Jefferson Institute for Justice Studies

INTRODUCTION AND BACKGROUND TO THE STUDY

The delivery of prosecution services in North Carolina is administered by the *North Carolina Judicial Department*. It operates the state's court system which consists of district and superior courts at the trial level as well as court of appeals and the supreme court at the appeal level. The *Administrative Officer of the Courts*, who serves at the pleasure of the Chief Justice of the Supreme Court, manages the business and administrative activities of the judicial branch of government including among others, the offices of district attorneys and public defenders, and indigent defense services.

Under the North Carolina constitution, district attorneys and support staff are responsible for preparing the trial dockets¹; prosecuting all criminal actions and infractions in superior and district courts; advising peace officers in their districts and performing duties on appeals as required by the state Attorney General. The district attorney also represents the state in juvenile cases where the juvenile is represented by an attorney. The district attorney is a full-time, elected position with a four year term. Assistant district attorneys are appointed by the district attorney and serve at his pleasure.²

¹It is the district attorney's statutory duty to prepare the trial docket and prosecute criminal actions in the name of the State. This requirement is unknown in other states.

²The Administrative Officer of the Courts may also authorize temporary or "per diem" attorneys to assist a requesting district attorney in keeping the dockets reasonably current.

The *North Carolina Conference of District Attorneys* was established in 1983 by N.C. General Statute c. 761, s.152 to "assist in improving the administration of justice in North Carolina by coordinating the prosecution efforts of the various District Attorneys, by assisting them in the administration of the offices". The Conference of District Attorneys is a state agency that is attached to the Administrative Office of the Courts (AOC) for administrative purposes. Funds are appropriated to provide for an Executive Secretary and supporting staff. The mission of the Conference is to "serve the offices of the District Attorneys in their pursuit of justice and improvement of the administration of criminal law for the benefit of the people of North Carolina." To achieve this, the Conference works to assist elected district attorneys in the management of their offices, and to make improvements through the use of efficient and effective methods of prosecution.

Currently there are 39 locally elected district attorneys who administer and prosecute in prosecutorial districts which encompass the 100 counties of North Carolina. Some prosecutorial districts are multi-county, and some are single county metropolitan districts.³ Statewide, there are approximately 338 prosecutors (including both DA's and ADA's) and a comparable number of support staff. The responsibility for funding these offices is divided between the AOC and the county governments. The state, through the

³There are 2 seven-county, 4 five-county, 3 four-county, 6 three-county, 8 two-county and 16 single-county districts.

AOC, appropriates funds for personnel, travel expenses, office expenses including supplies and communications, and some transcripts. The counties provide courtroom space and related judicial facilities (including furniture). To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as a "facilities fee", is collected for the state by the clerk of the superior court and is remitted to the county or municipality.

The budget for the district attorneys is prepared by the AOC based upon their requests for personnel. The prosecutor's budget is incorporated into the total budget request of the AOC which is then submitted to the legislature for review, authorization, and appropriation. The legislature designates the number of permanent attorney positions to be funded in the fiscal year. The appropriated funds are then distributed by the AOC to the various district attorneys. Most of the funds are distributed according to the current staffing levels. However, if new positions are made available by the legislature, the AOC must decide who receives them. Since the AOC is distributing what is essentially a fixed amount of money, techniques for distributing funds are of continuing concern.

Historically, the AOC has used formulae to distribute new funds among the clerks of the courts, the district attorneys and indigent defense services. From 1981 to 1989, the district attorney's formula for distributing attorney positions was unweighted. Since 1989 a weighted formula that ranks a district by its population and weighted caseload per prosecutor has been used. The rank gives 54

percent weight to each district's population and 46 percent weight to the weighted caseload.

In 1994 the Director of the Administrative Office of the Courts requested a review of the formulae that distributed new positions in judicial districts, prosecutorial districts⁴ and clerk's offices. During 1994 and 1995, the Conference of District Attorneys met as a committee of the whole three times to review the district attorney's formula. This was preceded by one preliminary meeting of a subcommittee and a review by the Executive Committee of the Conference. During each of the plenary sessions, the Conference devoted a half day to the issue. It also reviewed a special report the Director of the AOC requested from the Court Services Division of the National Center for State Courts.⁵ which compared the variety of funding and staffing techniques used by other state-funded systems. The Conference also reviewed other methodologies and indicators frequently used for judicial needs assessments.⁶

The Conference identified a set of indicators which reflects the relative need among districts for new assistant district attorney positions. The

⁴Prosecutorial districts may not be the same as judicial districts. For example, within the 21st prosecutorial district (Forsyth County) there are 4 superior court judicial districts, 21A, B, C and D.

⁵Adam L. Fleischman and Paul C. Gomez, 1994. *The Establishment of Permanent Assistant Prosecutor Positions in States That Pay the Entire Cost of Prosecution*, Denver, CO, Court Services Division, National Center for State Courts.

⁶Victor E. Flango, Brian J. Ostrom and Carol Flango, 1993. "How Do States Determine the Need for Judges?" , *State Court Journal*, Summer/Fall, pp. 3-11.

Conference voted to accept or reject each proposed indicator and accepted only those receiving majority support from the district attorneys. These votes came only after detailed and vigorous discussion. One major concern was the need for indicators of workload which could not be manipulated by district attorney filing practices.

After the factors were selected, each district attorney weighted the relative importance of each factor. The average of their responses produced the following consensus: The average weighted workload per assistant district attorney ranked by district indicates the *relative* need for new positions.⁷

The derived measure of workload is currently based on (1) felony caseload; (2) other caseload; (3) district population; (4) number of district court sites; and (5) number of superior court sessions. Felony caseload is based on the number of persons charged with felonies⁸ and is considered 3.44⁹ more labor intensive than persons charged only in district court. Persons charged with homicide are considered 20.42 more labor intensive than other felonies. Similarly, non-motor vehicle cases are 2.38 times as labor intensive as a motor vehicle

misdemeanor or infractions. This formula was adopted by the Conference in 1995 but, to date, has not been utilized for funding and staffing decisions.

More basic than the *relative* need of districts for positions is the question of the *absolute* need for resources. Has there been systemic underfunding of prosecution and adjudication services? For example, if the entire delivery system is underfunded, then distributing a new increment of positions according to relative need does not address the basic question which is, "What is the appropriate level of funding for prosecutorial services?"

There has been a long history of insufficient funding according to District Attorney Thomas Keith¹⁰. He presents evidence to support this claim from a wide range of sources that examine changes from 1985 to 1992. For example, felony filings increased 109 percent in North Carolina during this time period but the number of prosecutors grew by only 20 percent, from 253 to 304. Similarly, while the national average for expenditures on "prosecution and legal services"¹¹ was \$16.01 in 1990,¹² North Carolina spent \$7.01 per capita; only four states spent less than North Carolina. While such

⁷This calculation does not indicate the number of new positions needed nor does it address the question of whether some offices are understaffed as compared to others.

⁸This is different from court filing statistics which are based on charges not defendants.

⁹The relative weights for different types of cases are the averages of the district attorneys' assessments.

¹⁰Thomas J. Keith, 1995. "Should Prosecutors Control the Criminal Trial Calendar? Yes!", (unpublished) and "A Prosecutor's View of Criminal Trial Calendaring" *Popular Government*, Vol. 60, No.4.

¹¹Bureau of Justice Statistics, 1993. *Sourcebook of Criminal Justice Statistics, 1992*, Washington D.C., USGPO, Table 1.5 at 5.

¹²Statistics cited are for fiscal years running from July 1 to June 30.

comparisons are fraught with peril, they are consistent with other indicators of underfunding.

The inevitable effects of insufficient resources can be observed in the slow down of the court process and a reduction in jury trials as a method of case disposition. For example, the median age of criminal superior felony court cases increased from 83 days in 1986 to 97 days in 1992. In 1984, North Carolina disposed of 67 percent of its felonies within four months but by 1990, that rate had dropped to only 12.6 percent. Similarly, felony jury trials as a method of case disposal dropped consistently from seven percent of the cases in 1981 to 5.2 percent in 1985 and then to 2.4 percent in 1994.¹³ These long-term trends support the district attorneys' growing concerns about the effectiveness of the entire adjudication process.

In 1995, the Executive Secretary of the Conference, Margaret Dorer, obtained a grant¹⁴ from the N.C. Department of Crime Control and Public Safety, Governor's Crime Commission to assess the needs and resources required by the District Attorneys. No group within the state has ever attempted to establish what resources, including personnel, equipment, supplies and facilities are needed to address criminal caseloads of particular types and sizes. District size and resources have more often been dictated through political channels than by objective criteria. The Conference issued a Request for Proposals (RFP) to conduct a resource analysis study. After a competitive

process, a contract was awarded to the Jefferson Institute for Justice Studies on March 8, 1995.

OBJECTIVES AND SCOPE OF THE PROJECT

OBJECTIVES

1. Estimate the workload in each of the districts and identify trends that may significantly affect workload.
2. Identify and describe critical factors associated with office policies and procedures that affect the disposition process and the allocation of resources.
3. Estimate the existing resources and personnel and assess the ability of the office to provide essential services to criminal case processing;
4. Assess the adequacy of equipment and facilities to support the delivery of essential prosecutorial services;
5. Develop a baseline resource model to assist in the distribution of prosecutorial resources throughout the state;
6. Prepare a final report describing the model, its assumptions and limitations which can be used in case management training and as the basis for individual office resource assessments.

The scope of this study included the totality of services provided by district attorney offices throughout the state of North Carolina.

METHODOLOGY AND APPROACH

The criminal justice system can be viewed as a closed system, i.e. put pressure on one point and other points will react. For example, if court capacity is saturated, then other parts of the criminal justice system will respond in rather predictable ways.

¹³Keith, *supra*, pg. 4

¹⁴Grant no. 110-194-10-D046

- Continuances are likely to rise because calendared cases cannot be heard, thereby increasing court delay and backlog.
- The jail population may climb as detained prisoners are held for longer periods in detention.

In the same manner, changes in prosecutorial policy may also affect the entire criminal justice community. For example, changing prosecutorial priorities and policies to emphasize violent crime may affect the dockets of the court, jail capacity, and the workload of public defenders. Because of the dynamics in a closed system, our examination considers both the whole system and its parts. As a result, this resource analysis not only looks at the district attorneys' offices but also the environments within which they work and interact.

The resource analysis project used four analytical techniques:

1. *secondary data analysis*

to provide baseline descriptive information about the districts from published data, and an analysis of demographic and economic trends and changes to identify the implications for future demands on the adjudication system;

2. *a survey*

of all districts to collect information not available from secondary sources needed for the resource analysis to describe the activities of the office; identify problems and issues affecting the delivery of prosecution services; and help assess the effect of the local criminal justice environment on the prosecutor.

3. *on-site appraisals*

of a sample of districts to extend the survey findings about the effects of policy and procedures on the delivery of prosecution services and the disposition of cases; to identify the major problems affecting the office; and provide a contextual background within which the results of the survey are interpreted;

4. *statistical analysis*

of caseload data to determine the present and projected capacity of the adjudication system; analysis of expenditure data to assist in identifying equipment and facility needs.

PROJECT TASKS

The work of the project was organized into five major tasks:

Task 1. Conduct background research and preparation for the project by examining existing publications and statistics provided by the Conference, the AOC and the Institute of Governments.

Task 2. Survey the 39 district attorneys to identify resources and issues of concern based on a mail questionnaire.

Task 3. Conduct on-site evaluations of the effects of policy, procedures and office configuration on the ability of the district attorney to provide prosecution services.

Task 4. Perform statistical analysis of workload and caseload data to examine the present levels of service and the capacity of the system to process them.

Task 5. Present the initial findings to district attorneys for their review and critique. Prepare a final report.

COMPOSITION OF THE STUDY TEAM

The study was conducted by the Jefferson Institute for Justice Studies, an independent, non-profit, research and evaluation organization located in Washington, D.C. The Jefferson Institute was founded in 1980 and specializes in criminal justice and prosecution matters.

Members of the study team were selected for their extensive experience in providing technical assistance to local jurisdictions across the United States and conducting on-site management and resource evaluations. Their criminal justice expertise covered all the functional areas of criminal adjudication and management analysis. Staff from the Conference of District Attorneys also participated with the study team. The team members included:

Joan E. Jacoby
*Executive Director, Jefferson Institute
for Justice Studies*

Ms. Jacoby is an internationally recognized expert on prosecution, performance measurement, cost analysis, information systems, and criminal justice program and management evaluations at the local level. Most recently she has conducted management audits of the Marin County, CA adjudication process and the Kalamazoo County, MI prosecuting attorney's office. She also directed nationwide evaluations of programs concerned with court delay reduction, asset forfeiture and complex drug prosecutions. She was formerly the Executive Director of the National Center for Prosecution Management and the Director of the Office of Crime Analysis in the District of Columbia Government. She is the author of a book, *The American Prosecutor: A Search for Identity*. She has a M.A. in statistics and a B.A. in sociology.

Edward C. Ratledge

*Director, Center for Applied Demography and
Survey Research, University of Delaware*

Mr. Ratledge has 23 years experience in public policy and public sector economics as director of research at the College of Urban Affairs. He has worked extensively on state matters and is a member of the State of Delaware's Economic and Financial Advisory Council. He has a B.S. and M.A. in economics. Mr. Ratledge also has broad expertise in criminal justice management, statistical analysis and advanced computer technology. He has been a professional colleague with Joan Jacoby for the past 23 years and has participated in all Jefferson Institute projects since 1980. He is co-author with Joan Jacoby of books and publications including *Handbook on Artificial Intelligence and Expert Systems in Law Enforcement*.

Hon. Ronald Taylor

*Judge, Second Judicial Circuit Court,
St. Joseph, MI*

Judge Taylor was formerly the elected prosecuting attorney for Berrien County, MI. He enjoys a national reputation as an expert in evaluating court systems and programs and for providing technical assistance to both the courts and prosecution. He is a member of the ABA's Committee on Technology and the Future of the Courts. He is used extensively as a consultant by the National Center for State Courts, the Jefferson Institute for Justice Studies and the American University courts technical assistance program.

Noddie Barrion

*Principal Associate, Jefferson Institute
for Justice Studies*

Mr. Barrion has been a member of the Jefferson Institute since 1980. He has extensive experience in financial management systems, analysis and evaluation. He has conducted the expenditure analyses required by many Jefferson Institute resource allocation and cost studies including the Marin County adjudication study, the National Baseline Information cost

study and the Kalamazoo Prosecuting Attorney's management appraisal.

SUMMARY OF PROJECT WORK

A preliminary visit to the Conference of District Attorneys was made March 9, 1995 by Joan Jacoby and Edward Ratledge to meet with the Executive Secretary, Peg Dorer, and her staff, to obtain necessary background information and establish work strategies and calendars. Barbara Moore was designated as the Conference liaison for this project. On April 5-7, 1995 Ms. Jacoby, Mr. Ratledge and Ms. Moore visited the offices of the District Attorneys David Waters, Colon Willoughby and Tom Lock. During these visits, a draft of the survey instrument was reviewed and changes were made before the final survey instrument was distributed.

Survey

The survey was mailed to all 39 district attorneys in May, 1995. Follow-up services were provided by the Conference of District Attorneys. One hundred percent of the district attorneys responded. A copy of the survey instrument and the responses are presented in Appendix A.

Site visits

The basic criteria for selecting sites was to make sure that the widest variety of prosecutor offices was examined by the team. Thus, the size of the office, both large and small, its jurisdiction, single to multi-county and geographical representation were considered in the site selection process. The visits lasted about 4 hours. Interviews were conducted with the district attorney, the local police chief (or his designate), and district and superior court judges, as available. The interview with the district attorney identified his

prosecutorial policy, discussed the basic problems confronting the office and explored the feasibility of both short and long term remedies. A tour of the facilities was also made to note space, facilities and equipment needs. The interviews with law enforcement officials collected their perceptions about the office of the district attorney and its problems and needs. Finally, interviews with the judges brought a judicial perspective to the issues and problems confronting the prosecutor. Mr. James Drennan, the Administrative Officer of the Courts, was also interviewed to ensure that the AOC perspective was considered in the analysis and interpretation of the findings.

| SITES VISITED BY STUDY TEAM | | | |
|---|----------|-----------------|------------|
| District Attorney | District | No. of Counties | Population |
| Jerry Spivey | 5 | 2 | 163,158 |
| David Waters | 9 | 4 | 137,068 |
| Colon Willoughby | 10 | 1 | 479,271 |
| Tom Lock | 11 | 3 | 204,956 |
| Ed Grannis | 12 | 1 | 292,517 |
| Carl Fox | 15B | 2 | 142,648 |
| Jim Kimmel | 18 | 1 | 360,551 |
| Ken Honeycutt | 20 | 5 | 274,699 |
| Tom Keith | 21 | 1 | 271,680 |
| Peter Gilchrist III | 26 | 1 | 536,403 |
| Ron Moore | 28 | 1 | 182,267 |
| Also, James Drennan, Administrative Officer of the Courts | | | |

It should be noted, that scheduling visits to small offices is difficult because the district attorney typically carries a trial docket which often precludes time for interviews. It is also difficult to schedule visits if the district attorney is trying a capital case, an event that appears to increase

during the summer months. Despite these limitations, the team believes that it viewed a wide array of offices operating within diverse environments and that the knowledge produced by these interviews enriches our interpretation of the findings and recommendations.

Analysis

During the months of July, August and September, the focus was on data analysis. Most of the trend analysis covered a 10 year period, from 1985 to 1995. The analysis included demographic projections, analysis of expenditures, caseload and workload by district. The survey results were integrated with AOC and UCR data to develop preliminary resource allocation models. Discussions about the models and their presentation were held in Raleigh in mid September. Preliminary results and findings were presented to the district attorneys in October for their observations and critiques. Following this, further analysis was conducted to refine and test various resource allocation models. The analysis of support, space and equipment needs was also completed, and the final report was prepared.

Reports

In accordance with the contract, a final draft was presented to the Conference of District Attorneys in January, 1996. The final report was issued in February, 1996.

ORGANIZATION OF THE REPORT

The purpose of this report is to assess the ability of North Carolina district attorneys to provide adequate prosecutorial services to the public and to recommend models that will (1) identify the

minimum acceptable levels of service and (2) assess the needs of each of the district to provide these services. The report is organized into four sections that focus on the factors affecting the delivery of prosecution services.

Section 1 summarizes the major findings of this study. It serves as an executive summary for the report by presenting a summary of our findings that are discussed in more detail in subsequent sections.

Section 2 provides a background to this study by describing the nature of criminal justice and prosecution in North Carolina. It begins by describing the major factors in the criminal justice environment which are essentially beyond the control of the prosecutor yet affect prosecution and the delivery of prosecution services. Then it describes the salient factors affecting prosecution which district attorneys have the ability to modify or change. Some alternatives for improving the efficiency and effectiveness of prosecution are also presented.

Section 3 examines the resource requirements of prosecution in North Carolina. It analyzes changes that have occurred over the last ten years with respect to demography, population, crime and arrests, expenditures and employment patterns for criminal justice services, and prosecution. It shows how long-term trends have affected the delivery of prosecution services and the major changes that need to be considered in developing resource allocation models.

The analysis of prosecution caseload identifies some major shifts in work that should be considered in developing resource allocation models. Based on this analysis, criteria for

SECTION 1. SUMMARY OF FINDINGS

INTRODUCTION

In this section we summarize the findings of the study of prosecutorial resources in North Carolina. The summary presents the major findings of the study without comment or explanation. They are presented in the same order as the report so that the reader may refer to the relevant section for additional description, comment and analysis.

SECTION 2. THE NATURE OF CRIMINAL JUSTICE AND PROSECUTION IN NORTH CAROLINA

Major Factors in the Criminal Justice Environment that Affect Prosecution

1. The demography of North Carolina is largely rural and small town with only 6 major urban areas located within its 100 counties.
2. State funded prosecution services are located in the judicial branch of government rather than the executive branch and are administered by the Administrative Office of the Courts.
3. The state legislature authorizes the number of district attorney positions.
4. Local governments are responsible for providing space and furniture for district attorney offices.
5. The Conference of District Attorneys, a state agency representing prosecution interests, is attached to the Administrative Office of the Courts for administrative purposes.
6. Regular superior court judges including the senior resident superior court judge rotate throughout one of four judicial divisions.
7. District attorneys are responsible by statute for preparing the trial dockets.

8. Convictions for misdemeanors may be appealed for a *trial de novo* in the superior court.

9. Current case counting procedures hinder measuring the performance of the criminal justice system in delivering services.

10. Inadequate levels of technology exist throughout the adjudication system.

Major Factors under District Attorney Control or Influence that Affect Prosecution

1. The multiplicity of local law enforcement agencies in a district affects uniformity in police reporting, investigations, and evidence collection.
2. Case screening and pre-warrant charging review are typically not conducted by district attorneys prior to filing cases.
3. The district court does not have felony jurisdiction but it is underutilized as a major dispositional exit point for criminal cases.

Important Steps to Improve the Efficiency and Effectiveness of Prosecution Services

1. The mission of the Conference of District Attorneys should be expanded by granting it the budgetary and administrative functions now conducted by the AOC, providing it with adequate personnel and resources, and giving it contracting authority.
2. The Conference of District Attorneys should be given the resources to:
 - increase training and technical assistance services;
 - conduct policy analyses of legislation;
 - perform management and organizational studies;
 - monitor space, facilities and equipment needs of the district attorneys;
 - support innovative experiments and programs to improve prosecution.

There is a critical need to undertake a space and equipment program that will bring all offices up to minimal standards for operation to ensure that the quality of prosecution, and ultimately justice, is not undermined.

