



# National Prosecutors' Consortium

## Survey Highlights

### *New York*



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# NEW YORK REPORT

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# BACKGROUND

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The National Prosecutors' Consortium (NPC), a collaboration between Justice & Security Strategies (JSS) and the Prosecutors' Center for Excellence (PCE), is designed to collect information on innovative programs employed by prosecutors' offices, to assist prosecutors in developing and deploying new programs, and to expand the research capacities of prosecutors' offices. The team developed a survey that is being administered at the county level across the United States on a state-by-state basis. This survey seeks to accomplish two objectives to support prosecution needs: 1) collection of a thorough baseline of information on the operation of county prosecutors' offices across the country, and 2) identification of those offices that have adopted innovative programs.



# METHODOLOGY

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NPC conducted focus groups with prosecutors and prosecutor coordinating offices. As part of this effort, NPC identified the desired topic areas and reviewed survey questions. The survey was designed as an agency-based questionnaire intended to collect data on the characteristics and operations within each prosecutor's office. The survey was delivered through an online, secure, cloud-based service using the Qualtrics survey platform. States are being offered this survey on a rolling basis.

As part of the data quality assurance process, we identified a battery of 84 questions that provide the core information requested by the survey. To minimize the proportion of missing data, the weighted number of completed responses was compared to a threshold. Offices in counties where the responses did not pass this threshold will be contacted and additional responses will be requested. This report discusses responses from all partially complete surveys, but there may be changes in the number of valid cases for some questions as follow-ups with agencies continue.

# THE CURRENT STATE - NEW YORK

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This report discusses preliminary results from the state of New York. Out of the 62 prosecutors' offices operating in New York, at the time of this report (October 17, 2019), 42 counties (68%) had completed the survey.



## TYPES OF CASES

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**Figure 1** depicts the percentage of prosecutors' offices handling specific types of cases. All responding offices reported handling all or at least some felonies and misdemeanors, and the majority reported handling infractions (N = 35). Thirteen offices reported handling juvenile cases, and 41% of the responding offices reported handling civil matters. Figure 2 highlights the percentage of prosecutors' offices involved in various types of civil matters. The majority of responding offices reported handling FOIA or other public information requests (94%), civil forfeitures (88%), and mental health commitments (53%). Five offices reported handling child protection, adult protection, and nuisance abatement. Finally, one office reported handling child support matters.

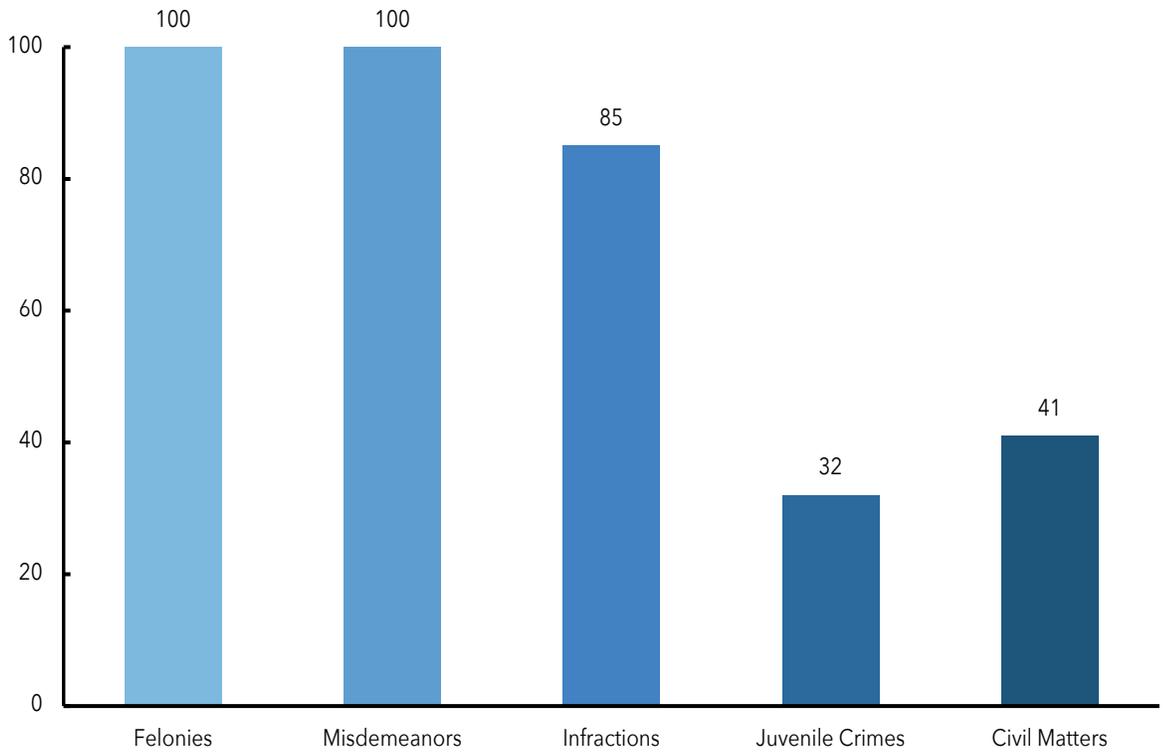


Figure 1. Percentage of Prosecutors' Offices with Jurisdiction over Cases by Type (N =41).

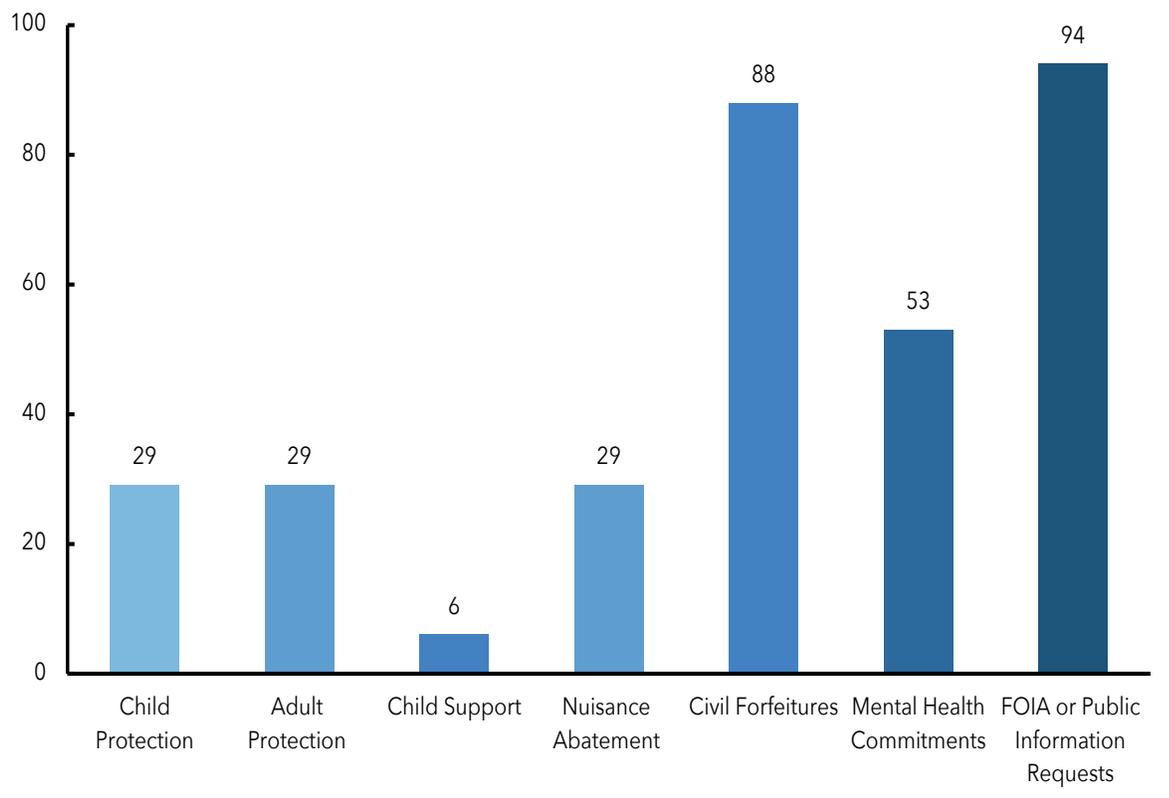


Figure 2. Percentage of Prosecutors' Offices with Jurisdiction over Civil Matters by Type (N = 17).

# CHIEF PROSECUTOR

Of the 41 counties that responded to the survey, all indicated that their Chief Prosecutor had been elected. On average, Chief Prosecutors had been in office for about 9 years. Their tenure ranged from less than one year to 28 years. As seen in **Figure 3**, 29% of prosecutors had been in office for 3 or fewer years, 37% for 4-10 years, 17% for 11-15 years, and 17% for 16 or more years.

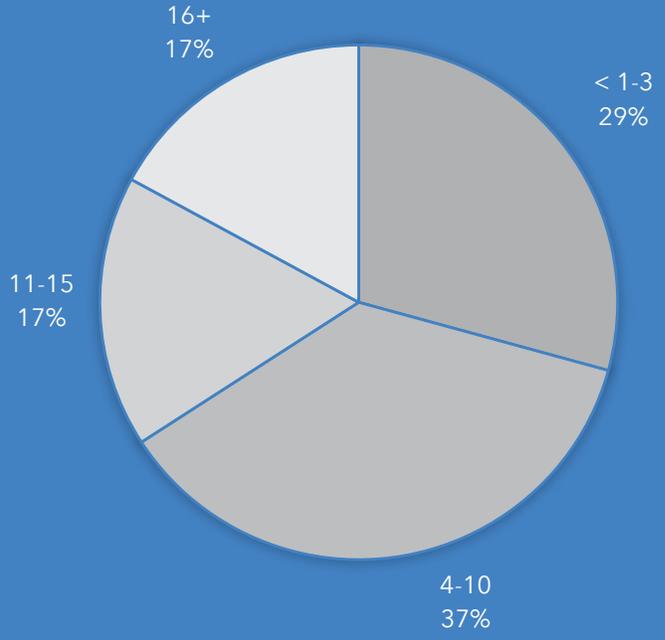


Figure 3. Chief Prosecutor Years in Office (N =41).

# OFFICE BUDGET

The average 2018 budget for prosecutors' offices was approximately \$11,243,161. **Figure 4** depicts that 23% of the offices had a budget under \$1,000,000, 31% had budgets between \$1,000,000 and about \$1,999,999, 15% had budgets between \$2,000,000 and about \$4,999,999, and 31% had budgets over \$5,000,000.

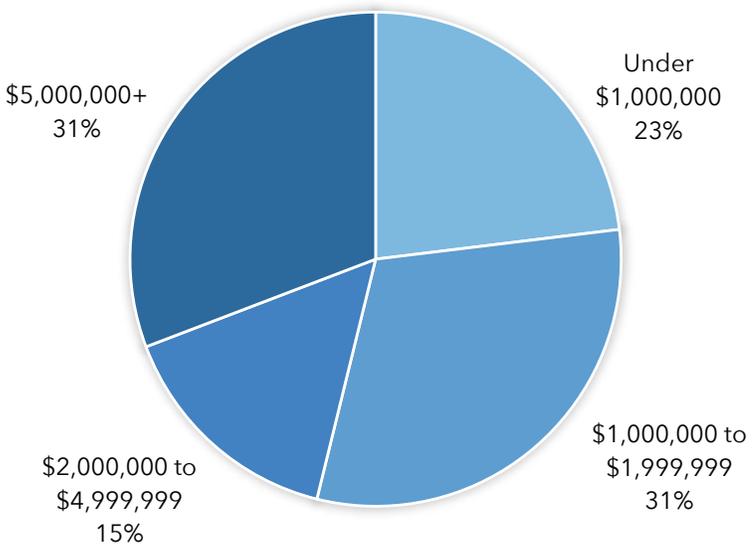


Figure 4. Ranges of 2018 Total Budgets (N = 39).

The average 2018 personnel budget for New York prosecutors' offices was \$7,122,012. **Figure 5** presents the ranges of personnel budgets. Approximately 37% of offices had a personnel budget under \$1,000,000, 34% had budgets between \$1,000,000 and about \$1,999,999, and 29% had budgets over \$2,000,000.

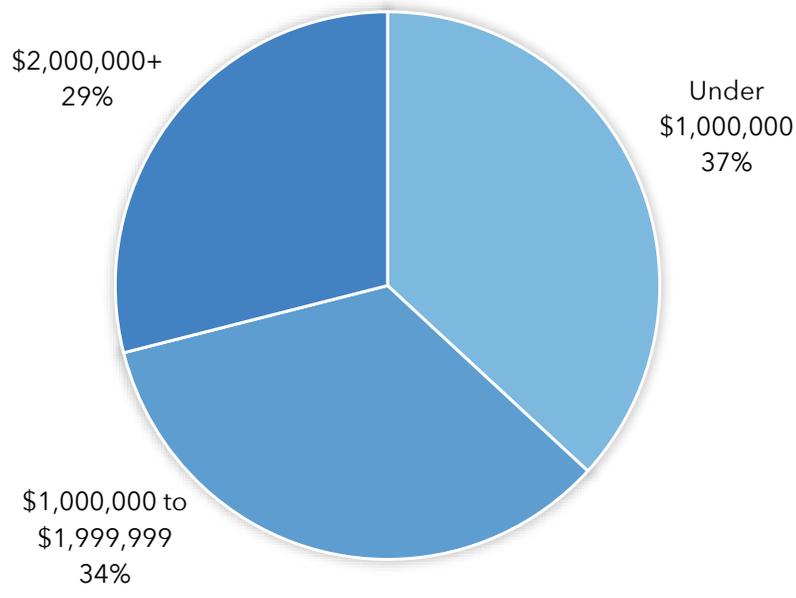


Figure 5. Ranges of 2018 Personnel Budgets (N = 38).

The average percentage of personnel to total budget by budget category is displayed in **Figure 6**. This graph provides a method to determine whether agencies with large budgets spend a disproportionate amount of their budget on personnel costs. From this graph, it appears that average percentage of personnel to total budget was similar across budget categories with agencies spending an average of 77% of their total budgets on personnel costs.

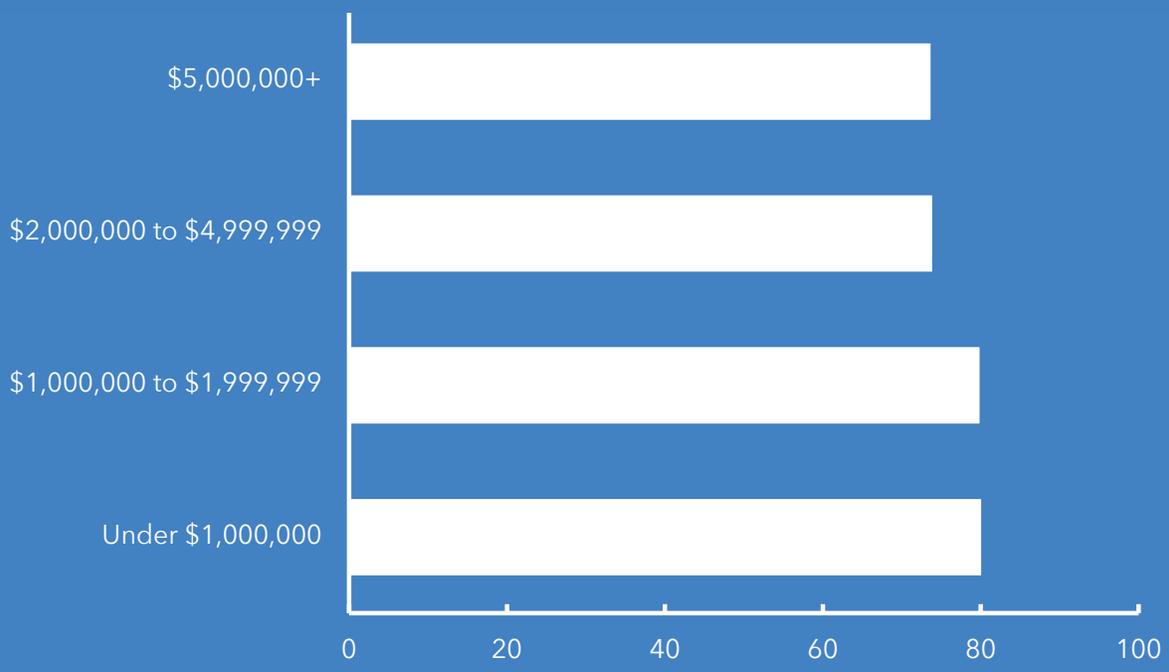


Figure 6. Average Percentage Personnel to Total Budget by Budget Category (N = 35).