Supplies and Materials

There is a need to establish new ways for funding supplies and materials to reduce the wide range of expenditures among districts and provide all districts with at least minimal levels of these consumables. In 1994, expenditures on supplies and materials per assistant district attorney ranged from a low of \$148 to a high of \$914. The average expenditure per ADA was \$351. The wide range suggests inequities in the distribution of supplies and materials.

Space

There is a need to establish minimum standards and guidelines for the space needed by district attorneys that are based in large measure on the work they must perform. The wide amount of variation that exists among districts and locations is unacceptable.

Based on previous space studies conducted for the AOC and other studies of professional office requirements, we developed a generic office model for estimating minimum basic space requirements.

GENERIC DISTRICT ATTORNEY'S OFFICE:

MINIMUM SPACE REQUIREMENTS:

Fixed Requirements = 650 square feet

- ☒ District Attorney office and private conference = 250
- ☒ Reception and waiting room = 100
- ☒ File room including space for some office equipment such as copiers and fax machines = 150
- ☒ Conference/interview room = 150

Variable Requirements

- ☐ Number of Assistant District Attorneys times 150 square feet
- ☐ Number of non-attorney staff times 70 square feet

Of 56 offices for which data was available, 30 had space less than that projected by the generic model. Three offices attempted to operate with 20 or 21 percent of the recommended space. Five offices were 90-99 percent of the space needed. Data was provided for 56 of the 82 locations staffed by the district attorneys in 100 counties.

Equipment

Finally, our examination of equipment needs found a wide amount of variation among the offices. There is clearly a need for a more uniform distribution system. Many district attorney offices are laboring because they do not have access to such simple and necessary items as copy machines, fax machines, dictaphones, voice mail, cellular phones and even meeting room space.

CONCLUSION

Prosecution has lost substantial ground over the past ten years. As a result, the ability of the state to provide adequate prosecutorial services and public protection has been undermined. Although North Carolina may take pride in doing more with less, the current situation is rapidly becoming unacceptable. The public has a right to expect minimum levels of services which require sufficient resources to prosecute *all* violations in the public interest, not just some of them.

SECTION 2. THE NATURE OF CRIMINAL JUSTICE AND PROSECUTION IN NORTH CAROLINA

INTRODUCTION AND OVERVIEW

The state-funded criminal justice system in North Carolina is one of 16 state systems that pay a substantial portion of the salaries and expenses of the prosecutorial function¹ although each has some different characteristics. In this section we identify the major characteristics in the North Carolina system that have a significant effect on the operations of the district attorneys and the delivery of prosecution services. Our findings are based on more than twenty years of experience with hundreds of jurisdictions throughout the United States, the results of the district attorneys' survey, and on-site visits to 11 districts that identified some of the factors affecting the district attorneys in North Carolina.

It became clear early on that the North Carolina criminal justice system contains a variety of issues which are complex and often controversial. Most of the issues have been identified by others, and many evoke disagreement even among the district attorneys. Some may already be under study by the Commission for the Future of Justice and the Courts in North Carolina. However, they are presented here because they affect the delivery of prosecution services to the public.

This section is divided into 2 parts. The first part discusses factors that exist in the criminal justice environment that are essentially outside the district attorney's control. The second part discusses some factors and issues over which district attorneys have primary control. The effects of each set of factors on the delivery of prosecution services are noted and suggestions are offered about ways to increase the efficiency and effectiveness of the delivery of prosecution services.

THE EFFECT OF THE CRIMINAL JUSTICE ENVIRONMENT ON PROSECUTION

There are certain features of the North Carolina criminal justice environment that influence the delivery of prosecution services throughout the state. Accordingly, they need to be considered in the process of analyzing the resource requirements of the district attorneys. These features and their implications for the delivery of prosecution services are discussed in the following sections.

¹The states are Alabama, Alaska, Connecticut, Delaware, Florida, Kentucky, Louisiana, Massachusetts, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Vermont, Virginia and Wisconsin.

Table 2.1

MAJOR FACTORS IN THE CRIMINAL JUSTICE ENVIRONMENT THAT AFFECT PROSECUTION

1. The demography of North Carolina is largely rural and small town with only 6 major urban areas located within its 100 counties.
2. State funded prosecution services are located in the judicial branch of government rather than the executive branch and are administered by the Administrative Office of the Courts.
3. The state legislature authorizes the number of district attorney positions.
4. Local governments are responsible for providing space and furniture for district attorney offices.
5. The Conference of District Attorneys, a state agency representing prosecution interests, is attached to the Administrative Office of the Courts for administrative purposes.
6. Regular superior court judges including the senior resident superior court judge rotate throughout one of four judicial divisions.
7. District attorneys are responsible by statute for preparing the trial dockets.
8. Convictions for misdemeanors may be appealed for a *trial de novo* to the superior court.
9. Current case counting procedures hinder measuring the performance of the criminal justice system and its delivery of services.
10. Inadequate levels of technology exist throughout adjudication system.

1. Prosecution services in North Carolina are provided mostly in a small town, rural environment. Within the 100 counties, and the 39 prosecutorial districts, there are only about 6 major metropolitan areas. (Raleigh, Durham, Winston-Salem, Monroe, Charlotte and Fayetteville)

The entire state had a population of 7.1 million in 1995.

This means that:

- ☐ the solid majority of the district attorneys offices may be classified as small, and
- ☐ the problems encountered by the few district attorneys representing large urban areas often bear little or no relation to the vast majority of North Carolina district attorneys.

Table 2.2 shows the distribution of the offices by the number of ADAs that are state funded².

The median office size is between 6 and 7 ADAs. Even the largest (Charlotte, Mecklenberg) has only 23 state funded ADAs (and 5 more from grant funds). This distribution does not even approach the scale encountered by offices with 600 or more ADAs (e.g. Brooklyn, Chicago, Los Angeles); nor does it compare to the work of the 11 urbanized district attorney offices in Massachusetts, another state funded system.

Because prosecution in North Carolina is mainly small office driven, few districts have, or even need, the wide variety of resources that urban offices use to help manage large caseloads. What they do need, however, is a basic level of personnel, space and equipment that allows them to perform their duties efficiently. In smaller offices, an adequate level of resources is defined primarily by direct work on processing cases.

² All analysis in this report is based on state-funded positions. Excluded are temporary or per diem positions and positions funded by other sources including grants.

Table 2.2

Distribution of District Attorney Offices
by Number of ADAs

| Number of ADAs | Number of Offices | |
|----------------------|-------------------------|---------------|
| 2 | 1 | |
| 3 | 4 | |
| 4 | 6 | |
| 5 | 3 | |
| 6 | 5 | <i>Median</i> |
| 7 | 3 | |
| 8 | 4 | |
| 9 | 3 | |
| 10 | 2 | |
| 11 | 3 | |
| 12 | 2 | |
| 17 | 1 | |
| 19 | 1 | |
| 23 | 1 | |

Administrative and overhead demands are small in a 2-3 person office where organizational structure and communications are not a problem. In the small office environment, work tends to be fairly routine; it is handled by persons whose talents, expertise and experience are well known to the district attorney.

There is a downside to this environment. Since available resources are limited, work may be significantly affected by emergencies or unusual events. The loss of an ADA to illness or an infrequent prosecution of a capital case can seriously disrupt the routine delivery of prosecution services.

It is, therefore, critical in estimating staff requirements in small offices that fringe benefits including vacation, sick leave and professional leave time be built into the staffing pattern so that

staff absences can be covered, and that procedures be available to respond to emergencies³. It is not reasonable nor is it sustainable for people to continually work long hours to cover these contingencies. Capacity must be available to handle such situations without disrupting the daily work of the office.

As the office increases in size, the need for a different type of support emerges. The 10 districts employing 10 or more ADAs, for example, begin to feel the need for more non-attorney staff and the creation of a more formal organization to develop and implement more complex case management procedures. About this time there is also a change in the role of the district attorney, reducing the time spent on a caseload and increasing time spent on administration. In this respect, it is not surprising that the work and administrative problems generated by larger offices usually find little sympathy or empathy from rural and small office district attorneys. Failure to recognize these changes in structure, resource mix, and roles may reduce the ability of prosecutors to provide adequate services.

Increasing urbanization is part of the future and the days of the small office districts may be numbered. Population projections show that North Carolina will grow from its 1995 population of 7.1 million to 8.7 million by 2020 or about 0.8% per year. At the same time, the younger age groups (which declined significantly from 1980 to 1995) will increase dramatically during the next 25 years. Given present conditions coupled with an increase in violent crime among juveniles over the past five to ten years and a general increase in population

³Examples are the "per diem" attorneys or the "borrowing" of ADAs from other districts.

density (which seems to be a better predictor of crime than population), North Carolina will increasingly face the same complex of challenges as the rest of the United States. If the district attorneys of the state are to meet these challenges, it is important that the Conference of District Attorneys have the ability and resources to assist and train district attorneys to adjust to their changing work environments.

2. Unlike most states, prosecution is located in the judicial branch of government rather than the executive branch. It is administered through the Administrative Office of the Courts.

The location of prosecution in the judicial branch of government, it is an anomaly in the United States where the concept of checks and balances presupposes the independence of the executive, judicial and legislative branches. In principle, priorities for funding, staffing and program development should be set by the district attorneys themselves rather than by another agency which has much more on its plate than just the delivery of prosecution services.

Court priorities are not necessarily the same as prosecution priorities and may even conflict with each other. This is especially apparent at the "front end" of prosecution which controls the "gate" into the courts. Here, prosecutors need the flexibility to respond to changes in demographics and crime patterns, local law enforcement activities and public concerns and priorities. One can understand the AOC's emphasis on fairness and equity to all the agencies, offices and the courts which it administers. But the net effect is to limit the prosecutors' ability to set their own priorities, implement their own programs according to their

own timetables and respond to changes in crime at the local level.

The precedent for major reforms in the organization and administration of the prosecution function is not unknown. In 1985, England created an independent Crown Prosecution Service (CPS)⁴ by transferring prosecution powers from the police to the newly created CPS. The process was not simple or without conflict. Nevertheless, it reflected England's recognition and acceptance of the legitimacy of an independent prosecution function.

At present, the net effect of placement in the judicial branch of government and under the administration of the AOC has been to produce a system of prosecution that has little opportunity to experiment, improve or make changes that are not within the budgetary framework of the AOC. As a result, the opportunity for progressive growth and advancement and the ability to provide prosecution services more efficiently and effectively is constrained.

3. The legislature authorizes the number of assistant district attorneys statewide, and the AOC distributes them based on a formula.

This procedure spotlights two basic issues that are central to this study. The first is the issue of determining how many ADA positions are needed to provide uniformly adequate levels of service to the public throughout the state. The second is the issue of distributing the number of positions authorized, or answering the question, "who gets

⁴ Parliament approved the Prosecution of Offenses Act 1985. See the reference to Rozenberg's *The Case for the Crown*.

how much?". Since one cannot expect the legislature to authorize all the positions requested, the distribution of the positions that are authorized becomes problematic.

Although the present practice of balancing funding among all judicial department entities seems to be fair on the surface, its practical effect is to ration the prosecutor's access to criminal justice resources. It ties funding levels for prosecution to the funding levels of the courts, and, as noted before, limits the ability of the prosecutors to be flexible, i.e. to expand or tailor responses to meet special local conditions or needs.

In principle, the budget process should set funding levels for prosecution that are based, first, upon the volume of arrests made by the police and the cases filed by the prosecutors. Then, funding for the criminal courts should be based on the number of judges needed to handle the caseload generated by the prosecutors.

Evidence of the inadequacies of the present systems for ADA authorization and allocation may be observed in an increase in the earmarking of funds by the legislature to particular districts. We noted that in the present fiscal year, the AOC could not follow the formula for assigning positions because the legislature, in earmarking funds for various district attorneys, established its own *de facto* set of allocation priorities.

Earmarking by-passes normal procedures that are based on an "equitable" distribution of funds. It should be obvious that each successful request will increase the likelihood of some of the more powerful district attorneys to use this tactic. This will leave those who are not so fortunate receiving less funds than they should be eligible for. One

significant effect of this practice will be to fracture the concept of "state-funded" prosecution services by politicizing the budget process. If continued over time, this practice may ultimately threaten the viability of a "state" system of prosecution.

Although this practice will never be eliminated, it should be minimized. To ensure this, the Conference of District Attorneys needs to assume responsibility for long-term planning for adequate levels of service and work with the district attorneys to obtain their agreement to abide by the allocation models they adopt. Of critical importance will be the need to monitor changes so that the model can be updated as new trends emerge and to adjust for new circumstances.

4. The division of responsibility for the support and operations of prosecution between state and local governments reduces accountability among the two entities, and creates uneven levels of support for district attorneys and variations in the level of prosecution services available to all the citizens in the state.

Article 27 Section 7A-302 of the Judicial Department statute holds "each county in which a district court has been established," responsible for providing courtrooms and related judicial facilities (including furniture). "To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the cost of the court known as the 'facilities fee' collected for the State by the clerk of the superior court shall be remitted to the county or municipality providing the facilities" The state provides expenses for salaries, travel, printing, and supplies and equipment for district attorneys which are distributed by the AOC.

Dividing responsibility for the support of prosecution services between the state and local government fragments authority and accountability. As a result, the ability of the district attorneys to control their budgets, and provide working environments meeting professional standards is hampered. Because district attorneys are not responsible for "living within their own budgets" but rather depend on requests for funds, supplies and equipment from the AOC, there are few incentives to be good managers. Additionally, without budget control, their ability to tailor their services to the special needs of their office or community is restricted.

Exacerbating the situation in many districts are the problems associated with space and equipment. Since the responsibility for providing space and furniture belongs to local governments, differences among offices abound. We observed offices in some counties that attempt to operate in space that, at best, can only be called deplorable. We also observed offices located in modern, professional facilities.

There are no simple solutions to these problems. However, some alternative approaches may ease the problem. One is to transfer the state budget preparation and planning functions to the Conference of District Attorneys who, over time, can train district attorneys to prepare and administer budgets. Another is to give the Conference the tasks of monitoring space, facilities and equipment needs of prosecutors; developing a program in conjunction with local governments to certify that professional standards regarding space are being met; and, reporting to the AOC and legislature areas of need. There is little doubt in our minds that current conditions in many offices

are hampering productivity and ill-serving the public.

5. The effectiveness of the Conference of District Attorneys is restricted by a lack of funding, absence of contractual authority and its administrative ties to the AOC.

The establishment of the Conference of District Attorneys by the General Assembly in 1981 was justified for a variety of reasons, the primary one being the recognition that the district attorneys needed an independent voice to coordinate their interests and provide them with direct assistance. The idea for a conference was consistent with American Bar Association standards relating to the prosecution function that were adopted in 1971, the National District Attorneys Association standards and the National Advisory Commission on Criminal Justice Standards and Goals reported in 1973. Attaching the Conference to the AOC for administrative purposes, however, severely restricts the ability of the Conference to grow and expand its services.

Additional resources are needed to allow the Conference to provide services that are commonplace in other state prosecutor organizations (e.g. Michigan, California, Florida). These organizations have staff to provide technical assistance, conduct management audits, policy analysis, demonstration programs, and support education and training programs. There is a vital need in North Carolina for similar programs to educate district attorneys about the availability of new programs or improved procedures, and to assist them in making changes to improve the evidentiary strength of cases submitted by local law enforcement and the efficiency of prosecution.

The impending passage of the victims rights amendment may also have a significant impact on the district attorney's work. Resources should be available to conduct impact analyses of this and other legislation that affect prosecution such as structured sentencing and victim advocacy programs.

Experience in other states, such as Massachusetts and Michigan has shown that notification requirements imposed by victim rights legislation may vastly exceed the ability of an office to conduct them; that fragmented notification procedures between the courts and the prosecutor may unnecessarily duplicate workload; and, without proper coordination between the courts (particularly juvenile court) and the prosecutor, some notifications may not be made when required by law.

The Conference of District Attorneys currently does not have the resources to undertake work on these important issues unless they divert existing personnel from other on-going activities. In our view, an analysis of the planning and budgetary effects of legislation on prosecution is essential. Priority should be given to expanding and strengthening the ability of the Conference to conduct policy and legislative analysis with the support of the AOC and the legislature.

The Conference, as it is presently structured, does not have contracting authority. As a result, it cannot attract grant funds which allow for experimentation and demonstration programs, and which encourage innovation. Since some of these experiments or innovations may conflict with other priorities set by the AOC (through which Conference grant funds are administered), the Conference may be hindered in the activities and

areas in which they seek grants. The result may unduly restrict the potential for change among the district attorneys and encourage the continuance of the *status quo*.

6. The practice of rotation for regular judges in the superior court and the absence of criminal trial court administrators reduces the accountability of the court for the management of its caseload.

The present judge rotation system limits the accountability of the court for case management and thus, encourages court delay. This situation has assumed such serious dimensions that in March, 1995 the Chief Justice instructed superior court judges to return to their home districts to deal with the backlog. Court delay and its subsequent increase in pretrial detention are serious problems confronting most jurisdictions. The reason why they become almost intractable in North Carolina is because the court has few mechanisms in place to resolve them.

The case management experiment in Fayetteville is laudable for its philosophy and approach. It incorporates some of the most modern court case management procedures into the judicial process. But it points up very clearly that there are no short term solutions or quick fixes to this problem because of the difficulty in institutionalizing changes in a court environment where judges and the administrative chief judge rotate. Yet, the benefits and efficiencies accruing from the Fayetteville program provide strong evidence for changing the case management environment. Studies should be undertaken to determine how to mitigate or eliminate the detrimental effects of judge rotation practices.

7. By statute, district attorneys control the criminal calendar.

This practice is not common throughout the United States although it may exist informally in some jurisdictions and is acknowledged in the National Prosecution Standards⁵. In North Carolina, the practice is necessitated by the rotation of judges and the absence of criminal trial court administrators.

The many critics of this practice (including among others, the Academy of Trial Lawyers Association, the N.C. Public Defenders Association, the N.C. Bar Association) have been unsuccessful in their attempts to transfer criminal case calendaring responsibility to senior resident superior court judges. This is not surprising in light of the reforms needed in the court system before this issue can be addressed.

The general assembly has requested the supreme court to develop a plan for case flow management to reduce delay and increase the efficiency of the trial courts. We concur with this request. The lessons learned from Fayetteville, and the districts that are planning to replicate it, could serve as a good starting point for assessing how calendaring can operate with due consideration given to all parties.

8. The impact of misdemeanor appeals on the workload of prosecution may be significant in some districts

In FY95, one out of every three cases filed in superior court was a misdemeanor, and the overwhelming proportion of those were appeals. This statistic in itself should be sufficient to call for abolishing the practice of *trials de novo*. But the incidence of misdemeanor appeals has a separate relevance to this study. The frequency of misdemeanor appeals is not uniform across all districts. In Districts 2 and 7, slightly more than one out of every two cases in superior court were misdemeanors while in District 8, less than one in ten cases in superior court were misdemeanors.

Misdemeanor appeals require substantial manpower *if they go to trial* (almost equivalent to violent crime cases). As a result, they should be considered in developing resource allocation models. However, statistics supplied by the AOC show such wide variation among districts that the workload effect cannot be projected state-wide with any degree of accuracy.

The data suggest that the number of appeals is a function of the policy of district court judges. Those who sentence harshly increase the volume of cases in superior court substantially. But the impact on the prosecutor and the court can be mitigated by prosecution policies that favor remands to district court. Until *trials de novo* can be eliminated, the number of misdemeanor appeal trials should be carefully monitored for its effect on staffing requirements.

9. The present system of defining criminal cases by charges, not defendants, hinders measurements of the performance of the system in terms of time, productivity and efficiency.

⁵ The National District Attorneys Association's National Prosecution Standard 61.1 vests calendar control in both the prosecutor and the court.

At present, criminal cases are identified by each charge filed against a defendant involved in a single incident. For example, a defendant may be charged with larceny, breaking and entering and assault as the result of a single housebreaking. The court defines this as three cases against the defendant.

This counting technique is not conducive for workload and performance measurement. The appropriate metric is to define a court case as a single defendant charged for offenses arising from a single criminal incident.

The present, charge-based system reflects both legitimate variations in charging policies among district attorneys and manipulation of the volume of filings. Distinguishing between the two under the present system is not possible. In 1994 the AOC estimated the number of *defendants* involved in superior court filings. For the state, the average was 2.56 charges (cases) per defendant. Within districts the estimates varied from a high of 3.55 cases per defendant (District 17B) to a low of 1.73 cases per defendant (District 8).

Unless the basic counting unit for court cases is changed to the defendant, it will be difficult to produce meaningful workload statistics. The purpose of performance measurement is to gauge the workload of the districts and not the district attorney's ingenuity in creating it.

The analysis of the data used in this study spotlighted the weaknesses of the present measurement system for resource and staffing analysis and more importantly, performance measurement. Without a defendant-based count, it is impossible to use dismissal rates as indicators of poor police work, superficial case screening,

inept prosecutions or witness problems. Without a defendant-based count, it is impossible to compare plea bargaining practices or measure the efficiency or effectiveness of various programs.

A reliable statistical system should provide information about the crime, the charges and the defendant, the dispositional route of the case, its exit point, and the end result, including the final charges, reasons for dismissals and sentences, if applicable. The investment in establishing this type of criminal justice information system will yield benefits and savings in the long-term that far exceed initial development costs because it supports informed decisions about criminal justice system operations and their costs.

10. The lack of technology in the district attorneys' offices impedes not only the delivery of services to the public but increases costs due to delay and inefficiency.

The technology of the nineties includes cellular phones, voice mail, and computers. The not-so-new technology of the seventies and eighties also included fax machines, copy machines, answering machines and dictaphones. The district attorney's access to professional tools varies widely by district and even by the offices within the districts, sometimes at unacceptable levels. A separate analysis of space and equipment needs is presented in Section 4, where the results of the survey and the findings will be discussed in greater detail. The issue is presented here because space and equipment are factors that are controlled by agencies other than the district attorneys.