# STARTING SALARIES

The 2018 starting salaries of recently graduated law students hired as prosecutors in New York ranged from a minimum of \$40,000 to a maximum of \$84,064. The average of the 36 responding offices was \$59,934.

# CASE PROCESSING

In 2018, the offices surveyed reviewed on average 2,210 felony cases, resulting in 1,461 cases charged, 1,074 cases with at least one conviction, and 79 cases diverted. Further, on average, the offices reported reviewing 5,909 misdemeanor cases, resulting in 5,831 cases charged, 3,999 cases with at least one conviction, and 264 cases diverted. Finally, on average, the offices also reviewed 142 juvenile cases, resulting in 142 cases charged, 10 cases with at least one conviction, and 5 cases diverted. Under new statewide legislation, 16-year-olds charged with felony offenses are no longer processed through the adult criminal justice system. Instead, their cases are transferred to Youth Part, a special branch of the adult criminal court presided over by Family Court judges. Because the majority of juvenile cases are not charged by county prosecutors, the juvenile caseload numbers are skewed.

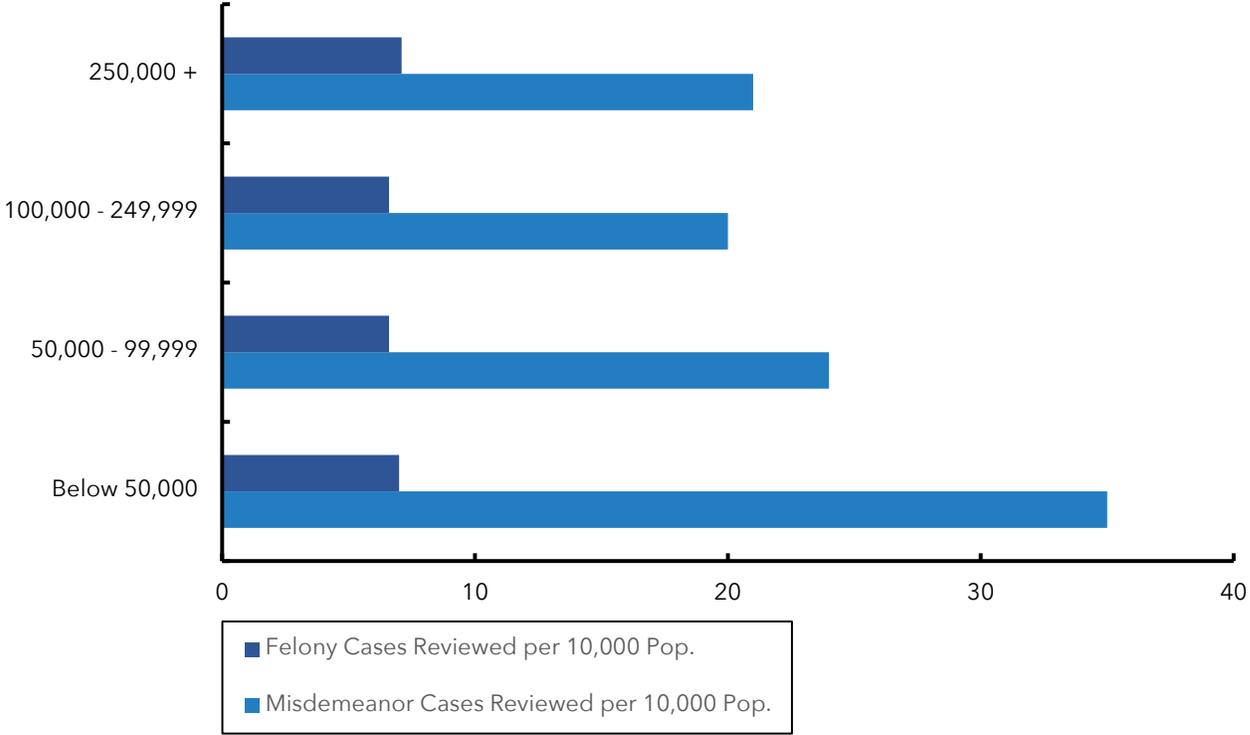


Figure 7. Cases Reviewed per 10,000 Population by Population Category (N = 39).

**Figure 7** depicts the number of felony and misdemeanor cases reviewed by county population category. Offices with fewer than 50,000 residents in their jurisdiction reviewed the most felony cases per capita. Offices across all population categories reviewed a similar number of misdemeanor cases per capita.

**Figure 8** presents the average number of reviewed cases per full-time attorney for felonies, misdemeanors, and both felonies and misdemeanors combined. While these data are limited, the estimated workloads can provide a useful benchmark for agencies. Across reporting offices, there were an average of 87 reviewed felony cases per full-time attorney and 338 reviewed misdemeanor cases per full-time attorney. Overall, this resulted in an average of 433 reviewed misdemeanor and felony cases per full-time attorney.

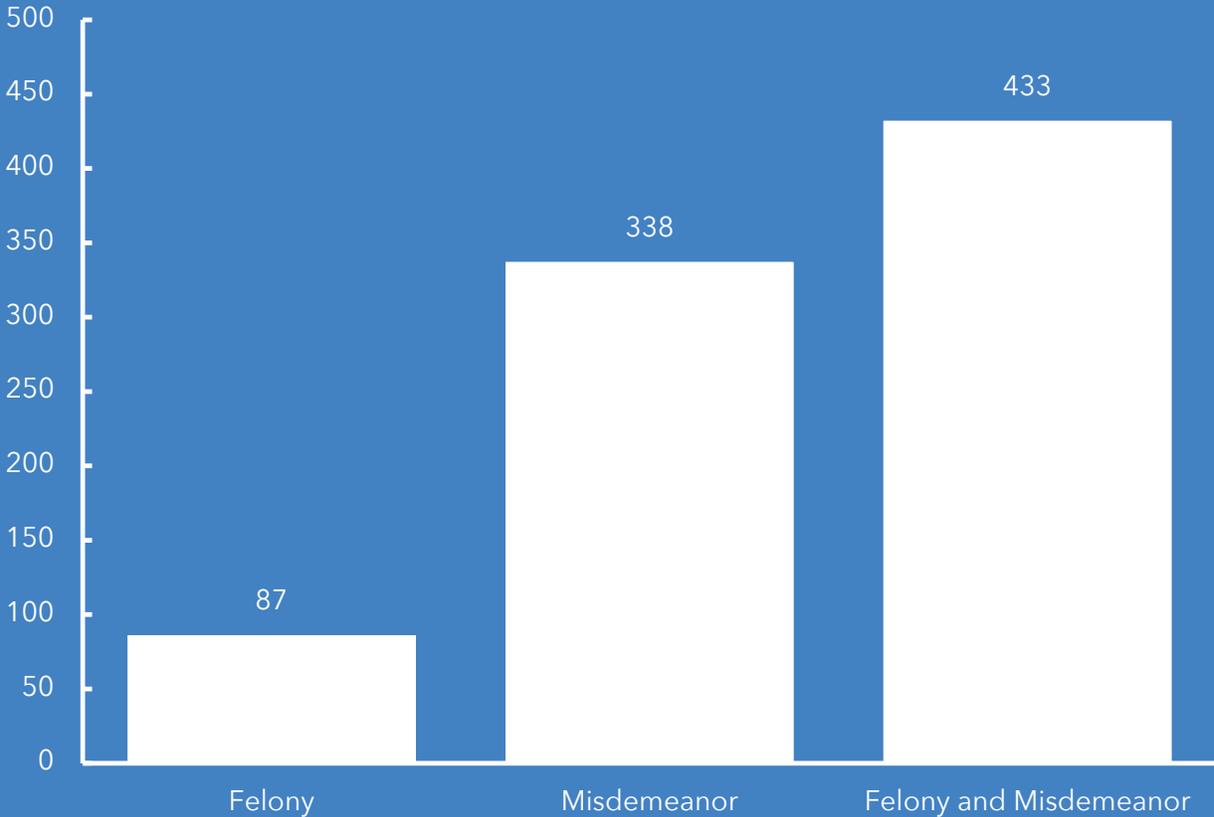
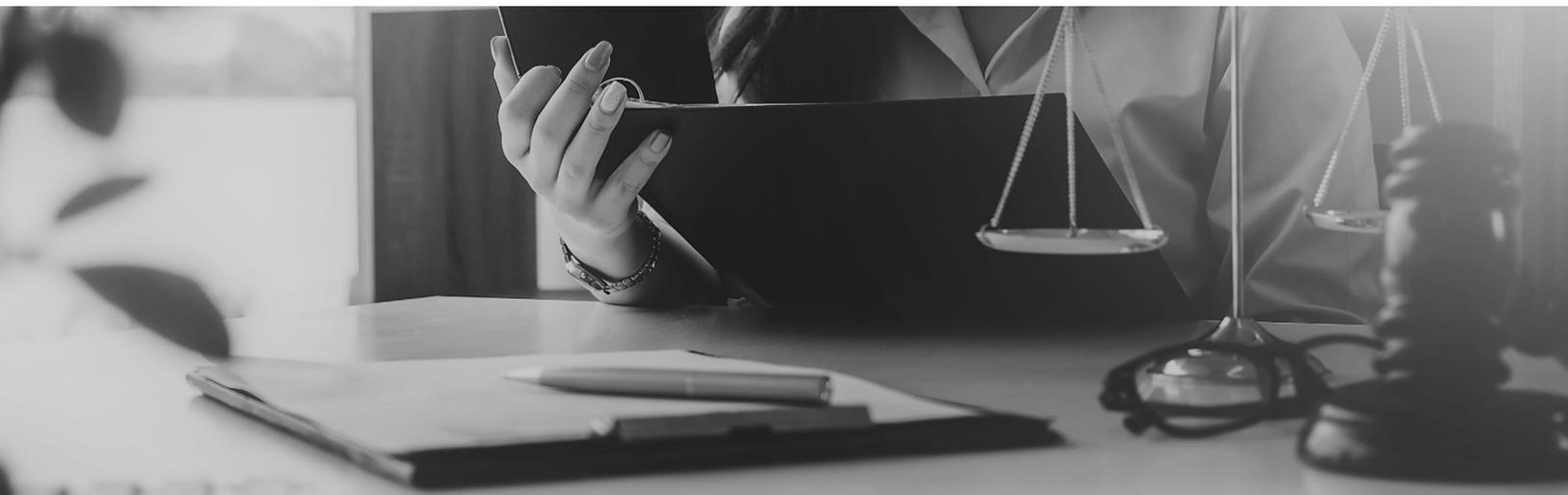


Figure 8. Average Number of Cases per Full-Time Attorney by Type of Case (N =39).



# NUMBER OF EMPLOYEES

On average, prosecutors' offices in New York reported employing 52 full-time attorneys and one part-time attorney. These offices also reported employing 64 full-time and two part-time non-attorneys.

**Figure 9** presents the number of full-time employees per 10,000 population by population category. Offices covering more than 250,000 residents had the highest number of full-time employees, full-time attorneys, and full-time non-attorneys per 10,000 residents.

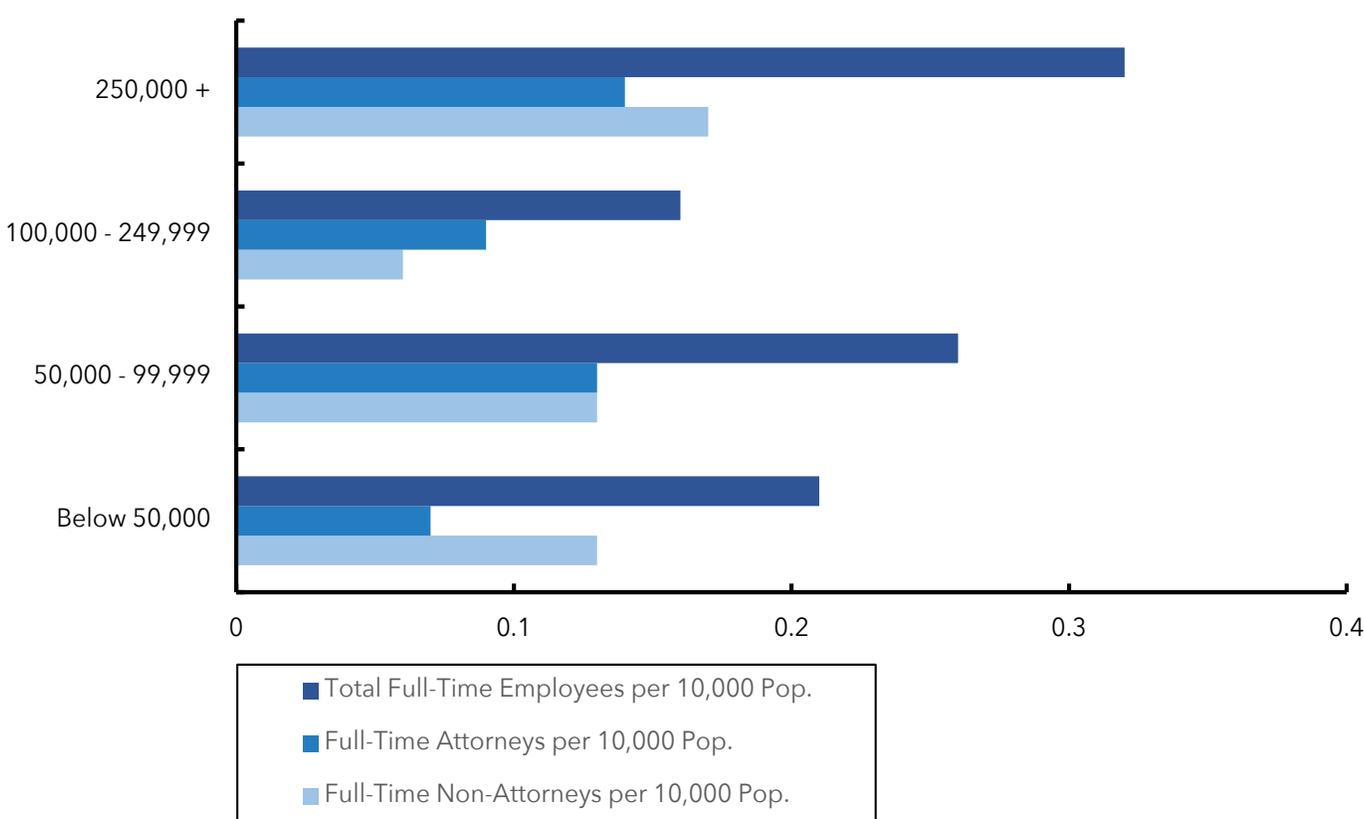


Figure 9. Full-Time Employees per 10,000 Population by Population Category (N = 42).

A different strategy for examining staffing information is to consider the ratio of staff to a measure of workload. **Figure 10** presents the average number of full-time employees per 1,000 felony and misdemeanor cases reviewed. Counties covering 250,000 or more residents had the most full-time attorneys, non-attorneys, and employees overall per 1,000 cases.