Based on the survey, it appears that a comprehensive inventory and equipment needs assessment is in order if attorneys are expected to

work at efficient, competent, and professional levels. As stated earlier, we also believe that the monitoring should be performed by the Conference of District Attorneys.

THE NATURE OF PROSECUTION IN NORTH CAROLINA

Unlike the factors in the criminal justice environment discussed previously which may require extensive cooperation between many agencies and the courts to make changes, the factors presented in this section may be changed by the initiative of the district attorneys.

Table 2.2

MAJOR FACTORS AFFECTING PROSECUTION UNDER THE DISTRICT ATTORNEY'S CONTROL

1. The multiplicity of local law enforcement agencies in a district affects uniformity in police reporting, investigations, and evidence collection.
2. Case screening and pre-warrant charging review are typically not conducted by district attorneys prior to filing cases.
3. The district court does not have felony jurisdiction and is not a major dispositional point for many felony criminal cases.

1. Police-prosecutor reporting procedures.

Each district attorney's office receives cases from at least four local law enforcement agencies. Multiple sources of work create problems with consistency in police reporting, investigations and the quality of the evidence submitted. The district attorney should give priority attention to reducing these variations.

Typically, local law enforcement agencies file requests for warrants in district court that are

authorized by magistrates (who usually are not attorneys). After these events and arrests, the district attorney receives copies of the police reports which may include some or all of the following: a short synopsis, incident or offense reports, arrest reports, investigative reports, criminal histories and witness statements or testimony.

Few districts enjoy the advantages of working with a single law enforcement agency as the predominant supplier of work. For example, District 19A processes work from four law enforcement agencies while District 20 works with 33 local agencies including five sheriff's offices. The median number of agencies that district attorneys work with is 14. Only seven of the 39 district attorneys reported that one law enforcement agency supplied their office with more than 50 percent of their cases. The median was 35 percent. As a result of the large number of law enforcement agencies and the dispersion of cases among them, there is often wide variation among departments in the completeness and adequacy of police reporting and evidence collection.

Presently there is little incentive to coordinate procedures and policy between the police and the prosecutor since prosecutors do not screen cases prior to their being filed in district court. However, this does not reduce the importance of developing uniform police reporting practices to improve the evidentiary quality of cases and the effectiveness of the criminal justice system in responding to crime.

When offices are small (as they are in North Carolina), it is often difficult to find the extra resources to focus on these issues. Sometimes innovative experiments may have to be undertaken

to find effective techniques. Nevertheless, unless priority attention and resources are focused on this issue, unnecessary delay, inefficiency and waste are built into the adjudication system.

In other states, it is not unusual for ADAs to attend roll calls, lecture in police academies and provide briefings about legal or statutory changes. This training could also be extended to the magistrates to ensure the legal basis for complaints and warrants issued are maintained at a high level of acceptability for the prosecutor and not dismissed later in the process. It should be noted that some of the district attorneys already perform some of these activities. The objective should be to take these fragmented activities and institute them and others uniformly, state-wide.

Conversations we had with police chiefs and law enforcement officials confirm their interest in working with the district attorneys on these issues. It has been our experience that when police and prosecutors recognize that they are natural partners against crime, they tend to coordinate policy and procedures, support special efforts or programs, and work together for common goals.

A good example can be found in violent career criminal programs like the one in Wake County where the district attorney has the ability to enhance policing efforts by opposing pretrial release, charging at the highest sustainable level, and offering no plea bargains for certain cases. Even community policing can be enhanced by the district attorney's adoption of a hard-line stance against such lesser misdemeanors as soliciting, larceny, vandalism, graffiti etc. The "broken window" syndrome states that if a neighborhood is allowed to deteriorate, then crime is invited in. To

counteract this phenomenon, even minor crimes should be prosecuted.

The Conference of District Attorneys could spearhead the development of police/prosecutor training courses through grant funds and, with adequate resources, the district attorneys could make major improvements in police reporting systems. If the prosecutors adopt case screening procedures, it is all the more incumbent upon them to provide for the training of police agencies in evidentiary matters.

2. Case screening.

Screening is the most important function of prosecution because it controls the quality of cases entering the adjudication process and increases the efficiency of the courts. The district attorneys should have the resources to screen all misdemeanor and felony cases prior to filing charges in the court.

Only six district attorneys routinely review felony charges before they are filed in district court⁶. Only District 26 routinely reviews juvenile cases before they are filed. Relatively few felony cases (median is 25 percent) are reviewed prior to probable cause hearings although this low number is explained by the fact that probable cause hearings are not routinely held for felony cases. (Grand jury indictment is required unless waived). The median percent of felony cases reviewed before indictment is almost 100 percent

Probably the single most important and far-reaching change that could be made to the criminal justice environment in North Carolina

⁶They are districts 1, 6A, 6B, 21, 26 and 29

would be the adoption of a comprehensive system of pre-warrant screening by the district attorneys.

Unlike most other states, the North Carolina system does not contemplate or provide for a review of the factual basis for a criminal charge prior to filing the case with the court. Even though six district attorneys have instituted various systems of pre-indictment review of felony cases, their efforts are far from uniform and do not provide for screening of felony cases *in advance of filing* nor any screening of misdemeanor cases at all. The results of their activity indicate its limited scope and potential benefits. Declinations ranged from a low of 3 percent of felonies reviewed (District 1) to a high of 38 percent (District 26). The percent of police felony charges reduced to misdemeanors ranged from a low of 11 percent of non-drug cases (District 26) to a high of 25 percent (District 6A).

These differences are to be expected because they reflect legitimate differences in prosecutorial policy. Previous studies conducted by the Jefferson Institute⁷ had prosecutors in four offices examine a set of criminal cases carefully constructed to reflect the full range of prosecutor decisionmaking. Looking at the same set of cases, the declination rates ranged from 11 percent to 22 percent depending upon the prosecution policy of the office. Other studies have shown that in real life, screening rates can vary from a high of 50 percent in New Orleans parish (in the early days of District Attorney Harry Connick's tenure) to a low of 15 percent in Marin County, CA.

⁷See Jacoby, J. E., "The Standard Case Set: Measuring Prosecutorial Decisionmaking", 1980

The disadvantages of a police-dominated, "no screening" intake process are twofold.

1. A large number of "junk" cases enter the system and cause significant amounts of non-productive work at a later time in order to dispose of them.
2. It creates an informal, *ad hoc* "screening" process that is based on the discretion of each individual assistant district attorney. The consistency and uniformity of these discretionary decisions cannot be monitored easily.

Evidence of the practice of informal screening can be found in the difference between the approximately 85,000 individuals arrested by the police in 1994 for Part 1 crimes and the approximately 32,000 defendants processed in superior court in the same year (as estimated by the AOC).⁸ The need to establish a mechanism that controls the gate into the courts and ensures the evidentiary viability of cases accepted is clear and the key role of the prosecutor in this process should be recognized and institutionalized.

The ability to screen cases would have effects reaching beyond improving the quality of cases coming into the system. It would strengthen relationships between the police and the prosecutor and would provide additional opportunity for the prosecutor to implement uniform reporting procedures and identify areas

⁸Even though allowance is made for a substantial number of Part I arrests which are defined as misdemeanors under NC statutes and the variability associated with the AOC's defendant estimates, the magnitude of the difference suggests that informal *ad hoc* screening is occurring at the district court level.

where further training or legal assistance is needed by the police.

Furthermore, given the introduction of structured sentencing, it is even more important that the prosecutor review cases and file charges prior to their submission to the court. At the very least, felony cases should be screened prior to filing since there may be a significant delay in some cases before indictment during which the defendant may be incarcerated. Such pre-indictment incarceration in cases which may later be dismissed needs to be discouraged, if not on humanitarian grounds, at least as a step toward avoiding overcrowding in the local lockups.

We suggest that the Conference of District Attorneys consider this matter with the supreme court so that a joint strategy could be developed that would satisfy the objectives of all parties. There are many persuasive arguments that can be made in favor of legislation to alleviate this problem, not the least of which is that pre-filing screening is the norm in the overwhelming number of states in the country.

3. Evidence suggests that a large proportion of felony cases could be disposed earlier in the adjudication process if changes were made in procedures involving district court. The effect of this would reduce court delay, increase the availability of trials and decrease jail overcrowding and pretrial detention costs.

Experienced prosecutors are able to predict with reasonable accuracy which cases will plead guilty, which are likely to be dismissed and which will consume scarce trial time. Integrating this knowledge into the calendaring process is an essential step in improving the efficiency of the

criminal court process. This premise guides almost all present day court delay reduction programs, including specifically, programs for differentiated case management (DCM), expedited drug case management (EDCM) courts, and the newly formed drug courts⁹.

The most successful programs "front end" the system. To do this, prosecutors take advantage of the district court's preliminary hearing for probable cause and the pre-indictment stage to dispose of those cases that will plead guilty "early" or are likely to be dismissed or given deferred prosecution. Probable cause hearings are used to dispose of felony cases that plead to misdemeanors and to dismiss those cases that are not legally sufficient. During the period between probable cause and before grand jury indictment or arraignment, pre-trial conferences produce negotiated pleas to felonies which waive indictment and plead at felony arraignments¹⁰. The net effect is to leave only a small proportion of cases for superior court trials. This rational approach to case management frees up valuable trial time at the superior court level, and reduces pretrial detention times.

The first evidence of these benefits is currently emerging from the Fayetteville demonstration. Limited as the data are to date, the results are in agreement with those demonstrated in the Philadelphia EDCM program, for example, where average days to disposition decreased from 163

⁹See the citations for Vol. 17 No. 1 in *The Justice System Journal*.

¹⁰Some jurisdictions cross-designate district court judges as superior court judges so they can take felony pleas at district court hearings, especially probable cause hearings.

days in 1988 (prior to the program) to 120 days in 1990 (a year after the program started). Similarly, the average days from indictment to sentencing for pretrial detention cases decreased from 210 days to 140. Since eleven district attorney's offices reported that jail overcrowding is a serious problem, we need to recognize that efficiencies in the adjudication system have a direct bearing on jail costs and jail beds.

For North Carolina to introduce these types of efficiencies would require a number of policy and procedural changes. First, of course, is the introduction of screening as discussed previously. Then, the preliminary hearing would need to be reinstated as the primary vehicle for determining probable cause while the use of the grand jury for indictments would diminish. This would be a major change in prosecution procedures since the survey indicates that presently only about 12.5 percent of felony cases are disposed at probable cause hearings by a plea to a misdemeanor.

In a special study of felonies reduced to misdemeanors at probable cause court in Forsyth County for a six month period in 1995, District Attorney Tom Keith reported that 35.5 percent of preliminary calendar cases were reduced to misdemeanors and 30 percent of felony drug charges were reduced to misdemeanors.¹¹

In order to negotiate dispositions early on, the use of pretrial conferences is essential but this implies that an open file policy with defense counsel exists. Presently, 22 district attorneys reported that they had an informal, open file discovery policy but

only 10 offices begin it in district court (where it can be most effective).

Finally, the district attorneys would have to establish more formal policies for plea bargaining, dismissals and cut-off dates after which reduced pleas are not accepted. At the present time most plea policies are either at the discretion of the ADA or are determined by type of case. Only six district attorneys had cut-off dates for plea offers, and only one had a policy prohibiting the acceptance of a plea to a reduced charge on the day of trial. A clearly stated policy would have to be established by each of the district attorneys in conjunction with the court that would be consistent with their priorities and the expectations of the communities they represent.

These changes are possible because they are largely under the control of the district attorneys. After initial start-up costs are provided (much like those encountered in Fayetteville), the system should become almost self-supporting because attorney and court resources are shifted to the front end of the system to process the early disposition work, thereby reducing work in superior court.

The Conference of District Attorneys could test a variety of changes on an experimental basis, and evaluate them for their effectiveness and transferability.

CONCLUSION: THE DISTRICT ATTORNEYS COMMENT

As part of the survey the district attorneys were asked to identify the three major problems confronting them and to make three recommended solutions. It seems appropriate that we conclude

¹¹ Letter and materials to Joan Jacoby dated January 4, 1996 from District Attorney Tom Keith.

this section with their voices and their recommendations¹²

With respect to personnel resources:

I would like to be better situated to recognize and to reward excellence on the part of employees.

DA discretion for support staff salaries within a budget similar to ADA salary allotment would be advantageous.

We desperately need another ADA in order to provide court coverage and trial preparation time at appropriate levels. We will benefit enormously from the development of two-staffed satellite offices at opposite ends of this multi-county district. Further a third victim-witness coordinator is a must.

Allocate money for positions. We have to hire per diem attorneys during superior court to cover courts and our assistants work a lot on weekends and late at night to get cases and victims and witnesses ready for court. If there was another assistant, it would free the ADAs up during the day to work on their cases prior to superior court. The legal assistant has to help with victim witness duties when we have more than one session of superior court. That means that other support staff has to cover the DCI and support staff during these times. It causes a lot of stress.

Permanent funding for two temporary positions which have been in this office since 1989 (i.e. ADA and legal assistant)

Severely limited opportunities for advanced training for prosecutors. Need more money.

Regarding the allocation of resources:

We need to make our case to the legislature that crime is overpowering our ability to deal with it. District attorneys need help and the entire system needs expansion to cope. We need to put a cost factor to the problem, to show that expanding resources would be an investment that would save money in the long run.

ADA allocation formula needs to be changed to give more weight to case filings and multiple court locations within a district.

Allocate at least one victim/witness assistant coordinator per county.

Legal assistant and victim witness assistant positions should be assigned at a rate of a minimum of 1 per county in multi-county districts.

Regarding efficiency:

We need to put into place more systematic, more efficient communication with the public and law enforcement.

Provide better education for law enforcement.

Increased emphasis in law enforcement training on the importance of accurate and timely case reports to DA. Also a unified (statewide) case reporting format with mandatory copies to DA.

Develop a review system to review all felonies before going to district court. Charges are occasionally wrong and there is insufficient evidence.

More stringent requirement for magistrates or screening ADAs and police investigation prior to issuance of any warrant.

¹² Some minor editing of the responses has been made.

Warrants should become indictments to cut down on typing. One process should be issued for one incident with a separate paragraph for each charge.

More resources for screening. Take infractions out of criminal court. Felony pleas in District Court. Non jury felony trials. Smaller jury panels.

We need legislation or court rules that mandate deadlines for filing motions, entering guilty pleas and setting trial dates. Someone in the legislature or court system needs to define what "justice" means. To most citizens, it is a speedy trial. If so, pass a law saying all defendants will be tried within some limit (120 days for example). Then hold all parties; District Attorneys, judges, defense attorneys accountable to that limit. We need to set a goal then accomplish it. We can set a cost factor to achieving that speedy trial (or any other) goal. Like structured sentencing, which linked cost to length of prison stay and prison beds, we can tell the public it would take so many million dollars to try cases within 120 days, so many millions to raise our trial rate (and limit plea bargains) and so forth.

District court judges should be allowed to take negotiated pleas.

Since creation of an administrative court must be agreed to by the Clerk's office, the District Attorney's office, and the District Court judges, as well as the law enforcement agencies, it is impossible for the District Attorney's office to unilaterally institute such a court. However, at this time, it is the only time conceivable to attempt to control and reduce the number of misdemeanor appeals which are clogging up the Criminal Superior Court without building new courtrooms,

using the services of additional Superior Court judges, and hiring a vast number of additional assistant district attorneys and non-lawyer staff for the District Attorney's office.

Repeal structured sentencing.

The public will have to buy into the fact that community service is punishment.

With respect to automation:

Full implementation of CMS system and in-depth training to maximize use.

Although the equipment has been installed and the software available, we still do not have access to the case management program developed by AOC for DAs. We still do not know if the program can be used by our office and tied into the Case Management Program developed in this district by the senior resident judges and the district attorney in which entries are made in the court room.

The solutions to increasing our computer capabilities and coordinating the efforts of state, local and federal criminal justice information systems cannot possibly be summarized or even identified in fewer than two volumes of small print. However, some of the parts of the solutions would be the following:

- a more ambitious approach toward designing and implementing information systems on the part of the Administrative Office of the Courts
- realization on the part of AOC that, even though uniformity is desirable in some areas, "one size doesn't fit all" when it come to the information systems needs of 100 counties
- change in focus on the part of AOC from merely record-keeping to providing timely, accurate management information

- coordination between AOC and local government to meet the needs of this office
- enhanced office automation and case management abilities
- ability of our office to obtain accurate and up-to-date criminal history from a single information system since a moderately reliable record check currently requires inquiry into four systems followed by a non-automated comparison and consolidation of those four histories into a single history.

With respect to equipment:

A capital outlay budget within the discretion of the DA would allow a district to prioritize equipment needs.

Adequate funding for computer equipment and software.

Equipment to update office, i.e. personal computer for support staff and ADAs so as to eliminate as much manual work and afford a way to manage all files and be able to access information from one location.

Although we have been fortunate in being granted equipment for the start up of our district, we are still lacking AOC terminals for easy access to court information. We have only an outdated Radio Shack computer in one office which does not have software compatibility with the PC in our other office. We have been denied a fax machine which would be of great help in the transfer of information from office to office.

Equipment needs - Fax machine located in DA's office for easy accessibility and use before and after normal working hours.

Copy machine - copier that is capable of producing volume of copies required for discovery.

Personal computers - every ADA and support staff member needs a PC located at his/her desk or work station. Each PC needs to be on the existing network or LAN with access availability to the CIS system.

Laptop or PC with network wiring to be available in the courtroom for case management purposes.

Printers to accommodate each 5 PC's.

Provide voice mail, fax machines, ELMOs, TV/VCR units, overhead projectors, pagers, copiers, better software.

I'll be glad to continue to supply PCs, phones, answering machines, beepers, business cards, furniture, etc., or get same.

Regarding space:

Space would be a must if more equipment made available.

Additional courts could be feasible plan if more personnel were made available.

Need an office suite wherein the office is not separated and one receptionist can greet all incoming visitors and (answer) phone calls.

The counties, which are obligated to provide office space must be willing to bear the expense of expanding their court facilities. North Carolina lags far behind the other states in its expenditures for prosecutor's office and must double or triple its number of prosecutors and judges especially if we DAs lose out calendaring power since we then would not have as much pressure or incentive to move cases through negotiated pleas.

SECTION 3. ALLOCATING PROSECUTION PERSONNEL IN NORTH CAROLINA, 1985-1995

INTRODUCTION

A common complaint leveled by prosecutors in North Carolina is that historically they have been underfunded and understaffed. These complaints are difficult to verify because objective standards by which one can judge them do not exist. Evidence that the complaints are warranted typically focus on the presence of one or several indicators that point to inadequate resources.

One technique often used is to compare the size of one office (usually attorney size) to other offices using indicators that are common to all jurisdictions such as population, expenditures on criminal justice, crime rates and arrests, and caseloads. Although these comparisons are interesting because comparisons show relative rankings among states or jurisdiction, they are limited in their ability to prove underfunding or understaffing because they assume that the delivery of prosecution services is uniform among states and jurisdictions. This is rarely a valid assumption.

We noted in the previous section that a wide array of factors affect prosecution, and the absence or presence of these and others may create entirely different criminal justice environments. Further since there is no norm against which offices can be judged, it is difficult to know where a state or jurisdiction *should* be ranked. As a result, most ranks are based on an average or, more likely, a median, the point at

which one half are above and one half are below some number.

Our task was not to compare North Carolina with other states or jurisdictions, but to identify what resources are needed in North Carolina to deliver prosecution services efficiently and effectively. The approach we took stays within North Carolina and its criminal justice environment because we can identify major changes that might affect prosecution such as increases in certain types of crime or major legislation. We examined what has happened to prosecution over time. If prosecution is underfunded and understaffed, then over time we would expect to find that::

- ☐ Expenditures for prosecution are declining relative to other parts of the Judicial Department or the state; or
- ☐ Expenditures have not kept up with changes in population, crime, arrests or caseload.

If these events have not occurred, then we must look elsewhere for indicators of inadequate resources.

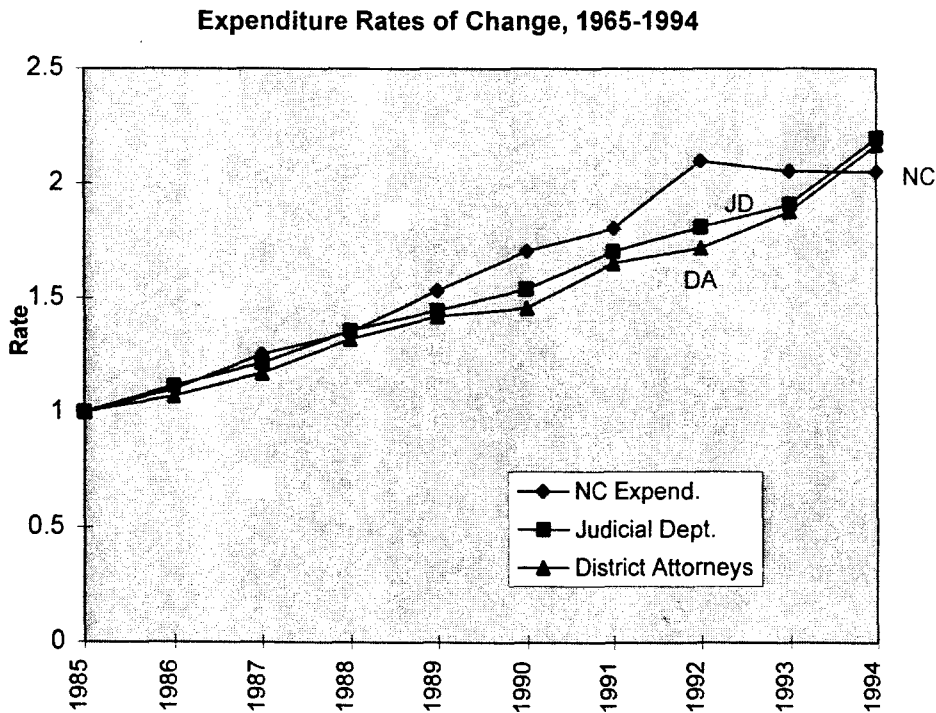
We started our examination with 1985 and tracked changes over a ten year period to see if we could find evidence of underfunding or understaffing.¹ We found that funding (as

¹ Even though 1985 is used as the base year for this trend analysis, its selection does not imply anything

measured by expenditures) generally has kept up with changes in population and crime. Despite this, district attorneys have lost substantial ground in terms of real dollar, purchasing power and increases in felony caseload. The result is that the state faces a major task just to restore prosecution to the level of service it once provided in 1985.