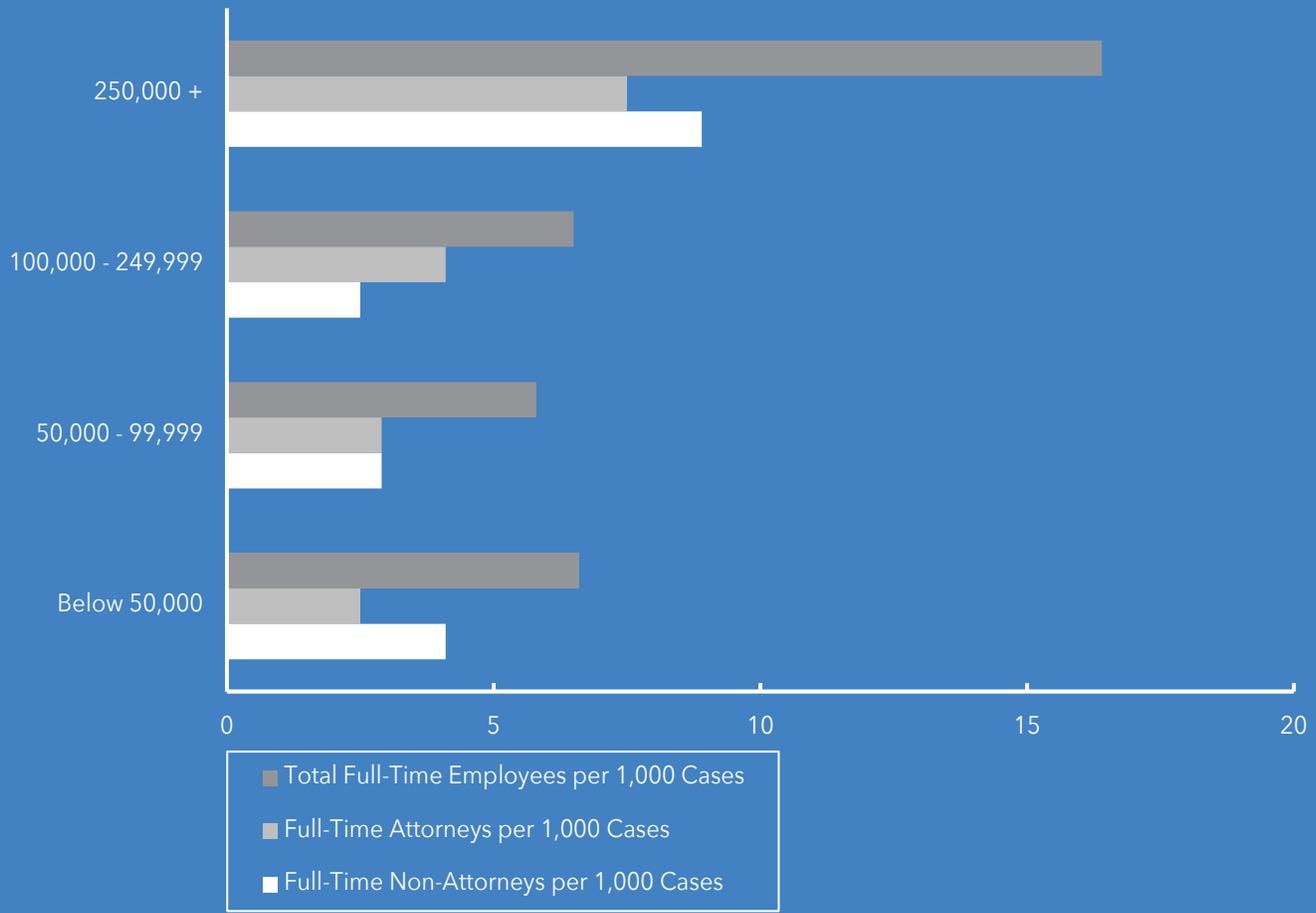


Figure 10. Average Number of Employees per 1,000 Felony and Misdemeanor Cases by Population Category (N = 38).



# PROSECUTOR INITIATIVES

All of the responding offices (N = 41) reported engaging in problem solving courts or other programs that offered alternatives to incarceration in 2018. The majority of offices reported that offenders with low-level felonies (98%), non-violent felonies (95%), and misdemeanors (93%) were eligible for participation in these programs. Significantly fewer offices reported that offenders with violent felonies (37%) were eligible for participation.

# SPECIALTY COURTS

We asked respondents about nine different types of specialty courts: Drug courts, Veterans' courts, Mental Health courts, Human Trafficking courts, Homeless courts, Alcohol/Driving Sobriety courts, Domestic Violence courts, Community courts, and Re-entry courts. **Figure 11** provides the frequency of counties with each type of specialty court in 2018. All responding offices reported Drug courts, and the majority reported Domestic Violence courts (77%). Fewer offices reported Veterans' (46%), Mental Health (44%), Alcohol/Driving Sobriety (27%), Human Trafficking (22%), and Community (15%) courts. No offices reported Homeless or Re-entry courts.

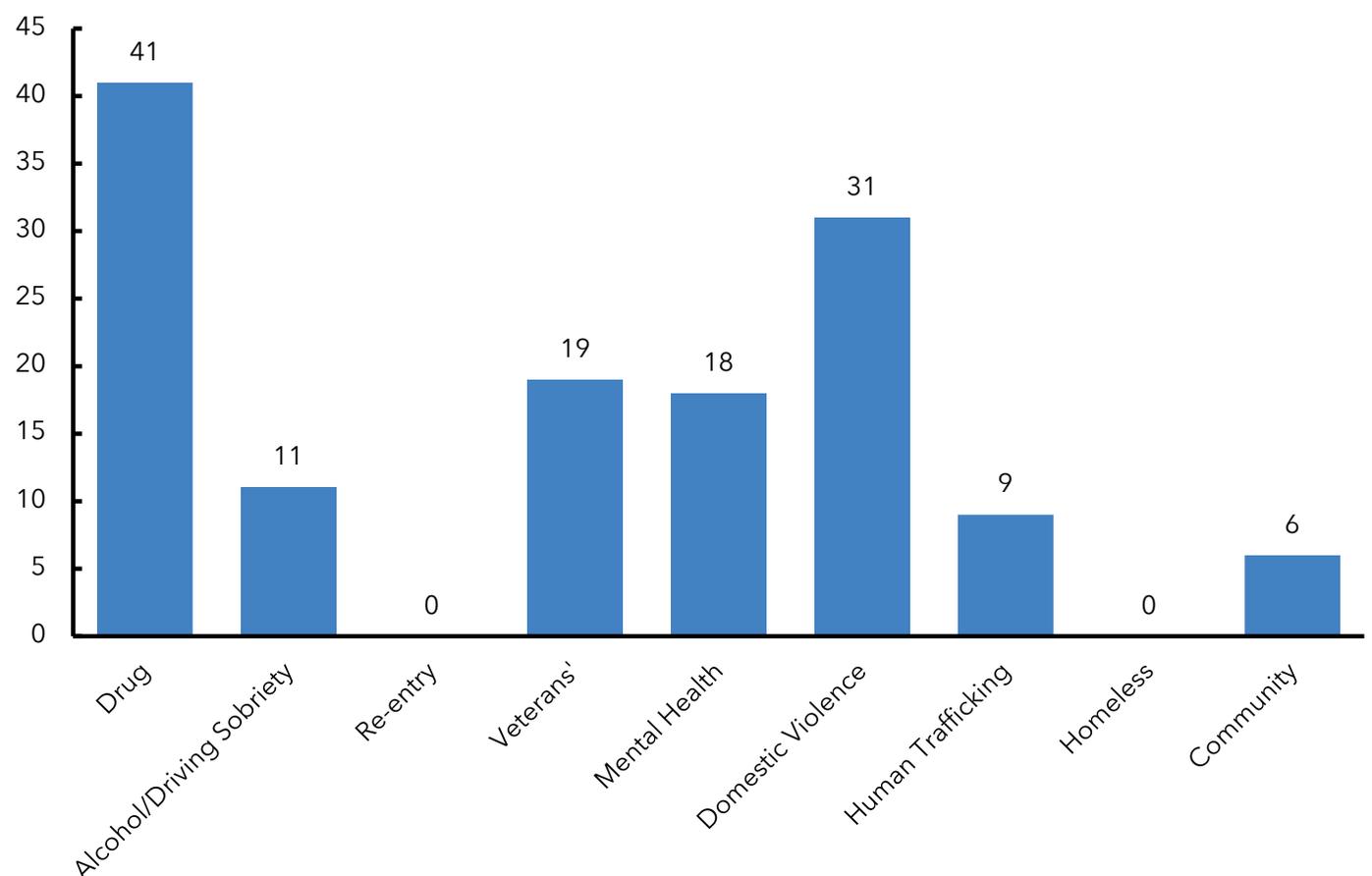


Figure 11. Number of Counties Reporting Specialty Courts by Type (N = 41).

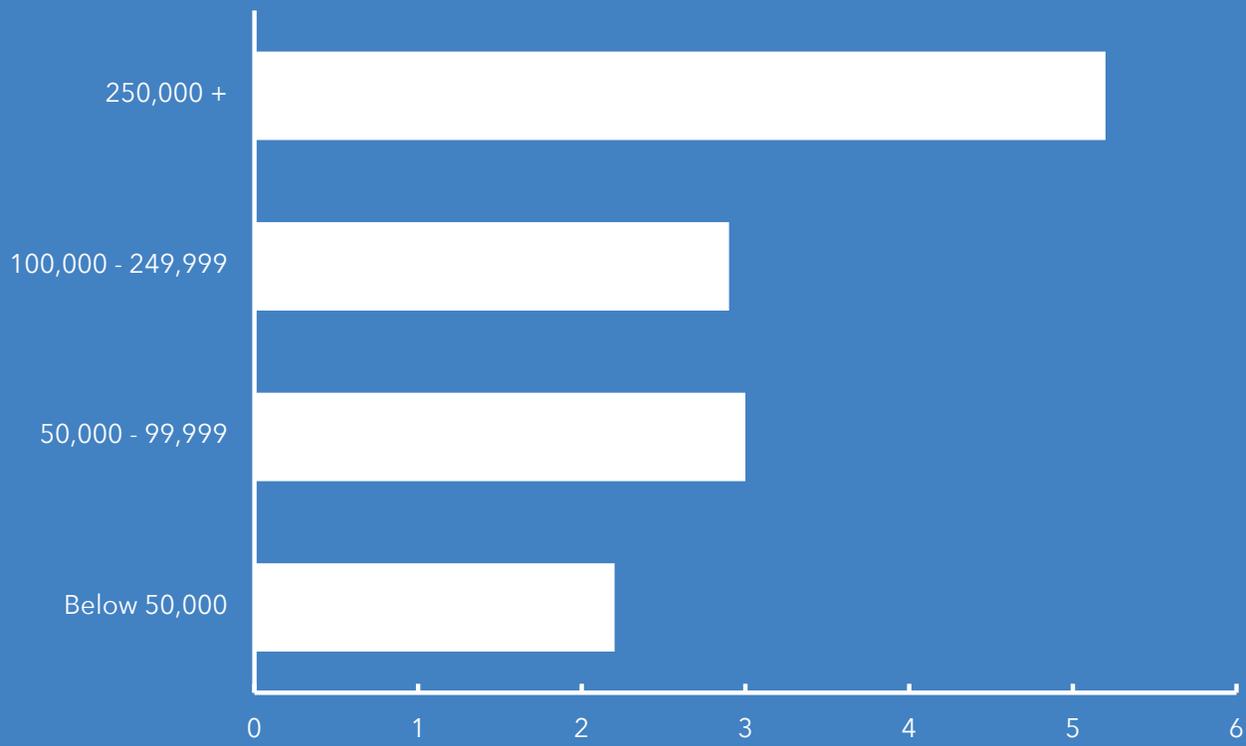


Figure 12. Average Number of Specialty Court Types by Population Category (N = 42).

**Figure 12** shows the number of specialty court types compared to the population category of the county. Counties with more than 250,000 residents had on average 5.2 specialty court types compared to about 2 to 3 types for the other population categories.





# ALTERNATIVES TO INCARCERATION

We also asked whether the offices in each county offered alternatives to incarceration in 2018, as shown in **Figure 13**. Community service (83%), drug treatment (80%), anger management (73%), mental health services (71%), and training/education programs (63%) were the most common offerings. Deflection and restorative justice were offered in 22% of counties.

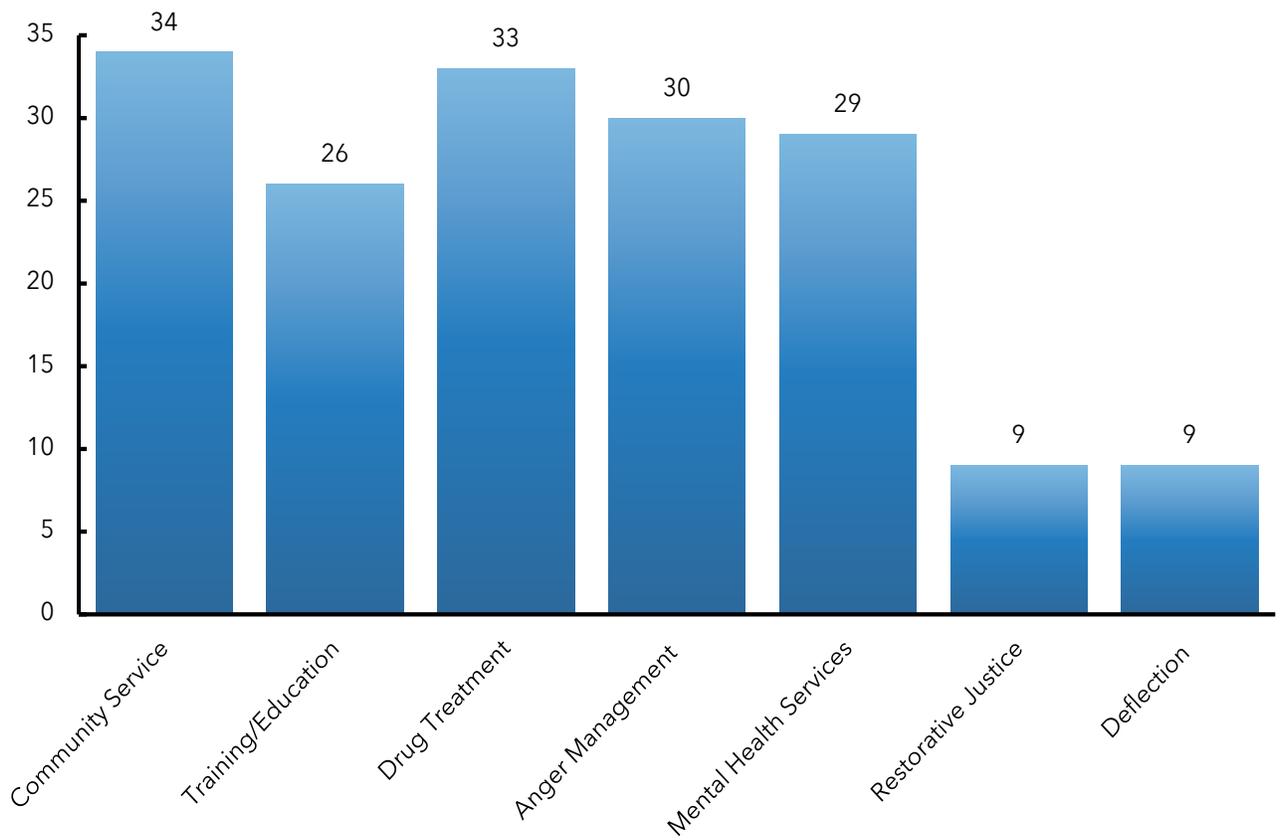


Figure 13. Number of Counties Reporting Alternatives to Incarceration by Type (N = 41).

# SPECIALIZED PROGRAMS

**Figure 14** presents the number of prosecutors' offices that reported operating specialized programs. The most common types of programs were Victim Assistance (78%), Victim Services without Arrest (63%), and Community Prosecutors (56%) programs. Witness Assistance, Restitution, and Conviction Review Units were offered in 52% of counties. Slightly less common were Crime Strategies Units (37%) and Community Affairs Units (34%).