We examine this question by making two comparisons. We look at the expenditures for the state as a whole, the Judicial Department and the district attorneys to see if they change in the same relationship (increasing or decreasing). We also look at crime and population to see if they have changed in ways different from district attorney expenditures.

Figure 3.1



The following sections identify the questions that we explored and present our findings.

Q. HAVE THE DISTRICT ATTORNEYS BEEN UNDERFUNDED?

about the adequacy of funding or staffing for prosecution services in 1985.

A. DAs are not substantially underfunded in relation to state and judicial expenditures.

Figure 3.1 shows the *rates of change* in expenditures for the state, the Judicial Department, and the district attorneys. The year 1985 was set equal to 100 (or 1.0) for each of the expenditure series and the graph shows how each one changed annually. For example, in

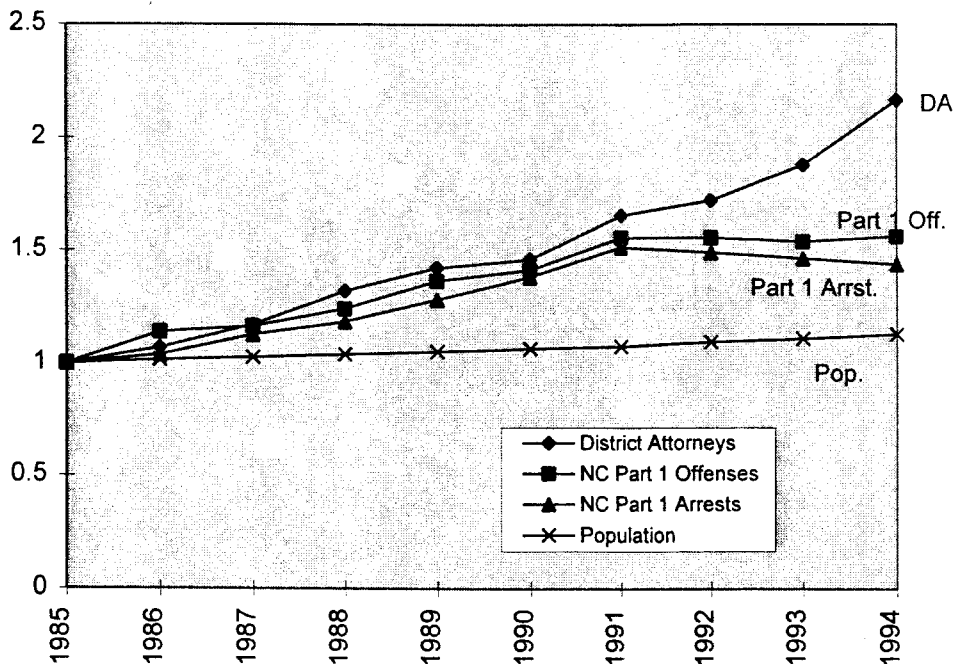
1985, the total expenditures in North Carolina were \$7.5 billion; for the Judicial Department, they were \$122 million; and for the district attorneys, \$14.6 million. (see Appendix B for data). In 1986, these expenditures increased 10 percent for the state, 11 percent for the Judicial Department and 7 percent for the district attorneys. By 1995, the expenditures had more

Since it does not appear that the district attorneys have been substantially underfunded relative to all spending in the state or for the Judicial Department, then we need to test whether funding has kept up with workload indicators such as population, crime and arrests.

A. DAs are not underfunded in relation to

Figure 3.2

Rates of Change in Crime, Population, and DA Expenditures, 1985-1994



than doubled. State expenditures were 123% more than those in 1985, the Judicial Department expenditures had increased by 120 percent and the district attorneys saw a 116 percent increase.

As the graph illustrates, there is a fairly high correlation between the expenditures for all three components with the district attorneys receiving slightly smaller increases.

changes in population, crime and arrests.

It is an accepted fact that crime increases as population grows. If population centers grow significantly, then we can expect to find significant increases in crime. There is also a direct relationship between offenses and arrests. If, for example, offenses and arrests increased substantially, then we would expect to find a comparable increase in prosecution resources

These responses to the additional workload should also be reflected by increases in expenditures for prosecution.

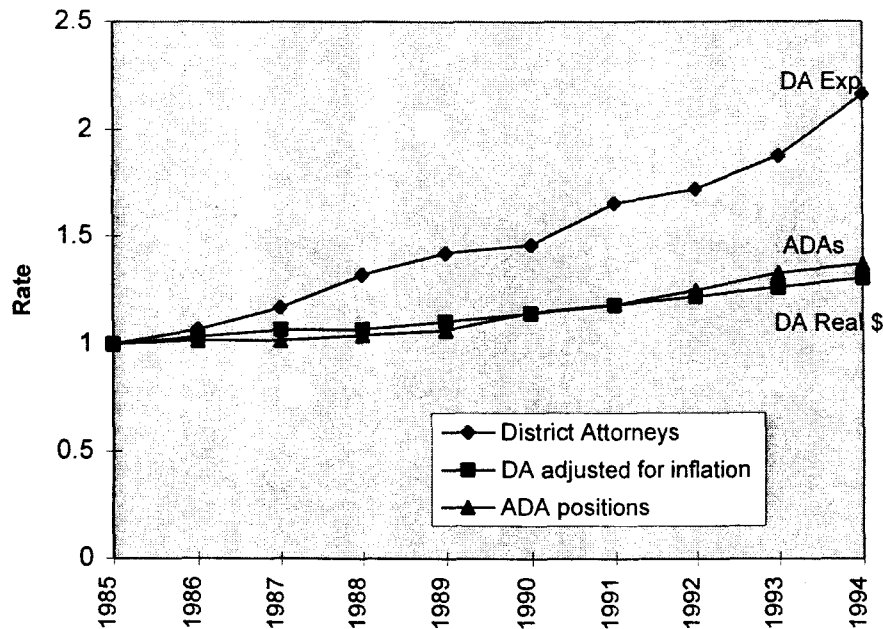
Figure 3.2 shows three separate trends.

1. Expenditures for prosecution have, since 1991, grown faster than crime, arrests or population.

The population trend line shows that there is a relationship between it and crime, but population increases at a slower rate and, thus, is not as good a predictor of changes in the crime rate and ultimately, the work of the criminal justice system. Note, for example, that the peak year for offenses and arrests in 1991 is not reflected in the population trendline.

Figure 3.3

Rates of Change for Nominal and Real Dollar Expenditures for District Attorneys and ADA Positions, 1985-1994



2. The rates of change for Part 1 offenses and arrests are parallel, namely they track each other (as they should). They also show that there has been a leveling off and even a slight decrease in crime since 1992.

3. Population has the lowest rate of increase over time with the gap between population and crime widening until 1991. The divergence stems, in part, from the fact that crime is more related to population density than population alone.

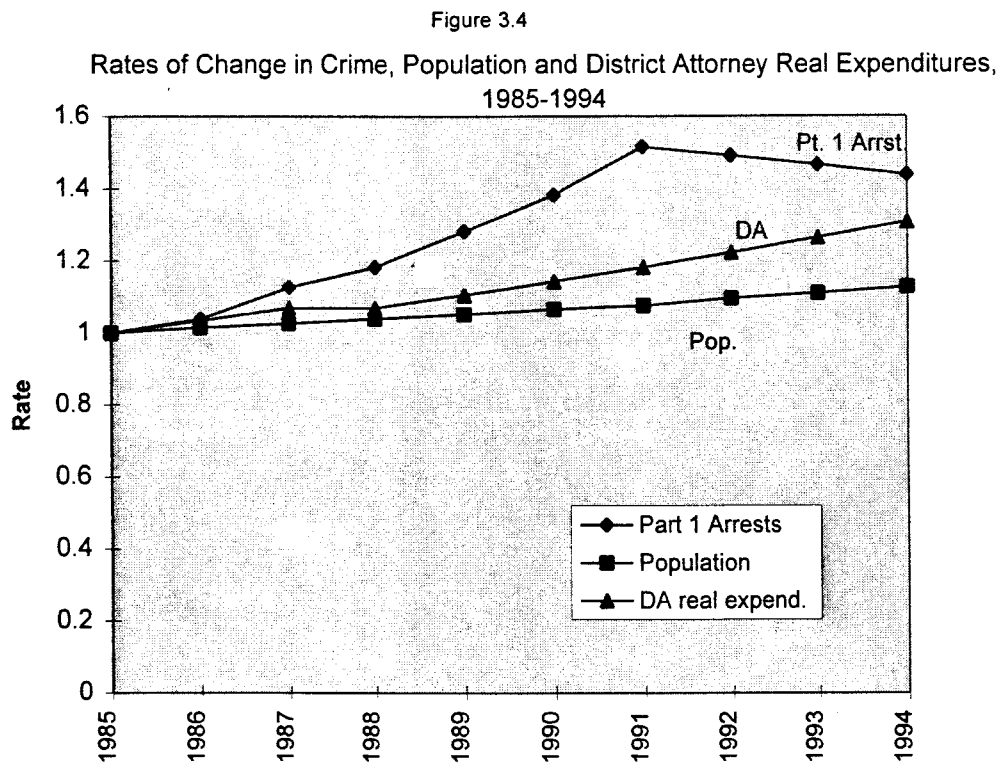
In summary, district attorneys have not been substantially underfunded relative to all expenditures or those for the Judicial Department. Nor have they suffered a disproportionate loss of funding relative to population growth, or increases in serious crime and arrests.

Q. THEN WHY DO THE DISTRICT ATTORNEYS FEEL PAIN?

When these findings were first presented, one of the district attorneys said, "I feel like I have just eaten a full meal, so why am I still hungry"? Why if these trends show that we have not been substantially underfunded, do I still feel pain? There are two explanations.

in 1985 to \$19.1 million. As Figure 3.3 shows, the number of ADA positions also show little increase because of inflation.

If we compare the real dollar expenditures for prosecution to crime and population trends instead of the expenditures (Figure 3.4), we gain insight into the impact of inflation on prosecution resources. Real purchasing power has not kept



A. Increases in expenditures and ADA positions have not kept pace with inflation.

Although expenditures have more than doubled since 1985, going from \$14.6 million to \$31.6 million (or 5.6% annually), the increases have not kept pace with inflation. The real purchasing power of the district attorneys has risen only slightly (1.9 percent annually), from \$14.6 million

pace with crime. In real dollars, the district attorneys are underfunded in relation to crime.

A. There has been a substantial increase in felony filings in superior court.

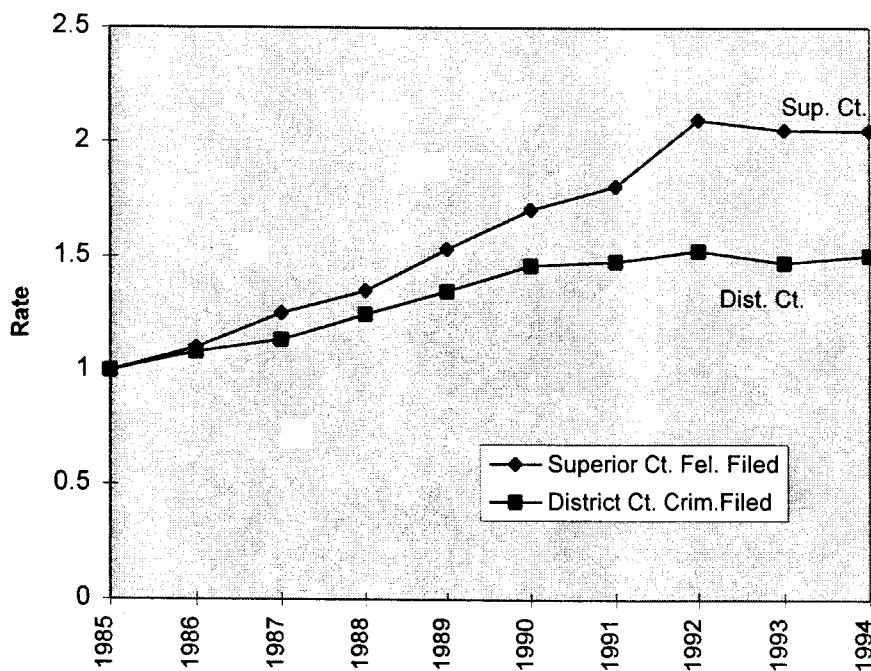
Felony cases consume the largest amount of attorney resources compared to all other cases and felonies involving violent crimes consume the most.

Since 1985 there has been a substantial increase in felony filings which consumes a larger proportion of the DA's total criminal caseload. In 1985, 40,915 felony cases were filed in superior court. By 1995, this number had more than doubled to 83,823. In contrast, the

case filings² increased by 8 percent. Ten years later, by 1995, the gap had widened significantly: felony cases had increased 105 percent over 1985, while district court criminal case filings (which includes felony filings) had increased only 51 percent.

Figure 3.5

Rates of Change, Superior Court and District Court Filings, 1985-1994



number of non-motor vehicle criminal cases filed in district court only increased by about 50 percent, from 412,534 in 1985 to 620,977 in 1995.

If we look at the rates of change since 1985, (Figure 3.5) we see that only one year later, in 1986, felony cases filed in superior court increased 10 percent and district court criminal

One explanation for the disproportional increase in superior court felony filings could be that the percent of felony cases coming into district court had increased. But this is not so. Examining the felony share of district court cases, we found that in 1995, it had increased by 36 percent over the

²District court criminal case filings include both felony and misdemeanor cases.

base year. So felony filings were actually increasing at a slower rate than all district court criminal case filings (36 percent as compared to 51 percent) and, therefore, could not account for the doubling of felony filings in superior court.

Other explanations are that the increase is due to either (1) the imposition of more felony charges per defendant; or, (2) an increase in the *seriousness* of felony cases which would move more cases into superior court rather than having them disposed in district court.

We know from AOC data that in 1994, the number of charges (cases) per defendant varied widely among the district attorneys (from a low of 1.73 to a high of 3.55). The state's average was 2.59. Unfortunately, a time series for this data is not available because the court case management system is not defendant-based. Nevertheless, if the increase is due to changes in filing practices³, this would mean that the district attorneys in 1985 filed charges at an average rate of 1.5 per defendant. Since no data exist to either support or reject this explanation, we believe, based on our experience over time and in other jurisdictions, that the 2.6 estimate is more plausible and that the filing practices of the district attorneys have not varied enough over time to account for this increase in felony filings.

It appears more likely that the increase in felony filings in superior court is due in large measure to changes in the seriousness of felony cases that move them into superior court for adjudication. This could be due to a number of factors not the least of which include society's demand for

harsher treatment of wrong-doers; an increase in the sanctions like mandatory minimums and the implementation of career criminal statutes; the high influx of drug cases that peaked in 1991 and 1992; the increasing violence involved in criminal offenses, and the increasing complexity of the law.

Thus, the district attorneys are feeling the effects of a major increase in felony cases moving into superior court which requires more resources. Yet, their ability to purchase these resources in terms of real dollars has been restricted.

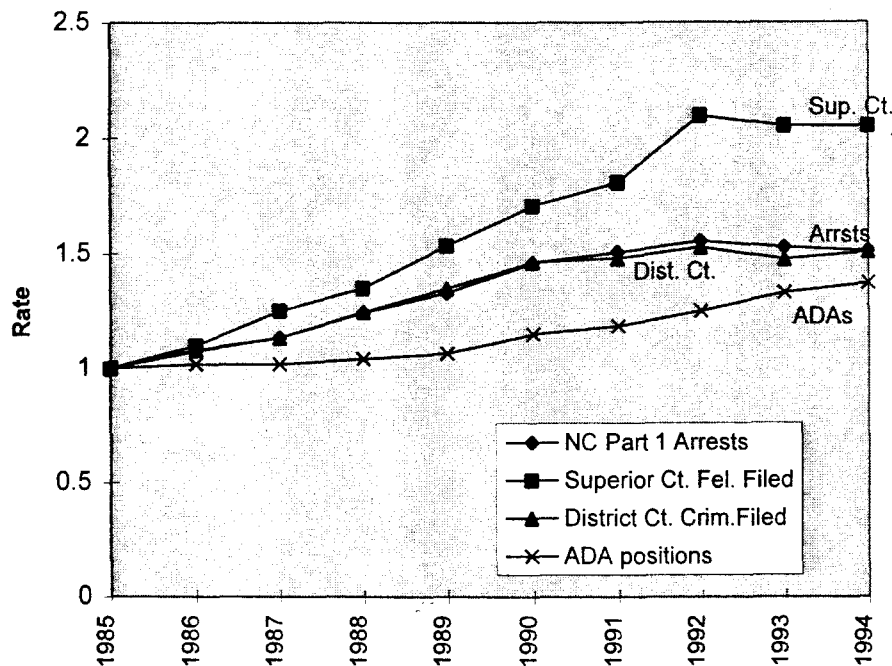
Q. CAN THE INCREASE IN FELONY CASE FILINGS BE OBSERVED IN FBI UNIFORM CRIME REPORT (UCR) STATISTICS?

A fundamental principle for developing performance and workload measures in the criminal justice system is that the agency being assessed should not be able to manipulate the measures used to assess it.

For example, law enforcement's use of "cases cleared by arrest" to measure its apprehension activities may be suspect because it can be controlled by the law enforcement agency. A far better indicator of police performance relative to apprehensions are measures that reflect the number of cases accepted by the prosecutor, those declined for prosecution because the evidence was insufficient, and the number sent back to the police for further information or investigation. The decisions by the closest independent recipient of an agency's output offer more reliable indicators of the quality of the agency's work. Thus, the prosecutor is a better

³ Filing statistics were adjusted to reflect the 36 percent increase in felony filings in district court.

Figure 3.6

Rates of Change in Arrests, Case Filings and ADA Positions, 1985-1994

judge of the quality of police investigations and arrests than the police.

In like manner, estimates of the district attorney's work, ideally, should be provided from sources outside the district attorney's control. These include the agencies that provide the office with its workload; the results of adjudication; and sometimes the sanctions imposed⁴. The number of defendants arrested is the starting point for criminal cases. The question of interest here is whether the statistics reported by law enforcement to the SBI and FBI are sensitive enough to project changes in workload.

It is not possible to translate UCR statistics into court statistics in North Carolina for two primary reasons. First, included in the UCR Part 1 offenses are some that are statutorily defined as misdemeanors (e.g. some assaults, larcenies and breaking and enterings). Also, statistics about UCR arrests are defendant-based and defined according to the most serious charge, while felony cases in the courts are charge-based. Despite the inability to account for differences in the statistics, we can still look for similar patterns of change to see if the patterns of law enforcement activity are mirrored by the courts.

⁴ This is not especially relevant to North Carolina because of structured sentencing and the lack of pre-warrant screening by the prosecutor.

A. Part 1 UCR offense and arrest statistics are closely related to changes in the work of the district courts but they do not reflect changes in work in superior court.

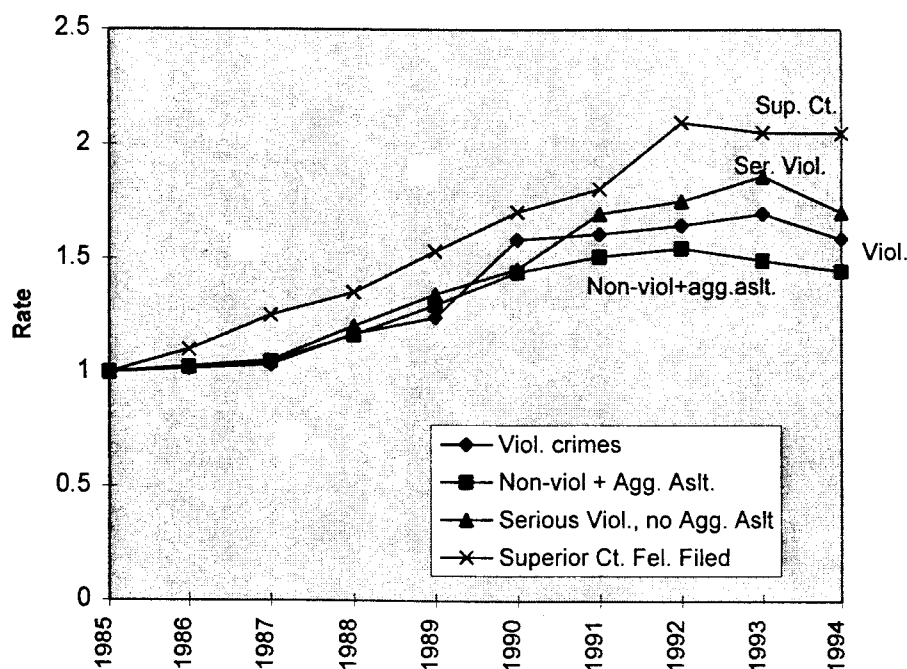
Figure 3.6 shows that the rates of changes in Part 1 offenses and arrests are mirrored quite well in district court filings. In other words, changes in crime and law enforcement activities

A. Changes in felony workload are sensitive to changes in adult arrests for Part I violent crimes.

Figure 3.7 shows that adult arrests for serious violent crimes (murder, kidnapping, sexual assault and robbery) come the closest to reflecting superior court felony filings. In fact, it appears that changes in these arrests may anticipate superior court filings by a year.