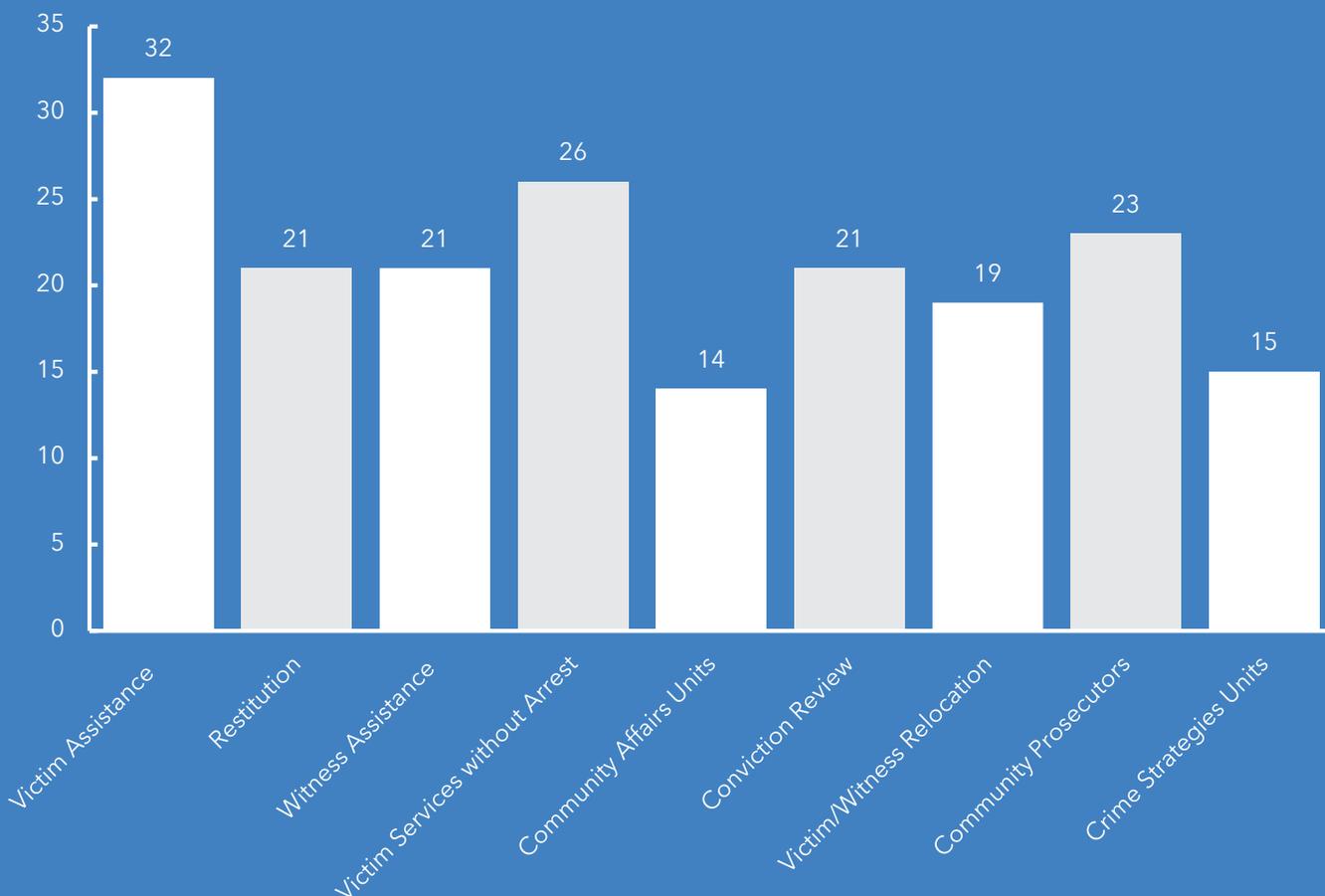
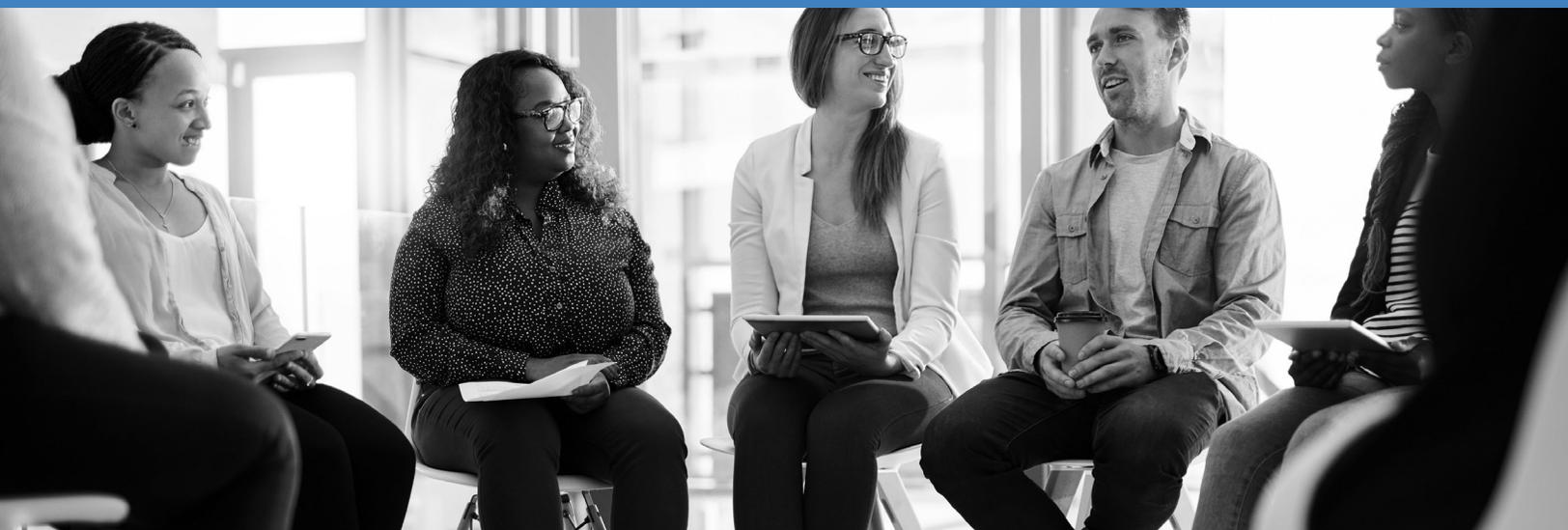


Figure 14. Counties Reporting Specialized Programs by Type (N = 41).



## COMMUNITY PROGRAMS

Finally, we asked whether New York prosecutors' offices ran or participated in several different community programs. These results are presented in **Figure 15**. The majority of offices reported participating in Co-located Child Abuse (76%), Community Engagement (56%), and Youth Education (54%) programs. Slightly less common were Violence Reduction (46%), Co-located Domestic Violence (46%), and Adult Education (39%) programs. Considerably fewer offices reported participating in Neighborhood Courts (24%), Truancy (20%), Re-entry (20%), Sports (12%), Neighborhood Clean-up (12%), and Children of Inmates (2%) programs.