Figure 3.7

Rates of Change for Adult Arrests and Superior Court Filings, 1985-1994



are not that much different from changes in the district court. This close relationship implies that SBI/FBI, UCR statistics for Part 1 arrests can be used in statistical models to project district court workload.

Q. WHAT HAS THE TREND ANALYSIS SHOWN WITH REGARD TO ESTIMATING PROSECUTOR RESOURCE REQUIREMENTS?

1. Population is a weak indicator of the prosecutor's workload because it moves too slowly to reflect changes in the volume and type of crime and its seriousness all of which affect prosecution services. (See figure 3.1 which shows the slowly increasing trend line for population).

2. Felony filings are good indicators of prosecution workload because they consume the most resources in the office. However, they are reliable indicators only if they are defendant-based. Charge-based filings are too easy to manipulate by district attorneys, and as a result, introduce more variation and complexity into resource allocation studies.

3. The prosecution of felony violent crimes is the most resource-demanding work in the district attorney's office. Changes in their volume may serve as an indicator for projecting resource requirements.

4. Arrests (adult and juveniles) for Part 1 crimes may be used to project changes in the workload of the district court.

5. Arrests of adults for violent Part 1 offenses adjusted for aggravated assaults and serious violent offenses (murder, rape, robbery and kidnapping) may serve as a proxy for felony violent caseload if court case counts are not defendant-based.

Q. HOW DO THESE FINDINGS RELATE TO THE PRESENT FORMULA FOR RANKING DISTRICT ATTORNEY OFFICES BY NEED?

The derivation of the present formula for distributing new positions has been described in the Introduction. Based on the analysis of the changes that have occurred in North Carolina over the past ten years, we can assess how well the present formula reflects the work in the criminal justice system and the resource requirements of the district attorneys.

A. The present formula gives too much weight to population and not enough to the more changeable felony caseload; therefore, it underestimates the workload requirements of the district attorneys.

The factors used to estimate the need for attorney resources can be divided into two

groups, those that reflect population characteristics and those that reflect workload. The percents assigned indicate their relative contribution to the ranking process.

The fact that the population-based factors contribute so heavily to the total formula (45.5 percent) dampens its responsiveness to changes in felony workload which as we have seen may be much faster moving and more resource demanding (see Figure 3.2). Although population is correlated with crime, it is not the factor that should be used to reflect prosecution workload requirements.

In summary:

1. Crime statistics and criminal caseload are better indicators for projecting resource requirements than population because they reflect the input into the adjudication system and its work.

| <u>Factors and Weights</u> | | | |
|----------------------------|------|-----------------------|------|
| <u>Population-based</u> | | <u>Caseload-based</u> | |
| District population | 19.6 | Felony caseload | 32.7 |
| District court sites | 10.4 | Other caseload | 23.8 |
| Weeks sup. court | 15.5 | | |
| Total weight | 45.5 | | 56.5 |

2. The use of felony filings is appropriate because felonies are so work-intensive compared to misdemeanor cases that they consume the largest proportion of attorney time in the office.

3. Misdemeanors contribute high volume but require comparatively little attorney time per

case. Therefore, the use of UCR Part 1 arrests to project changes in district court workload is appropriate.

Q. WHAT ARE THE BASIC OBJECTIVES FOR DEVELOPING RESOURCE MODELS?

Before we answer this question, we need to clarify our use of the term, "model". A model is a statistical representation of some real-life occurrence. It is expressed as a mathematical function containing independent variables that contribute their share of importance to a projected outcome.

So, for example, we can think of the current allocation formula that ranks districts by their need for attorneys as a model. The ranking is the projected outcome and the independent variables include population, the number of district court sites, weeks of superior court, felony and other caseload, each weighted by some factor that indicates its importance.

This model was developed by consensus and the weights that are used represent the average of the DA's views. A statistical model can be developed using these same factors; however, the weights would probably be quite different because they would be based on statistical measures not consensus.

The term "model" does not mean that it is the best or that it is the only one to be emulated. We can develop a number of models, some will predict results better than others, some will be based on faulty assumptions and biases, others will test commonly-accepted theory. Some

models, may have little relevance to the problem under consideration.

For example, we have seen that population may be correlated with crime, but it is a poor indicator for projecting the resources needed by the district attorneys.

Thus, the task is to test many models and identify those that are more relevant to the task at hand and that relate to workload.

A. The objectives of the resource study are:

- 1. To determine how many attorneys are needed to deliver prosecution services in North Carolina.**
- 2. To determine how many attorneys should be in each district.**

There is an important difference between these two objectives. Finding models that project the number of attorneys needed in the state to deliver prosecution services is less controversial than developing models that will distribute the attorneys among the offices. At the state level, we look at totals and averages, e.g. the total number of ADAs, total felony filings, total UCR Part 1 arrests, etc. We do not concern ourselves with variations among the districts.

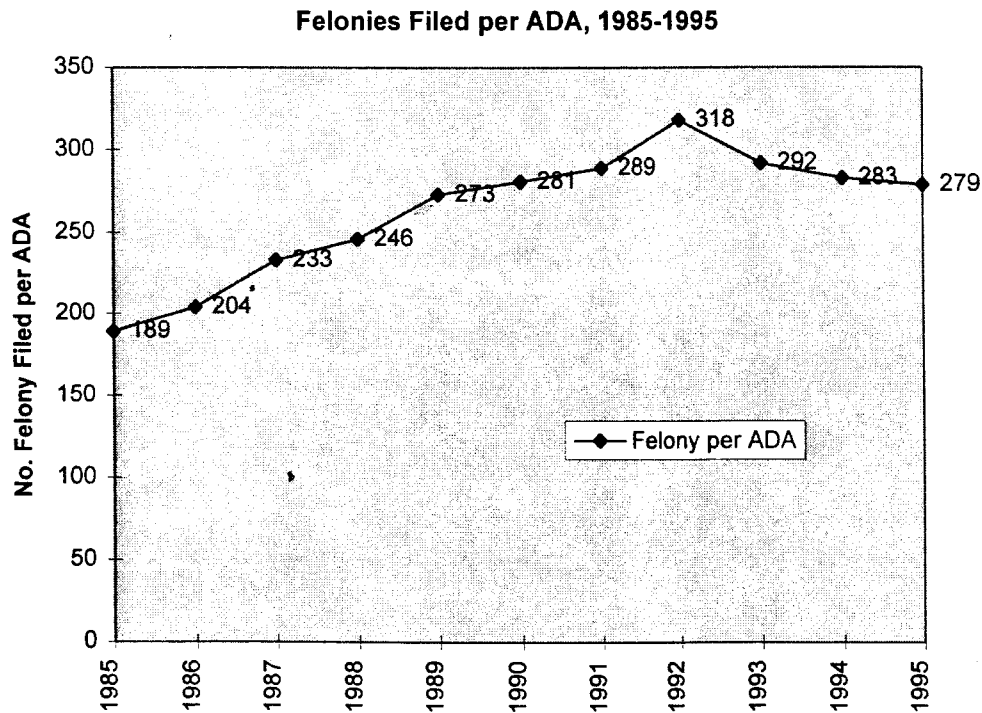
It is quite a different story when we attempt to build models that will distribute the attorneys among the districts. Now, the individual variations become important. Recognition has to be given to additional factors that influence workload in a district, especially those factors that are policy-driven. Policy-driven activities are those under the control of the prosecutor. They

affect the number of cases processed and how and where they are disposed. Policy determines priorities for pre-warrant screening, the use of deferred prosecution, dismissals, trial policies for misdemeanor appeals and, of course, plea bargaining.

Many of these policies make district attorneys more efficient. Therefore, it is important that the

absolute answer to such a question, we began by examining the relationship between past and current funding for prosecution. The underlying assumption is that in the absence of any explicit decision to reduce the level of service, the *same* level of service and resources available in 1985 should be available in 1995.

Figure 3.8



distribution model not reward inefficiency. This is a tall order when the task is to decide "who gets how many".

Q. HOW MANY ATTORNEYS ARE NEEDED TO DELIVER PROSECUTION SERVICES IN NORTH CAROLINA?

Recognizing that priorities for funding state programs can change and that there is never an

A. In 1995, there should be 415 ADA positions to restore workload to 1985 levels.

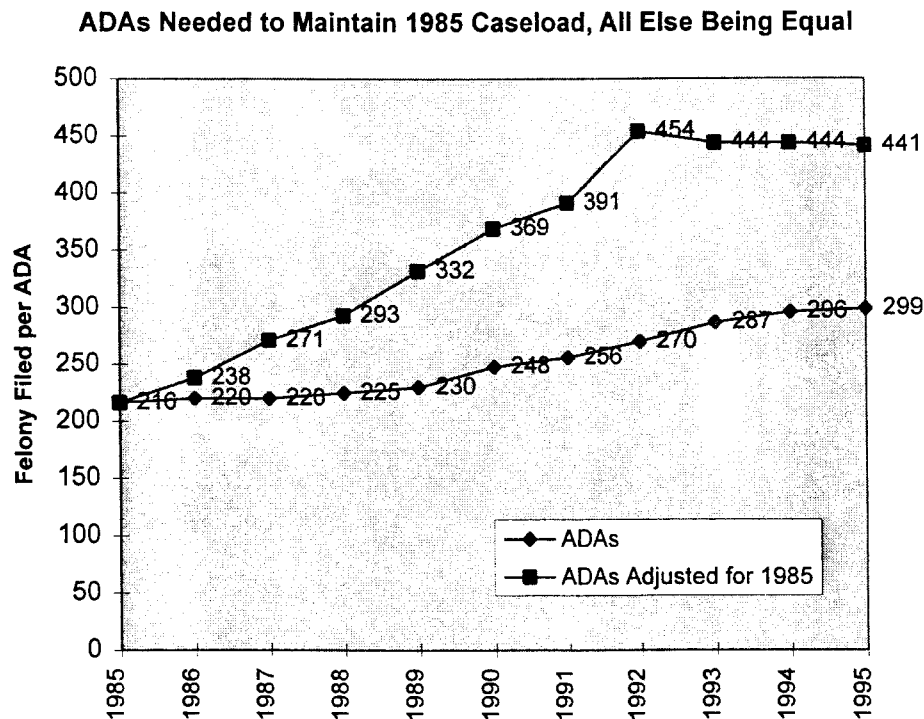
North Carolina has always had a tradition of doing more with less. (Each state makes its own choices as to how large the public sector should be and how much of the government's resources should be devoted to the criminal justice system.) That tradition, we assume existed in

1985 as much as it does in 1995. Therefore, we examined how the ADAs caseload has changed since 1985 and measured the extent to which the district attorneys have lost ground.

As we see from Figure 3.8, in 1985 there were 189 felonies filed for each assistant district attorney (ADA)⁵. This ratio increased steadily, spiked in 1992 to 318 felonies filed per ADA and dropped off to 279 in 1995 when it was still 1.5

From this data it is clear that the ability of prosecution to handle the caseload must have declined substantially over the past ten years in the absence of any major technological or legislative changes that mitigate the impact. In fact, technology has probably had less of an impact than it might have had, while legislative and judicial factors have probably had a negative impact.

Figure 3.9



times higher than 1985. This represents an annual increase of about 3.9% per year which you may recall is more than the 1.9 percent annual increase in real expenditures.

⁵ We use ADAs as the key measure not because DAs do not work but because there is always one DA in each district and no district is without at least one ADA.

Another way to view the decline in resources is to estimate how many prosecutors the state would have employed just to maintain the 1985 ratio of 189 felonies per ADA.

As Figure 3.9 indicates, the state would have had 441 ADAs not the 299 they currently have if they had just kept pace with the workload. It appears, at least from this evidence, that the

district attorneys' complaints about being overworked have merit.

Although the ratio of felony cases per ADA is useful for comparisons to show change at the state level, it is not a useful measure when differences among districts need to be accounted for. Regression analysis is more appropriate.

Based on a regression model of the number of felonies filed in the districts in 1985, we can project that in 1995, the state should be funding 415 ADA positions.

Q. WHAT MODEL BEST PROJECTS ATTORNEY RESOURCES IN THE FUTURE AND HOW SHOULD THEY BE DISTRIBUTED AMONG THE DISTRICTS?

A. The model that best meets these criteria is:

$$\begin{aligned} \text{Number of ADAs} = & \quad , \\ & .31 (\text{number of counties}) \\ & + .0047 (\text{Part 1 adult arrests minus violent} \\ & \quad \text{crimes plus aggravated assaults}) \\ & + .019 (\text{Part 1 adult arrests for violent} \\ & \quad \text{crimes minus aggravated assaults}). \end{aligned}$$

This model:

1. projects the statewide requirements for attorneys based upon their workload;
2. is responsive to changes so that the level of services can, at least, be maintained; and,
3. is simple to use.

The model bases the number of attorney positions on three factors that reflect very

different parts of the problem. The first factor, number of counties, takes into account the myriad of organizational, space, time, distance and judicial settings faced by multi-county districts⁶.

The second factor, Part 1 adult arrests for drugs, property crimes, other non-violent offenses and aggravated assaults reflects most of the felony caseload and work required in district court.

The final factor, Part 1 adult arrests for serious violent offenses, (i.e. homicide, kidnapping, sexual assault and robbery) provides weighting for the four most resource intensive crimes that are most likely to be processed in superior court.

The ratio of roughly four to one between the coefficients of factors two and three reflect independent estimates found in a national cost study. All three factors are independent of the prosecutors' internal policies and are not subject to manipulation or future changes in counting that may be introduced.

The coefficients are calculated to reproduce the 415 ADAs currently needed but can be scaled to reflect lower levels of funding. The first coefficient (.31 for each county), however, should be treated as a constant. As adult arrests increase or decrease in the future, the other two factors will cause the number of attorneys to vary.

As we noted earlier, there are other models that could be used. For example, we computed a model based solely on population and it showed

⁶ Office locations were also modelled but were found to add little to this simpler variant.

clearly that this factor is simply not sufficient to explain the changes in crime that have occurred. If we combine population with felonies (which is similar to the formula presently in use), we see that the model projects some gains over the present allotment but does not approach the levels that existed in 1985. We can also see the dampening effect of population when we compare it to the model that is based solely on felony filings.

In conclusion, the best model for statewide use utilizes workload factors that are correlated with felony case filings but cannot be manipulated by the district attorneys.

On the following page Table 3.1 compares the present distribution and allocation of ADA positions with those projected by the model.

Q. HOW SHOULD THE STATE ESTIMATE NON-ATTORNEY STAFF REQUIREMENTS?

Typically, the number of staff needed to support the administration and operations of prosecution are related to the number of attorneys. Non-attorney staff include administrative and clerical personnel, legal assistants, investigators and paraprofessionals including victim-witness coordinators, paralegals, and victim assistance counselors.

As the size of the office increases, the number and variety of these types of positions also increase. In small offices, with 3 to 5 ADAs,

some of the supporting activities are conducted by a single person. Thus in the small offices, the non-attorney staff tend to perform multiple functions rather than specializing in just one.

From the state's perspective, the issue is one of determining the number of non-attorney personnel needed to adequately deliver prosecution services.

Table 3.2

Comparison of Ratios of Non-Attorney to Attorney Staff, by Activity

| | <u>Average</u> | <u>Criminal</u> | <u>Felony</u> | <u>Misd.</u> | <u>Admin.</u> |
|------------|----------------|-----------------|---------------|--------------|---------------|
| Ventura | 2.7 | 1.3 | 1 | 1.9 | 0.8 |
| Marin | 1.6 | 1.6 | 1.2 | 2 | 1.5 |
| Pittsburgh | 1.1 | 1.1 | 1.2 | n/a | 0.3 |
| Kalamazoo | 0.8 | 0.7 | 1.1 | 0.3 | 1.5 |
| Alexandria | 0.5 | 0.6 | 0.5 | 1 | 1 |
| Charlotte | 0.5 | 0.4 | 0.4 | 0.2 | 1.35 |
| Average | 1.2 | 0.95 | 0.90 | 1.08 | 1.08 |
| Median | 0.95 | 0.90 | 1.00 | 1.10 | 1.17 |

A. Non-attorney staff requirements may be estimated as a 1 to 1 ratio to attorney staff.

Previous studies conducted by the Jefferson Institute indicate that the number of non-attorney staff can be expressed as a ratio to attorney staff. These studies also indicate that in large part, the ratio is about 1 staff per attorney. Table 3.2 compares the findings from the National Baseline Information study, Marin County, CA and Kalamazoo County, MI.

| Table 3.1 | | | | | |
|---|--------|-----------------|--------------|-------------------|------------|
| Distribution of 1995 ADA Allocations and Projected Distribution | | | | | |
| District | Suffix | No. Counties | 1995 ADAs | Projected ADAs | Difference |
| 1 | | 7 | 7 | 8 | 1 |
| 2 | | 5 | 4 | 7 | 3 |
| 3 | A | 1 | 6 | 7 | 1 |
| 3 | B | 3 | 6 | 9 | 3 |
| 4 | | 4 | 10 | 9 | -1 |
| 5 | | 2 | 9 | 14 | 5 |
| 6 | A | 1 | 3 | 6 | 3 |
| 6 | B | 3 | 3 | 4 | 1 |
| 7 | | 3 | 10 | 16 | 6 |
| 8 | | 3 | 8 | 11 | 3 |
| 9 | | 4 | 7 | 8 | 1 |
| 9 | A | 2 | 2 | 3 | 1 |
| 10 | | 1 | 19 | 23 | 4 |
| 11 | | 3 | 9 | 13 | 4 |
| 12 | | 1 | 12 | 11 | -1 |
| 13 | | 3 | 6 | 7 | 1 |
| 14 | | 1 | 9 | 14 | 5 |
| 15 | A | 1 | 6 | 7 | 1 |
| 15 | B | 2 | 5 | 6 | 1 |
| 16 | A | 2 | 3 | 5 | 2 |
| 16 | B | 1 | 7 | 9 | 2 |
| 17 | A | 1 | 4 | 5 | 1 |
| 17 | B | 2 | 4 | 3 | -1 |
| 18 | | 1 | 17 | 32 | 15 |
| 19 | A | 1 | 4 | 6 | 2 |
| 19 | B | 2 | 5 | 9 | 4 |
| 19 | C | 1 | 4 | 5 | 1 |
| 20 | | 5 | 11 | 17 | 6 |
| 21 | | 1 | 12 | 22 | 10 |
| 22 | | 4 | 11 | 14 | 3 |
| 23 | | 4 | 4 | 5 | 1 |
| 24 | | 5 | 3 | 2 | -1 |
| 25 | | 3 | 11 | 12 | 1 |
| 26 | | 1 | 23 | 40 | 17 |
| 27 | A | 1 | 8 | 16 | 8 |
| 27 | B | 2 | 5 | 7 | 2 |
| 28 | | 1 | 8 | 10 | 2 |
| 29 | | 5 | 8 | 9 | 1 |
| 30 | | 7 | 6 | 6 | 0 |
| Totals | | 100 | 299 | 415 | 116 |

| Table 3.3 | | | | |
|---|-------|-----------|------------|--------------------|
| Ratio of Non-Attorney Staff to ADAs, 1995 | | | | |
| District | Suff. | 1995 ADAs | Staff 1995 | Ratio Staff to ADA |
| 1 | | 7 | 8 | 1.14 |
| 2 | | 4 | 6 | 1.50 |
| 3 | A | 6 | 7 | 1.17 |
| 3 | B | 6 | 7 | 1.17 |
| 4 | | 10 | 11 | 1.10 |
| 5 | | 9 | 8 | 0.89 |
| 6 | A | 3 | 4 | 1.33 |
| 6 | B | 3 | 4 | 1.33 |
| 7 | | 10 | 10 | 1.00 |
| 8 | | 8 | 9 | 1.13 |
| 9 | | 7 | 7 | 1.00 |
| 9 | A | 2 | 3 | 1.50 |
| 10 | | 19 | 12 | 0.63 |
| 11 | | 9 | 7 | 0.78 |
| 12 | | 12 | 11 | 0.92 |
| 13 | | 6 | 7 | 1.17 |
| 14 | | 9 | 9 | 1.00 |
| 15 | A | 6 | 7 | 1.17 |
| 15 | B | 5 | 6 | 1.20 |
| 16 | A | 3 | 5 | 1.67 |
| 16 | B | 7 | 6 | 0.86 |
| 17 | A | 4 | 5 | 1.25 |
| 17 | B | 4 | 5 | 1.25 |
| 18 | | 17 | 12 | 0.71 |
| 19 | A | 4 | 4 | 1.00 |
| 19 | B | 5 | 5 | 1.00 |
| 19 | C | 4 | 4 | 1.00 |
| 20 | | 11 | 9 | 0.82 |
| 21 | | 12 | 9 | 0.75 |
| 22 | | 11 | 8 | 0.73 |
| 23 | | 4 | 5 | 1.25 |
| 24 | | 3 | 6 | 2.00 |
| 25 | | 11 | 8 | 0.73 |
| 26 | | 23 | 17 | 0.74 |
| 27 | A | 8 | 8 | 1.00 |
| 27 | B | 5 | 6 | 1.20 |
| 28 | | 8 | 9 | 1.13 |
| 29 | | 8 | 8 | 1.00 |
| 30 | | 6 | 8 | 1.33 |
| Total | | 299 | 290 | 0.97 |

Table 3.2 shows how the support staff is distributed in proportion to attorney staff within six jurisdictions by the type of function performed. As we can see, the differences in how staff are assigned to various functions (e.g. felony and misdemeanor operations) varies according to office policy, procedures and the volume of work. The average for each jurisdiction also varies by the expenditure levels for criminal justice which differ throughout the United States. California is comparatively higher than many other states. Virginia and North Carolina are lower. Because of the overall stability of the ratios, we recommend the use of a one to one ratio. This is almost the same ratio that is presently in use in North Carolina.

The 1995 staffing for the districts indicates that there are 299 state funded ADA positions and 290 non-attorney staff or a ratio of .97 support staff per attorney. This statewide ratio hides a large amount of variation within the districts. As Table 3.3 indicates, the ratio of support personnel to ADAs ranges from a low of .63 in District 10 (Wake County) to a high of 2 in District 24 which represents 5 counties⁷.

We caution, however, that the, as yet undetermined, impact of victims rights legislation is not a part of this estimate. As we mentioned previously, we are concerned about the scope of this impact and urge that it be monitored to determine whether it significantly increases the number of positions needed to support this new activity.

⁷ It should be noted, however, that in many districts, non-attorney support staff has been increased by the addition of personnel detailed from other agencies, funded by local government sources and/or grants.

**Q. HOW SHOULD THE POSITIONS BE ALLOCATED
AMONG THE DISTRICTS?**

Much like the attorney positions, presently there is wide variation in the present allocation of 290 support positions as indicated by the ratios of staff to attorneys in the districts. (Table 3.3)

A. The 1 to 1 ratio of staff to attorney should be based on the model that was recommended for attorney staff positions.

decline. However, just as the state has no control over the number of children that need to be educated, the district attorneys have no control over the crime rate. Further, there are limits as to how much work people can do. One option is for the legislature to act to reduce the workload by decriminalizing acts, declaring them to be infractions, or eliminating requirements for handling certain offenses such as bad checks. Another is to remove impediments to efficiency. In the absence of such remedies, resources should be made available as workload increases.

**Q. HOW MUCH WILL THE ADDITIONAL POSITIONS COST
AND CAN THE STATE AFFORD IT?**

It is one thing to provide answers to a problem, it is quite another to implement solutions. This is especially true in this case where the cost implications are enormous. Even if the state decided to fund the extra positions, there would be additional ancillary costs incurred not the least of which may involve additional courtrooms, added sessions, more judges, clerks, public defenders, and support staff.

A. The cost in 1995 is estimated at \$43.8 million. \$12.2 million more than presently expended.

The cost of adding ADA positions, based on the average expenditure per ADA in 1995 times the number of positions projected by the model, is estimated at \$43.8 million as compared to the 1995 expenditure of \$31.6 million.

There is no doubt that the citizens' representatives have the right to curtail programs, build fewer roads, and let services

SECTION 4. ASSESSING SPACE AND EQUIPMENT NEEDS

INTRODUCTION

The responsibility for providing space and equipment to support prosecution services is divided between the state and local governments. The state, through the Judicial Department, maintains a centralized fund for office supplies and materials against which district attorneys request draws. The state also provides moneys for repairs and maintenance of equipment not covered by contract; repairs for telecommunications equipment; rent of other equipment such as postage machines; rent of telecommunications equipment; equipment not provided by the county; data processing equipment and capital outlays for books¹

The counties are responsible for providing office space and furniture. Counties are partially reimbursed by the state for these expenditures through facilities fees which are distributed to the counties by the AOC from their collection of court costs and fees. Space for district attorney's offices is usually provided through the clerks of the court and typically reflect their policies and priorities. As we noted earlier in the discussion of factors affecting prosecution, this bifurcated system of support creates enormous variation among districts and reduces accountability for maintaining appropriate levels of support. Some counties have good working relations with the district attorneys and have sufficient funds to provide adequate space. Other counties provide

unacceptable levels of space making the delivery of prosecution services almost impossible.

In this section we examine the expenditures for supplies and materials provided by the state to district attorneys for the past five years as an indicator of the amount of equity in support received by the districts. We also discuss present space allocations and compare them to a generic model for prosecutor's office space. Finally, we assess the adequacy of the equipment needed to support prosecution services at modern day levels of efficiency.

The conclusions are: (1) due to low levels of appropriations, a bifurcated system of funding and the absence of district attorney budgetary control, there are extensive differences among offices with respect to space; (2) most offices operate with insufficient equipment and the tools needed to conduct their professional duties; and, (3) serious efforts should be made to, at least, bring all offices up to minimal standards for operation.

STATE EXPENDITURES FOR SUPPLIES AND MATERIALS

When the courts were unified in the mid eighties, the Judicial Department moved to a unified budgeting process -- one that considered the needs of all components of the judiciary, courts, prosecution and indigent defender services -- and made funding decisions based upon the overall priorities of the Judicial Department rather than the individual priorities of its components. Under some circumstances, as we will see, the decisions from this unified approach did not align with the priorities and need of the district attorneys.

¹The expenditure categories are identified as 2600, 3500, 3521, 4300, 4330, 5100, 5200 and 5600, respectively. Excluded are computer maintenance costs carried under another part of the Judicial Department's budget and not broken out for district attorneys.

In addition to viewing the budget process from a unified perspective, the Judicial Department develops budgets and makes funding decisions based on state aggregates. The use of aggregates reduces their flexibility in responding to special needs or requests of individual districts. This difficulty is counteracted, in part, by the existence of a reserve fund. Because budgeting is based on state aggregates and since

district attorneys annually since it includes, primarily, consumables and materials with a short life span. The other budget categories that expend funds on such items as furniture, communications equipment and repair contracts, were not useful for this analysis because there is no baseline which allows us to determine what equipment or furniture the districts had in 1990, or indeed, in any year.

Table 4.1

Expenditures for Supplies and Materials compared to Total District Attorney Expenditures
1990-1994

| <i>Expenditures</i> | <i>1990</i> | <i>1991</i> | <i>1992</i> | <i>1993</i> | <i>1994</i> |
|------------------------|-------------|-------------|-------------|-------------|-------------|
| District Attorneys | 21,284,007 | 24,131,983 | 25,095,431 | 27,394,149 | 31,568,952 |
| Supplies&Materials | 80,773 | 74,971 | 67,540 | 88,238 | 104,241 |
| Percent of Das Expend. | 0.4 | 0.3 | 0.3 | 0.3 | 0.3 |

individual budgets for district attorney's offices are not prepared or justified with respect to the delivery of prosecution services, one would expect to find some differences among the offices.

What we found was that the unified approach to budgeting worked against the district attorneys by creating wide differences in funding support and did not address the basic structural needs of the office. The result was confirmed by our site visits.

Some district attorneys operate in professional environments with modern equipment; others work under the most abysmal conditions that seriously affect their ability to perform their responsibilities.

To estimate the degree of equity in district funding, we examined the expenditure category of "supplies and materials" (2600 series). We selected this category because it should provide a stable indicator of the levels of operational support provided to the

From 1990 to 1994, the expenditures for supplies and materials comprised about .3 of a percent of the total expenditures for district attorneys (Table 4.1). Although this number is stable at the state level, it hides wide variations among the districts as indicated by expenditures per ADA².

We expected to find differences among the districts because economies of scale should allow larger offices to be more efficient (expending fewer dollars per ADA) than smaller offices. However, this does not appear to be the case. In 1994, the correlation between the number of ADAs in the office and the expenditure per ADA is very low (only .35). Thus, it appears that other factors contribute to the differences among the districts. The highest

²Since support staff are employed at a ratio of .97 to one ADA, the use of ADAs as the per capita measure does not substantially change the pattern of the distribution.

expenditure per ADA was recorded for District 2 which with 4 ADAs expended \$914 per ADA. In contrast, the lowest expenditure per ADA of \$148 was in District 22 with 11 ADAs. The largest office (District 26) expended \$336 per ADA. The average expenditure was \$351 and median expenditure was \$310.

There are a number of possible explanations for the differences among the districts that should be subjected to further study. It might be that some districts are simply more aggressive in requesting drawdowns than others; or that some districts are "stockpiling" supplies. To test these possible explanations we examined 1993 and 1994 requests and found that although the range of expenditures was narrower in 1993 with a high of \$576 instead of \$914; and a low of \$130 as compared to \$148 in 1994 the correlation between the two years was very high (.71). Seven out of the top ten spenders and the lowest ten spenders were the same for both years.

This finding tends to reject the stockpiling explanation and give more credence to differences in spending philosophies. It does not necessarily explain all the differences, particularly at the lowest expenditure levels. These very low per ADA expenditures (\$130 or \$148, for example), may reflect situations where supplies and materials are furnished by other local government agencies or the clerk's office. Finally, some of the differences may be explained by the effects of economies of scale.

| Table 4.2 | | | | |
|--|--------|-----------|----------------|--|
| Expenditures per ADA, Ranked by District, 1994 | | | | |
| District | Suffix | ADAs 1994 | Exp. per ADA94 | |
| 22 | | 11 | 148 | |
| 11 | | 9 | 165 | |
| 19 | A | 8 | 173 | |
| 9 | | 8 | 206 | |
| 23 | | 4 | 207 | |
| 21 | | 12 | 214 | |
| 29 | | 7 | 218 | |
| 25 | | 11 | 226 | |
| 10 | | 19 | 234 | |
| 5 | | 9 | 237 | |
| 24 | | 3 | 241 | |
| 17 | A | 5 | 244 | |
| 19 | B | 5 | 283 | |
| 16 | B | 7 | 291 | |
| 14 | | 9 | 293 | |
| 20 | | 11 | 308 | |
| 1 | | 7 | 314 | |
| 26 | | 23 | 336 | |
| 13 | | 6 | 359 | |
| 8 | | 8 | 374 | |
| 18 | | 17 | 385 | |
| 4 | | 10 | 387 | |
| 7 | | 10 | 394 | |
| 30 | | 6 | 395 | |
| 3 | A | 6 | 407 | |
| 15 | A | 6 | 429 | |
| 12 | | 12 | 470 | |
| 3 | B | 6 | 506 | |
| 15 | B | 5 | 525 | |
| 27 | A | 8 | 526 | |
| 6 | B | 3 | 540 | |
| 16 | A | 3 | 618 | |
| 6 | A | 3 | 636 | |
| 17 | B | 3 | 656 | |
| 27 | B | 5 | 659 | |
| 28 | | 8 | 760 | |
| 2 | | 4 | 914 | |

All offices need supplies and materials to operate. What cannot be easily determined because of the centralized system of disbursements is what the appropriate levels are or should be. During our on-site visits, we were shown pads of recycled note paper distributed to an office with printed matter on both sides, making them unusable.

We also heard typical complaints about delays in responding to requests, and the lack of choice in products. However, without clear standards or guidelines, the only conclusion that we can reach from this examination of the expenditure data is that the variation among districts appears to be abnormal compared to the statewide averages which hover around \$300 to \$350 per ADA. The existence of wide variations among the districts, in all likelihood, affects the delivery of prosecution services.

We believe that if the district attorney's offices are responsible for developing their own budgets, the levels of expenditures among districts will tend to become more stable and uniform. The availability of a centralized fund and a drawdown system reduce the district attorneys' accountability for running their offices at appropriately supported levels, and do not foster better planning or budget controls.

SPACE, EQUIPMENT AND PROFESSIONAL TOOLS

The office of the district attorney is a professional office. It employs attorneys who have completed 7 or more years of higher education, paralegals and legal assistants many of whom have received specialized training in the field of criminal justice and adjudication. The nature of the services provided by prosecutors defines certain minimal requirements for space, equipment and professional tools which are notably lacking in North Carolina.

We believe that there are the three major factors that help create the shortages noted.

1. The bifurcated funding process which assigns responsibility for providing space to local governments but limits the ability of the state to monitor and ensure the adequacy of the facilities.

2. The unified budgeting approach used by the Judicial Department which places the district attorneys in competition with other parts of the department for priorities in funding.

3. The low level of funds appropriated by the legislature which does not allow for a uniform and equitable distribution of equipment and professional tools needed by the professionals.

The working environment of the prosecutor depends on adequate space and equipment. Without minimum levels in these two areas, the taxpayers are funding inefficiency and receiving ineffective justice.

Space Requirements

The amount of space available for prosecution varies widely among the districts and even among DA offices within districts. Because space is provided by local governments (generally through the clerk of the court's office) the basic wealth of the county and relationships between county officials, the clerk of the court and the district attorney play a large role in defining the conditions within which prosecutors and their staff work.

As part of the resource analysis study, the study team visited 11 offices where they observed a wide diversity of working environments. In one district, for example, one room in the courthouse contained 4 desks butted together to form a large rectangle which consumed most of the available office. These desks

constituted the work space for four attorneys. There was no privacy for telephone conversations, no private space to interview witnesses or victims, no reception area, and needless to say, no security for either the employees in the office or the public that had occasion to visit it. In sharp contrast were other districts located in new courthouses. Here, the district attorneys were provided with all the necessities for conducting business.

The amount of space needed to conduct prosecutions should be defined in large part by the activities associated with prosecution. For example, since prosecutions depend on paper, for records, for notifications, for case preparation and for management, the need for files and filerooms (and computers) is unquestionable. Since prosecutions are based on evidence, both physical and testimonial, interview and meeting room, space is essential. By the very nature of their work, prosecutors make enemies. There is a need for controlled access and separate reception areas in their working environments.

To examine the range of variation in working environments, the district attorneys were asked to estimate the square footage of their office space at each location they manned³. Thirty districts provided information for 58 offices. The results of the analysis reported here indicates the amount of variation that exists among offices and suggests the hardships that confront many staff in some of these offices.

³The unit of analysis for space and equipment are offices or locations within a district that are staffed (not necessarily full-time). Staffed locations may not be equal to the number of counties in a district. For example, District 1 covers 7 counties but staffs only one location. District 18 includes 1 county with 2 locations.

Table 4.3

The generic district attorneys office has the following minimum space requirements:

Fixed Requirements = 650 square feet

- ☒ District Attorney office and private conference = 250 square feet (see Note)
- ☒ Reception and waiting room = 100
- ☒ File room including space for some office equipment such as copiers and fax machines = 150
- ☒ Conference/interview room = 150

Variable Requirements

- ☐ Number of Assistant District Attorneys times 150 square feet
- ☐ Number of non-attorney staff times 70 square feet

Note: In a multi-county jurisdiction, the home office gets 250 square feet for office and conference room plus the remaining 400 square feet, each branch office gets 400 square feet total and does not receive the 250 square feet for DA office.

A generic district attorney's office was constructed from previous studies of space requirements that reflected the work of prosecution. In 1978, the School of Design at North Carolina State University conducted a judicial facilities study for the AOC⁴. As part of that study, they recommended space requirements for various parts of the judicial system, including district attorneys, based on major prosecution functions. Other studies also addressed

⁴*One Hundred Courthouses: A Report on North Carolina Judicial Facilities*, School of Design, NC State University for the AOC supported by a grant from the Governor's Crime Commission, 1978.

the needs of professional offices⁵. We integrated the criteria and principles from both sources to develop a generic model of the minimum amount of space required by district attorneys to conduct their work.

The generic office anticipates that adjustments may be necessary to the space identified in the fixed requirements category. For example, locations with few staff (1-2 persons) may need less file room space than larger offices. However, there is *always* a requirement for an interview room external to the ADA's office space, and a waiting room. For security and privacy reasons, these spaces should not be commingled with the ADA's office space. From the survey, we note that only 42 percent of the district attorneys' 82 offices presently have meeting rooms. As the office grows in size and reaches about 10 ADAs, serious consideration should be given to increasing the number of interview rooms, the size of the file room, adding room for computers, printers and office equipment, and adding space for law libraries.

Using the generic model and the responses to the survey, we calculated the projected space requirements for the offices and compared them to the amount of space that was reported. We expected that some of the larger offices would have what appears to be surplus space because, based on our site visits, it was clear that, in many instances, the district attorneys were occupying space that was not designed for their special needs. Sometimes, they were in old courthouses with inefficient floor plans, in other instances they were located on two or more floors or even in separate locations. Our main concern is not with the offices having surplus space, but with the offices that do not meet the *minimal*

space requirements established by the generic office model. These are the offices that do not have working environments which support efficient or effective prosecution services.

Table 4.4 identifies locations within some districts ranked by the percent of over or under space requirements projected by the generic office model. Thirty of the 56 offices for which we received data were below minimum space levels. (Although 5 offices were within 90 percent of capacity). The most severe shortages occur in Districts 27B, 25 and 30 where each have offices that are 20 or 21 percent of the minimal space requirements.

Because of these findings, all districts and locations that appear to be understaffed should be investigated. To do this will, first, require an inventory of all the other offices for which data was not provided in the May 1995 survey. Once the inventory is complete, the Conference of District Attorneys should undertake a full-scale study of this issue. We are presenting Table 4.5 as a starting point for this inventory. Each of the district attorneys should verify the present information and add or modify the information for their offices.

Because, in many jurisdictions, the district attorneys do not have adequate space, their ability to deliver services in the most efficient and effective manner is impeded. In other words, the public is not receiving the level of prosecution services that it has a right to expect. The results of the survey indicate a clear need for some mechanism to coordinate the space needs of the district attorneys with the local governments to ensure that minimum standards are being met.

⁵We combined the above cited study with space planning principles from, *Office Design That Really Works*, Kathleen Allen and Peter H. Engle, Small Business Solutions, 1995.

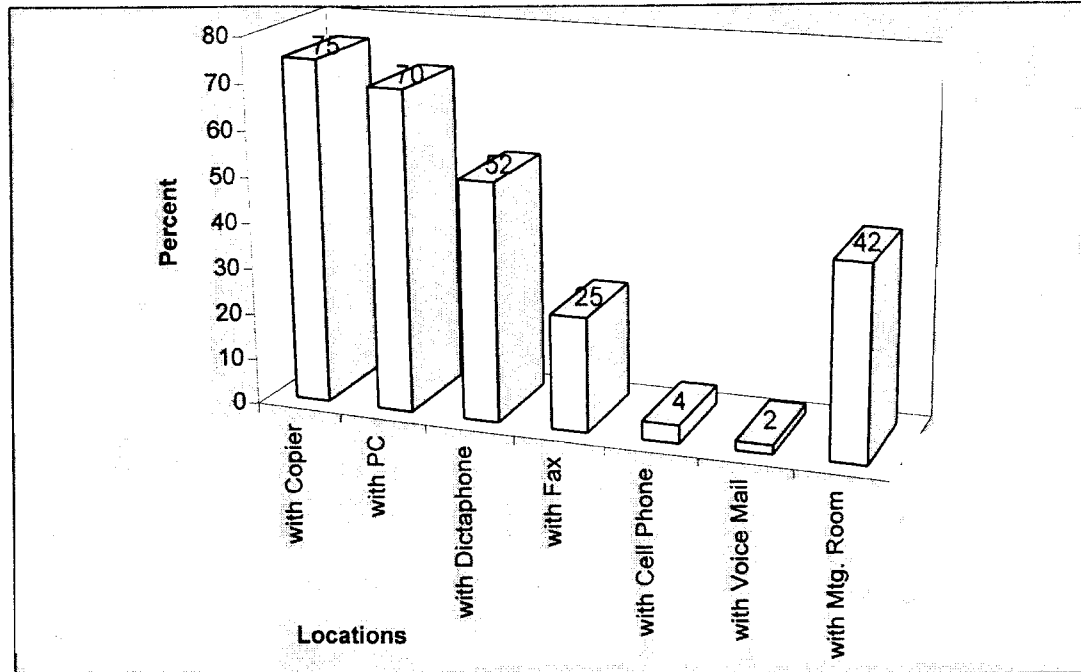
| Table 4.4 | | | | | | | |
|---|----------|----------|----------|------------------------|------------------------|---------------------------|--|
| Percent of Space Requirements Met, 1995 | | | | | | | |
| District | Location | Attny 95 | Staff 95 | Estimated Sq. Ft. Req. | Present Sq. Ft. Avail. | Percent of Required Space | |
| 27 B | 1 | 4 | 5 | 1450 | 288 | 20 | |
| 25 | 1 | 3 | 1.5 | 955 | 200 | 21 | |
| 30 | 5 | 0.5 | 0 | 475 | 100 | 21 | |
| 20 | 5 | 10.6 | 7.6 | 2622 | 800 | 31 | |
| 24 | 4 | 0 | 2 | 540 | 180 | 33 | |
| 9 | 1 | 1 | 0 | 550 | 200 | 36 | |
| 24 | 3 | 0 | 2 | 540 | 200 | 37 | |
| 20 | 1 | 0.4 | 0.4 | 488 | 200 | 41 | |
| 20 | 3 | 0.4 | 0.4 | 488 | 200 | 41 | |
| 30 | 2 | 1 | 2 | 690 | 300 | 43 | |
| 25 | 3 | 6 | 3 | 1610 | 800 | 50 | |
| 9 | 3 | 3 | 3 | 1060 | 550 | 52 | |
| 20 | 2 | 0.2 | 0.2 | 444 | 250 | 56 | |
| 9 A | 2 | 1 | 1 | 620 | 350 | 56 | |
| 22 | 2 | 5 | 3 | 1360 | 769 | 57 | |
| 16 A | 1 | 2 | 2 | 840 | 500 | 60 | |
| 23 | 1 | 5 | 4 | 1530 | 950 | 62 | |
| 9 A | 1 | 2 | 2 | 940 | 600 | 64 | |
| 9 | 2 | 3 | 3 | 1160 | 750 | 65 | |
| 30 | 3 | 2 | 1 | 770 | 500 | 65 | |
| 11 | 1 | 6 | 4 | 1830 | 1235 | 67 | |
| 16 A | 2 | 2 | 2 | 940 | 650 | 69 | |
| 25 | 2 | 3 | 3.5 | 1095 | 800 | 73 | |
| 2 | 2 | 1 | 1 | 620 | 456 | 74 | |
| 17 A | 1 | 5 | 5 | 1600 | 1312 | 82 | |
| 4 | 2 | 6.5 | 6 | 1895 | 1600 | 84 | |
| 30 | 4 | 0.5 | 1 | 545 | 500 | 92 | |
| 24 | 2 | 4 | 2 | 1240 | 1200 | 97 | |
| 19 C | 1 | 5 | 4 | 1530 | 1500 | 98 | |
| 2 | 1 | 4 | 5 | 1450 | 1441 | 99 | |
| 7 | 3 | 5 | 2 | 1390 | 1400 | 100 | |
| 13 | 3 | 2 | 2.75 | 892.5 | 900 | 100 | |
| 7 | 1 | 3 | 4 | 1130 | 1150 | 100 | |
| 20 | 4 | 0.4 | 0.4 | 488 | 500 | 100 | |
| 1 | 1 | 8 | 9 | 2330 | 2500 | 100 | |
| 27 A | 1 | 9 | 9 | 2480 | 2683 | 100 | |
| 22 | 1 | 7 | 5 | 1900 | 2062 | 100 | |
| 13 | 2 | 3.5 | 3 | 1235 | 1400 | 100 | |
| 15 B | 2 | 2 | 3 | 1010 | 1150 | 100 | |
| 11 | 3 | 2 | 2 | 840 | 749 | 100 | |
| 13 | 1 | 1.5 | 1.25 | 712.5 | 900 | 100 | |
| 15 B | 1 | 2 | 1 | 770 | 1000 | 100 | |
| 4 | 3 | 2.5 | 2.5 | 950 | 1271 | 100 | |
| 11 | 2 | 2 | 1 | 770 | 901 | 100 | |
| 21 | 1 | 13 | 9 | 3080 | 4166 | 100 | |
| 4 | 1 | 2 | 2.5 | 875 | 1188 | 100 | |
| 30 | 1 | 3 | 3 | 1160 | 1600 | 100 | |
| 28 | 1 | 9 | 9 | 2480 | 3500 | 100 | |
| 8 | 2 | 2 | 2 | 840 | 1200 | 100 | |
| 8 | 1 | 7 | 7 | 2040 | 3000 | 100 | |
| 7 | 4 | 1 | 3 | 760 | 1150 | 100 | |
| 15 A | 1 | 7 | 7 | 2040 | 3200 | 100 | |
| 3 A | 1 | 7 | 6 | 1970 | 3500 | 100 | |
| 7 | 2 | 2 | 2 | 840 | 2050 | 100 | |
| 26 | 1 | 24 | 32 | 6340 | 16320 | 100 | |
| 15 B | 2 | 2 | 2 | 840 | 2550 | 100 | |

| Inventory for Space Requirements by District and Location, 1995 | | | | | | | | | | | | | | | |
|---|---------------|-----|----------|----------|---------------------------------|--------------------------|-----------------------------------|---------------|---------------|------|----------|----------|---------------------------------|--------------------------|-----------------------------------|
| District t | Office No. | | Attny 95 | Staff 95 | Minimum Est. Sq. Ft. Req. | Present Sq. Ft. Avbl. | Percent of Min. Req. Space* | District t | Office No. | | Attny 95 | Staff 95 | Minimum Est. Sq. Ft. Req. | Present Sq. Ft. Avbl. | Percent of Min. Req. Space* |
| | Suff | No. | | | | | | | Suff | No. | | | | | |
| 1 | 1 | 8 | 1 | 9 | 2330 | 2500 | 100 | 17 A | 1 | 5 | 5 | 5 | 1600 | 1312 | 82 |
| 2 | 2 | 1 | 4 | 5 | 1450 | 1441 | 99 | 17 B | 1 | 3 | 2 | 2 | 1090 | | |
| 2 | 2 | 1 | 1 | 1 | 620 | 456 | 74 | 17 B | 2 | 2 | 1 | 1 | 770 | | |
| 3 A | 1 | 7 | 6 | 1970 | 3500 | 100 | | 18 | 1 | 15 | 9 | 9 | 3380 | | |
| 3 B | 1 | 5.5 | 4.5 | 1640 | | | | 18 | 2 | 3 | 3 | 3 | 1060 | | |
| 3 B | 2 | 1.5 | 1.5 | 730 | | | | 19 A | 1 | 5 | 4 | 4 | 1530 | | |
| 4 | 1 | 2 | 2.5 | 875 | 1188 | 100 | | 19 B | 1 | 5 | 5 | 5 | 1600 | | |
| 4 | 2 | 6.5 | 6 | 1895 | 1600 | 84 | | 19 B | 2 | 1 | 0 | 0 | 550 | | |
| 4 | 3 | 2.5 | 2.5 | 950 | 1271 | 100 | | 19 C | 1 | 5 | 4 | 4 | 1530 | 1500 | 98 |
| 5 | 1 | 1 | 0.4 | 578 | | | | 20 | 1 | 0.4 | 0.4 | 0.4 | 488 | 200 | 41 |
| 5 | 2 | 9 | 7.6 | 2382 | | | | 20 | 3 | 0.4 | 0.4 | 0.4 | 488 | 200 | 41 |
| 6 A | 1 | 4 | 4 | 1380 | | | | 20 | 4 | 0.4 | 0.4 | 0.4 | 488 | 500 | 100 |
| 6 B | 1 | 4 | 4 | 1380 | | | | 20 | 5 | 10.6 | 7.6 | 7.6 | 2622 | 800 | 31 |
| 7 | 1 | 3 | 4 | 1130 | 1150 | 100 | | 21 | 1 | 13 | 9 | 9 | 3080 | 4166 | 100 |
| 7 | 2 | 2 | 2 | 840 | 2050 | 100 | | 22 | 1 | 7 | 5 | 5 | 1900 | 2062 | 100 |
| 7 | 3 | 5 | 2 | 1390 | 1400 | 100 | | 22 | 2 | 5 | 3 | 3 | 1360 | 769 | 57 |
| 7 | 4 | 1 | 3 | 760 | 1150 | 100 | | 22 | 2 | 5 | 4 | 4 | 1530 | 950 | 62 |
| 8 | 1 | 7 | 7 | 2040 | 3000 | 100 | | 23 | 1 | 5 | 4 | 2 | 1240 | 1200 | 97 |
| 8 | 2 | 2 | 2 | 840 | 1200 | 100 | | 24 | 2 | 4 | 2 | 2 | 540 | 200 | 37 |
| 9 | 1 | 1 | 0 | 550 | 200 | 36 | | 24 | 3 | 0 | 2 | 2 | 540 | 180 | 33 |
| 9 | 2 | 3 | 3 | 1160 | 750 | 65 | | 24 | 4 | 0 | 2 | 2 | 955 | 200 | 21 |
| 9 | 3 | 3 | 3 | 1060 | 550 | 52 | | 25 | 1 | 3 | 1.5 | 3 | 1095 | 800 | 73 |
| 9 | 4 | 1 | 0 | 550 | | | | 25 | 2 | 3 | 3.5 | 3 | 1610 | 800 | 50 |
| 9 A | 1 | 2 | 2 | 940 | 600 | 64 | | 25 | 3 | 6 | 3 | 3 | 6340 | 16320 | 100 |
| 9 A | 2 | 1 | 1 | 620 | 350 | 56 | | 26 | 1 | 24 | 32 | 32 | 2480 | 2683 | 100 |
| 10 | 1 | 20 | 16 | 4620 | | | | 27 A | 1 | 9 | 9 | 9 | 1450 | 288 | 20 |
| 11 | 1 | 6 | 4 | 1830 | 1235 | 67 | | 27 B | 1 | 4 | 4 | 5 | 1450 | | |
| 11 | 2 | 2 | 1 | 770 | 901 | 100 | | 27 B | 2 | 2 | 2 | 1 | 770 | | |
| 11 | 3 | 2 | 2 | 840 | 749 | 100 | | 28 | 1 | 9 | 9 | 9 | 2480 | 3500 | 100 |
| 12 | 1 | 12 | 11 | 3070 | | | | 29 | 1 | 2.5 | 3 | 3 | 985 | | |
| 13 | 1 | 1.5 | 1.25 | 712.5 | 900 | 100 | | 29 | 2 | 1.5 | 2 | 2 | 765 | | |
| 13 | 2 | 3.5 | 3 | 1235 | 1400 | 100 | | 29 | 3 | 0.5 | 0 | 475 | | | |
| 13 | 3 | 2 | 2.75 | 892.5 | 900 | 100 | | 29 | 4 | 3 | 2 | 2 | 1090 | | |
| 14 | 1 | 10 | 8 | 2560 | | | | 29 | 5 | 0.5 | 0 | 475 | | | |
| 15 A | 1 | 7 | 7 | 2040 | 3200 | 100 | | 30 | 1 | 3 | 3 | 3 | 1160 | 1600 | 100 |
| 15 B | 1 | 2 | 1 | 770 | 1000 | 100 | | 30 | 2 | 1 | 2 | 2 | 690 | 300 | 43 |
| 15 B | 2 | 2 | 2 | 840 | 2550 | 100 | | 30 | 3 | 2 | 1 | 770 | 500 | 65 | |
| 15 B | 2 | 2 | 3 | 1010 | 1150 | 100 | | 30 | 4 | 0.5 | 1 | 545 | 500 | 92 | |
| 16 A | 1 | 2 | 2 | 840 | 500 | 60 | | 30 | 5 | 0.5 | 0 | 475 | 100 | 21 | |
| 16 A | 2 | 2 | 2 | 940 | 650 | 69 | | | | | | | | | |
| 16 B | 1 | 8 | 6 | 2120 | | | | | | | | | | | |

Offices that have reached minimum space levels are set equal to 100.

* Offices that have reached minimum space levels are set equal to 100.

Percent Distribution of Locations with Selected Equipment and Meeting Room Facilities, 1995



Equipment and Professional Tools

We have already seen that access to supplies and materials varies widely among the districts because they are based on requests initiated by district attorneys. In contrast, funds for equipment are typically allocated by the Judicial Department and the AOC based on recommendations of joint committees that have been created to ensure comprehensive planning and distribution equity at the state level among the Judicial Department components.

We expected to find in 1995 that the 39 prosecutor offices would be equipped with the basic tools needed to perform their duties in a professional and

modern manner. This is not the case. Prosecution in North Carolina can be likened to dentistry working without basic modern equipment such as high speed drills, x-rays and sophisticated technology which permits implants and jaw bone reconstruction.

The survey asked how many counties within a district were equipped with copy machines, fax machines, PCs, dictaphones, voice mail, and cellular phones. These are the essential tools for attorneys and their availability is especially critical when the district attorneys staff multiple offices.

The responses were discouraging. There are 82 staffed locations in the 100 counties. Only one district (District 1) reported the availability of all the types of equipment listed above at each location. Even such

basic equipment as a copy machine was available in only 75 percent of the locations staffed by the prosecutor. Although the state has made an effort to make PCs universally available, priority was first given to the clerks of the courts offices. Therefore, 54 locations reported that PCs were available but the number per location is not known. Some district attorneys reported that they were using their personal PCs as a stopgap measure until equipment was made available to them.

Without PCs, attorneys rely on dictation or dictaphones to transcribe notes, transactions, minutes and the evidence about cases. The availability of dictaphones should be a reality, yet only 52 percent of the locations (41) reported they had them.

The district attorneys fare even worse with respect to communication devices like faxes and cellular phones and voice mail. Only 25 percent (20 locations) reported having fax machines, and only 4 percent (3 locations) had cellular phones. Two locations out of the 82 reported that they had voice mail.

The situation further deteriorates when we examine the 23 district attorney offices that staff more than one location full-time and where ADAs and staff travel from one location to another. At the very least, one would expect that these district should have first access to communication devices. As reported, they do not. In fact they have consistently a lower percent of equipment available than for all district attorneys. Of the 66 locations, excluding reported personal ownership and non-responses, only 11 locations (or 17 percent) have fax machines, 2 locations have cellular phones and 1 has voice mail.

CONCLUSION

The district attorney is the gate to the judicial system through which defendants pass to be prosecuted, convicted and sentenced. It is the responsibility of the state and the district attorneys to work together to bring the services provided by prosecution up to date and to support them in an appropriate manner. This support includes adequate space, proper equipment and sufficient supplies in addition to personnel.

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APPENDIX A.**SURVEY INSTRUMENT AND DATA**

**NORTH CAROLINA DISTRICT ATTORNEY'S
RESOURCE ANALYSIS PROJECT**

ID codes: (office use only)

Date: _____

District Number: _____

Home Office Jurisdiction: _____

Address: _____

Telephone: _____

Fax: _____

Your name: _____

Title: _____

A. POPULATION AND LAW ENFORCEMENT

1. How many counties are in your district?

2. Check any of the following population categories that substantially increase the caseload in your district:

1. [] military population
2. [] tourists
3. [] college/university
4. [] seasonal vacation
5. [] prison population
6. [] hospitals
7. [] other (please specify)

3. How many local law enforcement agencies refer cases to your office?

4. What percent of your workload comes from the largest local law enforcement agency in your district?

B. COURTS

5. How many Criminal District Court judges are in your District?

6. Please list the total number of Criminal District Court sessions¹ (including juvenile court sessions) presently held per county per week.

County name _____ Sessions per week _____

7. Please list the number of Juvenile Court sessions² for each county per year.

County name _____ Sessions per year _____

8. How many Criminal Superior Court judges are in your District?

9. Please list the number of Criminal Superior Court sessions³ presently held for each county per month.

County name _____ Sessions per month _____

10. How many counties presently have a backlog in Superior Court?

¹For Criminal District Court, 1 session equals 1 day. Include juvenile court sessions in the total number.

²For Juvenile Court, 1 session equals 1 day

³For Superior Court, 1 session equals 1 week

11. In 1994, did you request extra sessions of Superior Court?

1. ☐ yes 2. ☐ no

12. If yes, how many sessions did you request?

13. If yes, how many requests were denied?

14. How would you *generally* characterize the continuance policy in your district?

1. ☐ strictly controlled
2. ☐ available within reason
3. ☐ liberal
4. ☐ other (please specify)

15. If a felony case goes to trial, how many days does the average trial last for:

1. Crimes against person _____
2. Property crimes _____
3. Drug crimes (not conspiracy) _____

16. On the average, how many hours does it take for a trial of a misdemeanor in District Court who pleads not guilty?

17. On the average, how long is a trial resulting from a misdemeanor appeal of:

1. Non-motor vehicle _____
2. Motor vehicle or DWI _____

C. CRIMINAL JUSTICE ENVIRONMENT

18. How many counties in your district have a pretrial release agency?

19. How many counties in your district do not have enough courtrooms to accommodate:

1. Criminal District Court judges _____
2. Criminal Superior Court judges _____

20. Are any jails in your district under court order for overcrowding?

1. ☐ yes 2. ☐ no

21. Please check which of the following sentencing alternatives are available:

1. ☐ diversion programs
2. ☐ community service

3. ☐ boot camp
4. ☐ treatment and rehabilitation programs
5. ☐ electronic monitoring
6. ☐ intensive probation/parole supervision
7. ☐ restitution
8. ☐ other (please specify)

22. Please indicate how frequently these alternatives are used by the court:
Respond *frequently (F)*, *seldom (S)* or *never (N)*

1. ☐ diversion programs
2. ☐ community service
3. ☐ boot camp
4. ☐ treatment and rehabilitation programs
5. ☐ electronic monitoring
6. ☐ intensive probation/parole supervision
7. ☐ restitution
8. ☐ other (please specify)

23. What are the three most prevalent felonies prosecuted in your district?

1. _____
2. _____
3. _____

D. DISTRICT ATTORNEY POLICIES

Note: All the questions in this section refer to the routine processing of arrests. Cases handled specially, or by special programs should not be the basis for the responses given here.

24. Does the office *routinely* review police charges before they are filed in District court?

1. felonies ☐ yes ☐ no
2. misdemeanors ☐ yes ☐ no
3. juveniles ☐ yes ☐ no

25. What percent of felony cases are reviewed prior to:

1. probable cause hearing _____
2. indictment _____
3. first Superior Ct. appearance _____

26. What percent of grand jury hearings have the following written reports available?

1. short synopsis _____
2. incident/offense report _____

3. arrest report _____
4. investigative report _____
5. criminal history _____
6. witness statement or testimony _____

27. In 1994, estimate the percent of felony cases that were disposed at *probable cause hearings* by a guilty plea to misdemeanors?

28. Which of the following plea bargaining policies *best* describes your office? (*Check one*)

1. ☐ charge bargaining permitted
2. ☐ sentence bargaining permitted
3. ☐ both 1 and 2 above
4. ☐ no bargaining unless special circumstances
5. ☐ other, please specify _____

29. Which of the following plea offer policies *best* describes your office: (*Check one*)

1. ☐ no reduced plea allowed after some specified court hearing or cut off date.
2. ☐ no reduced plea on the day of trial
3. ☐ no stated office policy - ADA discretion
4. ☐ office policy based on type of case or offense
5. ☐ other, please specify _____

30. Which of the following dismissal policies *best* describes your office? (*Check one*)

1. ☐ discretion is given to ADAs
2. ☐ dismissals have to be authorized by senior ADAs or DA
3. ☐ no dismissals unless exceptional circumstances
4. ☐ other, please specify _____

31. Does your office have an informal, open file, discovery policy with the public defender and/or defense counsel?

1. ☐ yes 2. ☐ no

32. If yes, does it *typically* begin:

1. ☐ when the case is in District Court
2. ☐ before indictment
3. ☐ when the case is in Superior Court

E. OFFICE ORGANIZATION AND RESOURCES

33. How many locations does the District Attorney staff, including the home office?

34. Including the home office, how many of these locations are manned full-time by District Attorney staff?

35. Check office resources not provided by the AOC:

1. ☐ office space
2. ☐ office utilities and supplies
3. ☐ equipment
4. ☐ furniture
5. ☐ other, please specify _____

36. Please check the following equipment you have in your own office. Where appropriate, note the number of counties that have the equipment in your office.

| Equipment | In office (✓) | No. counties |
|--------------------|---------------|--------------|
| 1. Copier | _____ | _____ |
| 2. Fax | _____ | _____ |
| 3. PCs | _____ | _____ |
| 4. Dictaphones | _____ | _____ |
| 5. Voice mail | _____ | _____ |
| 6. Cellular phones | _____ | _____ |

37. Please describe the number of staff that routinely work at each location. *Include non-legislated positions (e.g. grant funded positions) in the total.* List the square feet of office space available for the DA's office at each location

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

County name _____

number attorneys _____

number non-attorneys _____

square feet _____

38. How many county offices include space for meeting or conference rooms?

39. In 1994, how many of the following employees were state funded:?

1. Total employees _____

2. Prosecutors including DA _____

3. Investigators _____

4. Other non-attorney _____

40. In 1994, how many of the following personnel were employed from funds other than those provided by the AOC:

1. Total personnel _____

2. Prosecutors _____

3. Investigators _____

4. Other non-attorney _____

41. in 1994, how many investigators or other personnel were detailed (assigned) to your office from other agencies?

1. Investigators _____

2. Other personnel _____

42. In 1994, did you use per diem lawyers?

1. ☐ yes 2. ☐ no

43. If yes, how many days? _____

44. Check any special programs or units that operate in your office:

1. ☐ violent crimes programs
2. ☐ drug prosecution unit
3. ☐ white collar/economic crimes unit
4. ☐ consumer fraud unit
5. ☐ rape or sex abuse programs
6. ☐ gang units
7. ☐ arson programs
8. ☐ organized crime/rackets bureau
9. ☐ other, please specify _____

45. Is the District Attorney's office presently a member of a regional task force?

1. ☐ yes 2. ☐ no

F. TRIAL PROCEDURES AND PRACTICES

Note: questions refer to the routine processing of felony cases, special handling of other types of cases should not be the basis for these responses.

46. How often does the grand jury sit?

47. Do you have a Superior Court arraignment calendar?

1. ☐ yes 2. ☐ no

48. Do you calendar all your cases:

1. ☐ on Mondays
2. ☐ day-by-day
3. ☐ other (please specify) _____

49. What type of ADA case assignment system is most often used for felonies?

1. ☐ vertical
2. ☐ horizontal
3. ☐ trial team
4. ☐ other (please specify) _____

50. Estimate the percent of felony cases that plead guilty:

1. at Superior Court arraignment _____
2. after arraignment, before scheduled trial date _____
3. day of trial or during trial _____

| Table A.2 | | | | | | | | | | | |
|------------------|------|----------|-----------|---------|----------|----------|---------|---------|---------|--------|--|
| Questions 5 - 13 | | | | | | | | | | | |
| Prosecu | | No. | FTE | No. | FTE | Ratio | Ratio | No. | No. | No. | |
| torial | Suff | Dist. Ct | Distr. Ct | Sup. Ct | Sup. Ct. | FTE/Dist | FTE/Sup | Countie | Extra | Reqs. | |
| District | ix | judges | Crim. | Judges | Crim | t ct | p Ct. | s with | Session | Denied | |
| 1 | | 4 | 2.4 | 2 | 1.2 | 0.6 | 0.6 | 2 | 6 | 0 | |
| 2 | | 3 | 1.6 | 1 | 0.7 | 0.5 | 0.7 | 3 | 6 | 0 | |
| 3 A | | 3 | 2.4 | 2 | 1 | 0.8 | 0.5 | 1 | 3 | 0 | |
| 3 B | | 4 | 2.8 | 2 | 0.8 | 0.7 | 0.4 | 3 | na | na | |
| 4 | | 6 | 3.4 | 2 | 1.8 | 0.6 | 0.9 | 4 | 14 | 12 | |
| 5 | | 6 | 2.4 | 3 | 1.8 | 0.4 | 0.6 | 2 | 7 | 0 | |
| 6 A | | 2 | 1.2 | 1 | 0.25 | 0.6 | 0.3 | 1 | 12 | 6 | |
| 6 B | | 3 | 1.5 | 1 | 0.75 | 0.5 | 0.8 | 3 | 9 | 2 | |
| 7 | | 6 | 2.5 | 3 | 1 | 0.4 | 0.3 | 1 | 8 | 0 | |
| 8 | | 5 | 2.6 | 2 | 1.4 | 0.5 | 0.7 | 1 | 10 | 4 | |
| 9 | | 4 | 2.6 | 2 | 1.3 | 0.7 | 0.7 | 3 | na | na | |
| 9 A | | 2 | 0.7 | 1 | 0.6 | 0.4 | 0.6 | 0 | 2 | 0 | |
| 10 | | 7 | 6.4 | 3 | 2.8 | 0.9 | 0.9 | 0 | 15 | 3 | |
| 11 | | 6 | 3.1 | 2 | 1 | 0.5 | 0.5 | 1 | 1 | 0 | |
| 12 | | 6 | 3 | 4 | 2.5 | 0.5 | 0.6 | 1 | 10 | 2 | |
| 13 | | 4 | 2.6 | 2 | 1 | 0.7 | 0.5 | 1 | 12 | 0 | |
| 14 | | 5 | 3 | 4 | 1.3 | 0.6 | 0.3 | 1 | 8 | 0 | |
| 15 A | | 3 | 1.5 | 1 | 1 | 0.5 | 1.0 | 0 | 4 | 0 | |
| 15 B | | 3 | 2.2 | 1 | 0.8 | 0.7 | 0.8 | 1 | 2 | 0 | |
| 16 A | | 2 | 1.3 | 1 | 0.4 | 0.7 | 0.4 | 1 | 1 | 1 | |
| 16 B | | 5 | 2.4 | 2 | 1 | 0.5 | 0.5 | 1 | 0 | 0 | |
| 17 A | | 2 | 1.2 | 2 | 0.4 | 0.6 | 0.2 | 1 | 0 | 0 | |
| 17 B | | 3 | 2 | 2 | 0.6 | 0.7 | 0.3 | 0 | 7 | 0 | |
| 18 | | 10 | 4.8 | 5 | 2.3 | 0.5 | 0.5 | 1 | 0 | 0 | |
| 19 A | | 3 | 1 | 1 | 0.4 | 0.3 | 0.4 | 1 | na | na | |
| 19 B | | 3 | 1.2 | 1 | 0.5 | 0.4 | 0.5 | 2 | 6 | 2 | |
| 19 C | | 3 | 1 | 1 | 0.4 | 0.3 | 0.4 | 1 | 0 | 0 | |
| 20 | | 6 | 4 | 4 | 1.8 | 0.7 | 0.5 | 2 | 27 | 0 | |
| 21 | | 4 | 2 | 4 | 1.3 | 0.5 | 0.3 | 0 | 0 | 0 | |
| 22 | | 7 | 3.4 | 2 | 1.1 | 0.5 | 0.6 | 1 | 6 | 0 | |
| 23 | | 3 | 1.5 | 1 | 0.4 | 0.5 | 0.4 | na | 1 | 0 | |
| 24 | | 3 | 1.3 | 1 | 0.6 | 0.4 | 0.6 | 5 | 5 | na | |
| 25 | | 7 | 3.2 | 4 | 1 | 0.5 | 0.3 | 3 | na | na | |
| 26 | | 14 | 5.6 | 7 | 4.3 | 0.4 | 0.6 | 1 | 0 | 0 | |
| 27 A | | 5 | 2.4 | 2 | 1.4 | 0.5 | 0.7 | 1 | na | na | |
| 27 B | | 4 | 1.8 | 2 | 0.7 | 0.5 | 0.4 | 2 | na | na | |
| 28 | | 5 | 2.8 | 2 | 1 | 0.6 | 0.5 | 0 | 3 | 0 | |
| 29 | | 4 | 2.6 | 2 | 0.8 | 0.7 | 0.4 | 2 | na | na | |
| 30 | | 4 | 2.4 | 2 | 0.9 | 0.6 | 0.5 | 3 | na | na | |
| Totals | | 179 | 95.8 | 87 | 44.3 | 0.5 | 0.5 | 57 | 185 | 32 | |

SELECTED RESPONSES TO SURVEY

Q 3. How many local law enforcement agencies refer cases to your office?

| <u>Number Law Enforcement</u> | <u>Number DA Offices</u> |
|-------------------------------|--------------------------|
| 3 or less | 0 |
| 4 to 10 | 17 |
| 11 to 20 | 15 |
| 21 to 33 | 7 |
| Total | 39 |
| Median | 14 |

Q4. What percent of your workload comes from the largest local law enforcement agency in your district?

| <u>Percent of Work</u> | <u>Number of DA offices</u> |
|------------------------|-----------------------------|
| 1/3 or less | 18 |
| 35 to 50 | 12 |
| 55 to 65 | 4 |
| 80 to 85 | 3 |
| No ans. | 2 |
| Total | 39 |
| Median | 35% |

Q14. How would you generally characterize the continuance policy in your district?

| | |
|-------------------------|----|
| Strictly controlled | 1 |
| Available within reason | 27 |
| Liberal | 9 |
| Other | 2 |

Q15-17 Times to Trial

| <u>Type of trial</u> | <u>Range</u> | <u>Median</u> |
|----------------------|--------------|---------------|
|----------------------|--------------|---------------|

Felony

| | | |
|------------------------|----------|-------|
| Crimes against person | 1-4 days | 2-2.5 |
| Property | 1-3 days | 1-1.5 |
| Drugs (not conspiracy) | 1-3 days | 1-1.5 |

Misdemeanor

| | | |
|-------------------|-----------------|---------|
| District Court | 15 min.-2 hours | 1/2 hr. |
| Appeal | | |
| Non-motor vehicle | 1/2 - 1.5 day | 1 day |
| Motor veh. or DWI | 1/2- 2 day | 1 day |

Q18. How many counties in your district have a pretrial release agency?

| <u>No. Counties w/ pretrial rel.</u> | <u>No. of DA offices</u> |
|--------------------------------------|--------------------------|
| None | 27 |
| One | 10 |
| Two | 1 |
| No. ans. | 2 |

Q19. How many counties in your district do not have enough courtrooms to accommodate criminal judges in:

| <u>No. Counties needing ct. room</u> | <u>District court</u> | <u>Superior court</u> |
|--------------------------------------|-----------------------|-----------------------|
| None | 15 | 14 |
| One | 12 | 14 |
| Two | 3 | 2 |
| Three | 2 | 2 |
| Four | 4 | 4 |
| Seven | 1 | 1 |
| No. ans. | 2 | 2 |

Q20. Are any jails in your district under court order for overcrowding?

| | |
|----------|----|
| Yes | 11 |
| No | 26 |
| No. ans. | 2 |

Q21-22. Which of the following sentencing alternatives are available and how frequently are they used by the court?

| <u>Alternative</u> | <u>Avbl.</u> | <u>Freq. Used</u> |
|------------------------|--------------|-------------------|
| Diversion | 23 | 6 |
| Community service | 38 | 36 |
| Boot camp | 30 | 9 |
| Treatmnt & Rehab. | 36 | 27 |
| Electronic monitor. | 39 | 21 |
| Intensive parole/prob. | 39 | 34 |
| Restitution | 31 | 30 |
| Other | 7 | 2 |

Q23. What are the three most prevalent felonies prosecuted in your district?

No. of responses

| | |
|----|------------------------|
| 46 | Property, B&E, larceny |
| 37 | Felony drug |
| 22 | Crimes against persons |
| 10 | Forgery & uttering |

Q24. Does the office routinely review police charges before they are filed in District Court?

| | <u>Felony</u> | <u>Misd.</u> | <u>Juvenile</u> |
|-----|---------------|--------------|-----------------|
| Yes | 6 | 0 | 1 |
| No | 33 | 39 | 38 |

Q25. What percent of felony cases are reviewed prior to:

| | <u>Range</u> | <u>Median</u> |
|-------------------------|--------------|---------------|
| Prob. cause | 0-100% | 25% |
| Indictment | 1-100 | 99-100 |
| 1st Sup. Ct. appearance | 0-100 | 99-100 |

Q26. What percent of grand jury hearings have the following written reports available?

| <u>Type</u> | <u>Median %</u> |
|------------------|-----------------|
| short synopsis | 99-100 |
| incident report | 99-100 |
| arrest report | 99-100 |
| investig. report | 98-99 |
| criminal history | 98 |
| witness statemnt | 80 |

Q27. Estimate percent of felony cases disposed at probable cause hearing by a guilty plea to misdemeanor.

| <u>Range</u> | <u>Median</u> |
|--------------|---------------|
| 2-40% | 10-15% |

Q28. Which plea bargaining policy best describes your office?

| | |
|----|-----------------------------|
| 7 | Charge bargaining permitted |
| 32 | Both charge and sentencing |

Q29. Which plea offer policy best describes your office?

| | |
|----|---|
| 6 | No reduced plea allowed after some specified court hearing or cut off date. |
| 17 | No stated office policy, ADA discretion |
| 12 | Office policy based on type of case or offense |
| 2 | Other |
| 1 | No answer |

Q30. Which dismissal policy best describes your office?

| | |
|----|--|
| 35 | Discretion given to ADAs |
| 2 | Dismissals authorized by senior ADAs or DA |
| 1 | No dismissals unless exceptional circumstances |
| 1 | Other |

Q31, 32. If your office has an informal, open file discovery policy with the public defender and/or defense counsel, when does it typically begin?

| | |
|----|------------------------------------|
| 10 | When the case is in district court |
| 1 | Before indictment |
| 12 | When the case is in superior court |
| 23 | Total |

Q33-41. See Table B.4

Q42. In 1994 did you use per diem lawyers and for how many days?

| | |
|---------|-----------|
| Yes: | 21 |
| Range: | 2-50 days |
| Median: | 10 |

Q44,45. Do you operate the following special programs in your office?

| <u>Yes</u> | <u>Type of Program</u> |
|------------|----------------------------|
| 4 | violent crimes |
| 8 | drug prosecution unit |
| 2 | white collar/econ, crimes |
| 10 | rape/sex abuse |
| 2 | arson |
| 2 | org. crime/rackets |
| 8 | other |
| 11 | regional task force member |

Q46. How often does the grand jury sit?

| | |
|---------|-------------|
| Range: | 12-52 weeks |
| Median: | 24 weeks |

Q47. Do you have a superior court arraignment calendar?

| | |
|---------|----|
| Yes | 27 |
| No | 11 |
| No ans. | 1 |

Q48. How do you calendar cases?

| | |
|------------|----|
| On Mondays | 18 |
| Day by day | 11 |
| Other | 9 |
| No ans. | 1 |

See Section 2, District Attorneys
Assessments

Q49. What type of ADA case assignment system is most often used for felonies?

| | |
|------------|----|
| Vertical | 12 |
| Horizontal | 14 |
| Trial team | 5 |
| Other | 8 |

Q50. Estimate the percent of felony cases that plead guilty:

| | <u>Range</u> | <u>Median</u> |
|-----------------------------|--------------|---------------|
| at superior court arraign. | 0-98 | 5 |
| after arraign. before trial | 0-88 | 10 |
| day of trial, during trial | 1-99 | 15-20 |

Q51. From an evidentiary perspective, how would you characterize the majority of felony cases that end up in trial?

| | |
|----|--------------------------------|
| 16 | Marginal |
| 18 | Strong |
| 1 | Very strong |
| 3 | Between marginal and strong |

Q52. On the average how long does it take to calculate and complete structured sentencing worksheets for felonies where the defendant has:

| | <u>Range</u> | <u>Median</u> |
|------------------------|--------------|---------------|
| Minor criminal history | 3-75 min | 15 min |
| Long criminal history | 10-180 min | 30 min |

Q53. What percent of worksheets can be completed using only DCI information?

Range: 0-100
Median: 0

Q54. How often is the worksheet attached to formal discovery materials?

| | |
|----|--------------|
| 6 | Always |
| 7 | Frequently |
| 13 | Infrequently |
| 12 | Never. |

Q55. Please describe the three most important problems currently affecting your office?

Q56. Please describe the most preferred solutions to the problems listed above.

APPENDIX B.**DATA USED FOR RESOURCE ANALYSIS STUDY**

| Table B.1 Expenditures, Crime, Population, Case Filings, ADA Positions, 1985-1994 | | | | | | | | | | |
|--|-----------------|-----------------|-----------------|-----------------|------------------|------------------|------------------|------------------|------------------|------------------|
| | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 |
| NC Expenditures | | | | | | | | | | |
| NC Expend. | \$7,500,000,000 | \$8,300,000,000 | \$8,900,000,000 | \$9,700,000,000 | \$10,600,000,000 | \$11,800,000,000 | \$12,900,000,000 | \$13,800,000,000 | \$14,800,000,000 | \$16,700,000,000 |
| Judicial Dept | \$122,061,777 | \$136,029,696 | \$148,328,555 | \$165,637,346 | \$176,623,214 | \$189,202,292 | \$208,070,175 | \$221,095,228 | \$232,931,371 | \$267,994,039 |
| District Attorneys | \$14,587,377 | \$15,588,476 | \$17,073,535 | \$19,249,255 | \$20,736,601 | \$21,284,007 | \$24,131,863 | \$25,095,431 | \$27,394,149 | \$31,568,952 |
| DA adjusted for inflation | \$14,587,377 | \$15,083,348 | \$15,596,182 | \$15,596,148 | \$16,126,417 | \$16,674,715 | \$17,241,655 | \$17,827,871 | \$18,434,019 | \$19,060,776 |
| NC Crime and Population | | | | | | | | | | |
| NC Part I Offenses | 251947 | 286468 | 293003 | 312310 | 343662 | 356122 | 382244 | 392293 | 387382 | 393345 |
| NC Part I Arrests | 59104 | 61365 | 66591 | 69895 | 75704 | 81697 | 89500 | 88058 | 86510 | 84933 |
| Population (millions) | 6.164 | 6.254 | 6.323 | 6.405 | 6.483 | 6.568 | 6.632 | 6.752 | 6.840 | 6.949 |
| NC Part I ADULT arrests | 46513 | 47644 | 48774 | 54293 | 60488 | 67075 | 70767 | 72547 | 70492 | 67998 |
| NC Pt I Adlt VIOL Arsts | 14360 | 14602 | 14843 | 16793 | 17856 | 22763 | 23124 | 23669 | 24386 | 22825 |
| NC Pt I Adlt Prop, Agg Aslt Oth | 43877 | 44939 | 46000 | 51118 | 56944 | 63237 | 66291 | 67923 | 65583 | 63501 |
| NC Pt I Adlt Serious V Arts | 2636 | 2705 | 2774 | 3175 | 3544 | 3838 | 4476 | 4624 | 4909 | 4497 |
| NC Court Cases Filed | | | | | | | | | | |
| Superior Ct. Fel. Filed | 40915 | 44980 | 51210 | 55284 | 62752 | 68810 | 73908 | 85748 | 83939 | 83823 |
| Dist. Ct. Criminal Filed | 412534 | 445839 | 468131 | 514710 | 556890 | 603328 | 610286 | 629589 | 607989 | 620977 |
| %Pt I Arrests Filled Felony | 0.68 | 0.73 | 0.77 | 0.79 | 0.83 | 0.85 | 0.83 | 0.97 | 0.97 | 0.99 |
| Sup. Ct Fel. Filed % of Dist. Ct. | 0.10 | 0.10 | 0.11 | 0.11 | 0.11 | 0.12 | 0.12 | 0.14 | 0.14 | 0.13 |
| Sup. Ct. Fel. Disposed | 40603 | 43402 | 48890 | 53420 | 58453 | 63920 | 69813 | 79680 | 83305 | 80133 |
| Dist. Ct. Crim. Disposed | 402274 | 432206 | 456699 | 500529 | 535502 | 586438 | 605286 | 624649 | 613209 | 607598 |
| Sup Ct. Fel. Disp. % of Dist Ct | 0.10 | 0.10 | 0.11 | 0.11 | 0.11 | 0.11 | 0.12 | 0.13 | 0.14 | 0.13 |
| ADA positions | 216.00 | 220.00 | 220.00 | 225.00 | 230.00 | 248.00 | 255.00 | 270.00 | 287.00 | 296.00 |
| NC Percent Dist. | | | | | | | | | | |
| 1984-1985 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 1993-1994 |
| 1985-1986 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1986-1987 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1987-1988 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1988-1989 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1989-1990 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1990-1991 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1991-1992 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1992-1993 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| 1993-1994 | 1 | 1.11 | 1.19 | 1.29 | 1.41 | 1.57 | 1.72 | 1.84 | 1.97 | 2.23 |
| NC Expend | | | | | | | | | | |
| Judicial Dept% of total | 0.016 | 0.016 | 0.017 | 0.017 | 0.017 | 0.016 | 0.016 | 0.016 | 0.016 | 0.016 |
| District Attorneys % of JD | 0.120 | 0.115 | 0.115 | 0.116 | 0.117 | 0.113 | 0.116 | 0.114 | 0.118 | 0.118 |
| NC Percent Index | | | | | | | | | | |
| 1985 | | | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 |
| Judicial Dept % Total | 1 | 1.01 | 1.02 | 1.05 | 1.02 | 0.98 | 0.99 | 0.98 | 0.97 | 0.99 |
| As % Judicial Dept | 1 | 0.96 | 0.96 | 0.97 | 0.98 | 0.95 | 0.97 | 0.95 | 0.98 | 0.99 |

| NC Rates of Change, 1985=100 | | Table B.1 Continued | | | | | | | | | | | |
|-------------------------------|---|---------------------|------|------|------|------|------|------|------|------|------|--|--|
| NC Expenditures | | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | | |
| NC Expend. | 1 | 1.10 | 1.10 | 1.25 | 1.35 | 1.53 | 1.71 | 1.81 | 2.10 | 2.05 | 2.05 | | |
| Judicial Dept. | 1 | 1.11 | 1.11 | 1.22 | 1.36 | 1.45 | 1.54 | 1.70 | 1.81 | 1.91 | 2.20 | | |
| District Attorneys | 1 | 1.07 | 1.07 | 1.17 | 1.32 | 1.42 | 1.46 | 1.65 | 1.72 | 1.88 | 2.16 | | |
| DA adjusted for inflation | 1 | 1.03 | 1.03 | 1.07 | 1.07 | 1.11 | 1.14 | 1.18 | 1.22 | 1.26 | 1.31 | | |
| NC Crime and Population | | | | | | | | | | | | | |
| NC Part 1 Offenses | 1 | 1.14 | 1.14 | 1.16 | 1.24 | 1.36 | 1.41 | 1.56 | 1.56 | 1.54 | 1.56 | | |
| NC Part 1 Arrests | 1 | 1.04 | 1.04 | 1.13 | 1.18 | 1.28 | 1.38 | 1.51 | 1.49 | 1.46 | 1.44 | | |
| Population | 1 | 1.01 | 1.01 | 1.03 | 1.04 | 1.05 | 1.07 | 1.08 | 1.10 | 1.11 | 1.13 | | |
| NC Court Cases Filed | | | | | | | | | | | | | |
| Superior Ct. Fel. Filed | 1 | 1.10 | 1.10 | 1.25 | 1.35 | 1.53 | 1.71 | 1.81 | 2.10 | 2.05 | 2.05 | | |
| District Ct. Crim. Filed | 1 | 1.08 | 1.08 | 1.13 | 1.25 | 1.35 | 1.46 | 1.48 | 1.53 | 1.47 | 1.51 | | |
| Fel. share of Dist. Ct. files | 1 | 1.02 | 1.02 | 1.10 | 1.08 | 1.14 | 1.17 | 1.22 | 1.37 | 1.39 | 1.36 | | |
| Sup. Ct. Fel. Disposed | 1 | 1.07 | 1.07 | 1.20 | 1.32 | 1.44 | 1.57 | 1.72 | 1.96 | 2.05 | 1.97 | | |
| Dist. Ct. Disposed | 1 | 1.07 | 1.07 | 1.14 | 1.24 | 1.33 | 1.46 | 1.50 | 1.55 | 1.52 | 1.51 | | |
| ADA positions | 1 | 1.02 | 1.02 | 1.02 | 1.04 | 1.06 | 1.15 | 1.19 | 1.25 | 1.33 | 1.37 | | |

| Table B.2 | | | | |
|-----------------------------------|----------|----------------------------------|-----------------------|--------------------------------------|
| Projected ADA Staffing, 1985-1995 | | | | |
| Based on Adjusted 1985 Caseload | | | | |
| Fiscal Year | No. ADAs | ADAs adjusted for 85 cases | Fel. filed per ADA | Superior Court Felony Filed |
| 1985 | 216 | 216 | 189 | 40915 |
| 1986 | 220 | 238 | 204 | 44980 |
| 1987 | 220 | 271 | 233 | 51210 |
| 1988 | 225 | 293 | 246 | 55284 |
| 1989 | 230 | 332 | 273 | 62752 |
| 1990 | 248 | 369 | 281 | 69810 |
| 1991 | 256 | 391 | 289 | 73908 |
| 1992 | 270 | 454 | 318 | 85748 |
| 1993 | 287 | 444 | 292 | 83939 |
| 1994 | 297 | 444 | 283 | 83823 |
| 1995 | 299 | 441 | 279 | 83417 |