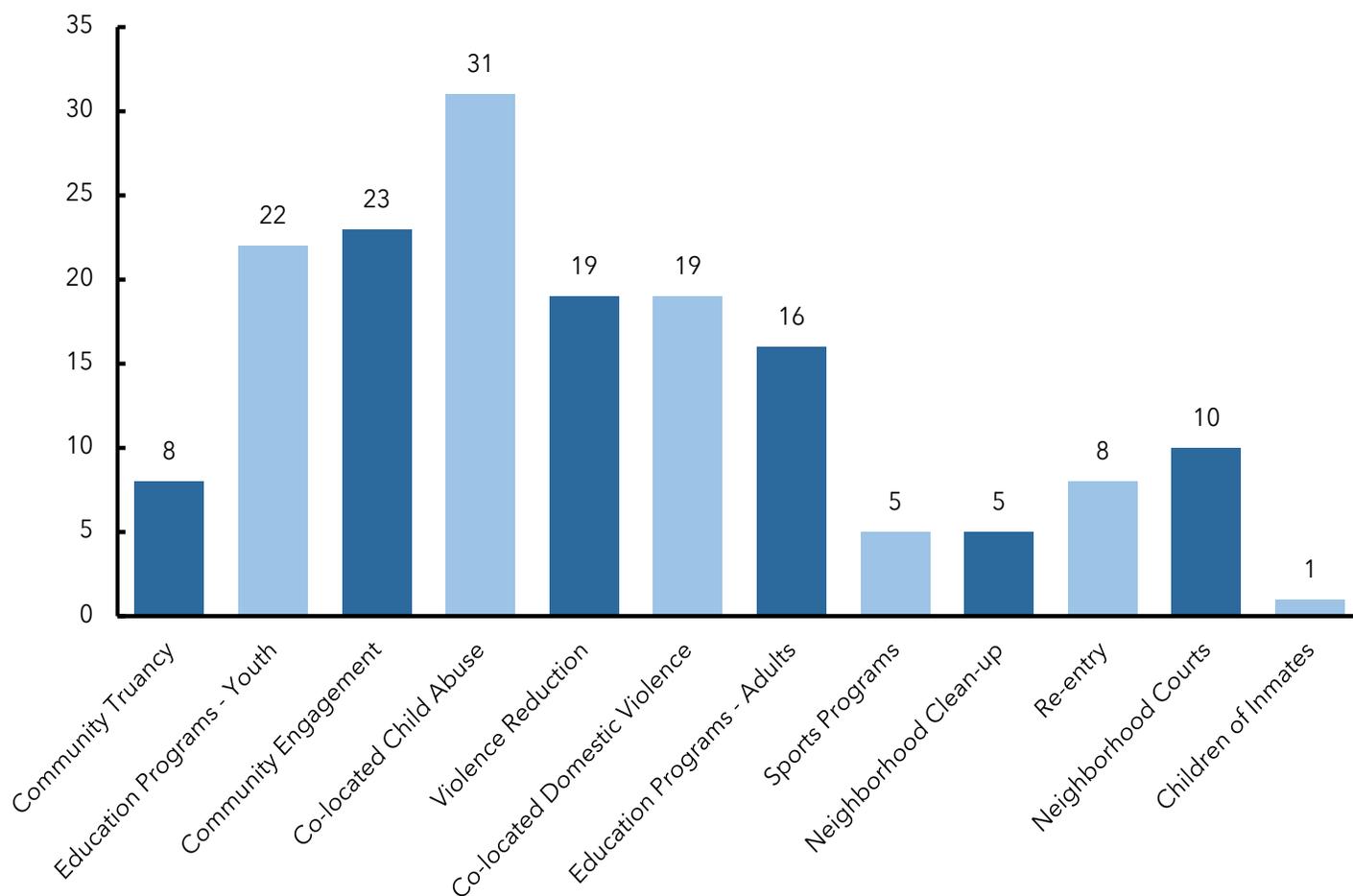


Figure 15. Participation in Community Programs by Type (N = 40).

## TECHNOLOGY

In the following section, we asked respondents about the use of technology within their offices. **Figure 16** displays technology use within prosecutors' offices. Twenty-two percent (22%) of the offices reported having a technology unit responsible for the computers, data, software, and hardware functioning within their offices. All but one office (98%) reported using an electronic case management system, and 39% of offices reported using electronic discovery. Ninety percent (90%) of responding offices reported using technology in their courtrooms, and 41% reported having staff to support them with the use of this technology.

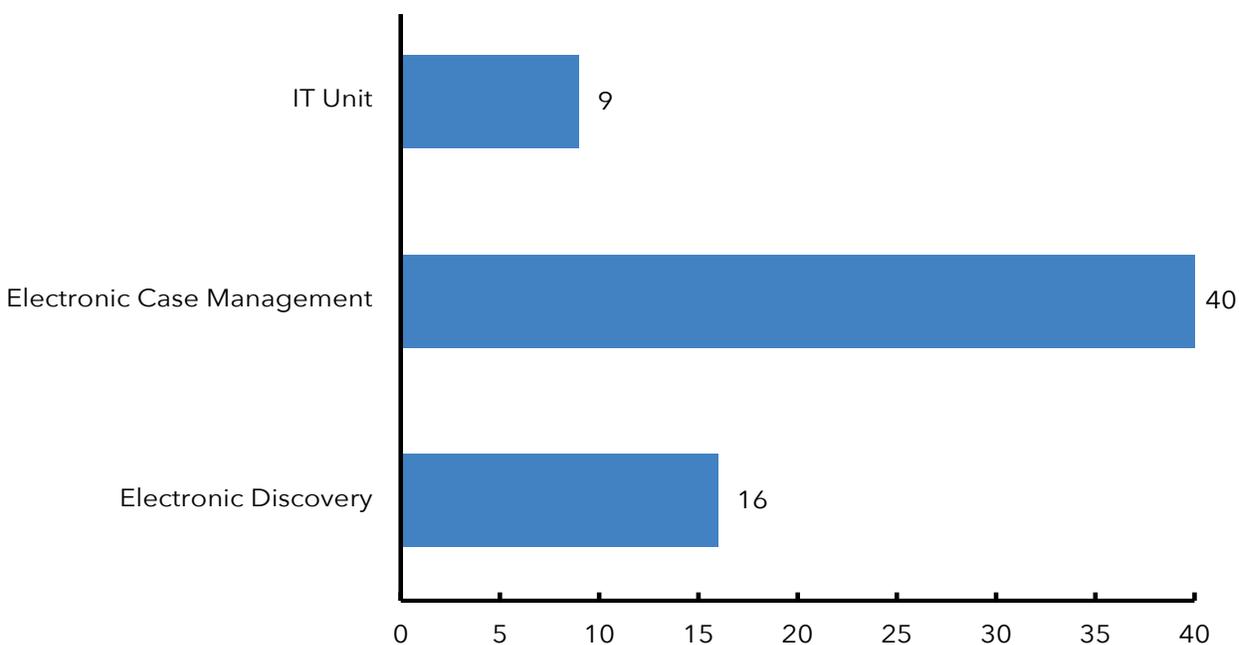


Figure 16. Technology Use within Prosecutors' Offices by Type (N = 41).



## BODY-WORN CAMERAS

In addition, 83% of respondents reported having at least one police agency within their jurisdiction that had implemented a body-worn camera (BWC) program. **Figure 17** presents the method of delivery for BWC video. Of those receiving BWC video, 35% reported using both cloud and DVD interfaces, 32% reported solely using DVDs, and 18% reported solely using cloud-based interfaces. Additionally, 76% of respondents reported needing additional staff to view and manage the evidence collected by BWCs.

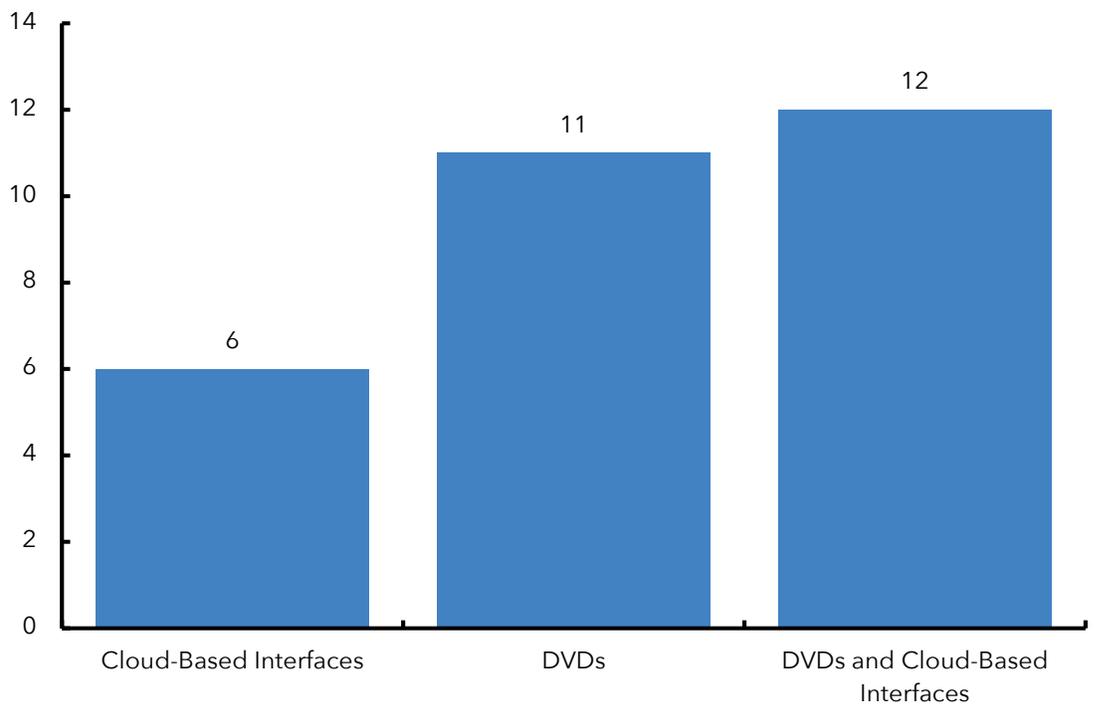


Figure 17. BWC Recordings Received by Prosecutors' Offices by Type (N = 34).

**Figure 18** below shows the percentage of offices by jurisdiction size that reported needing additional staff to view and manage BWC footage. All offices with 250,000 or more residents stated that they needed additional staff to review BWC footage. Approximately three-quarters of offices with 50,000 or fewer residents and offices with 100,000-249,999 residents reported needing additional staff, as did 56% of offices with 50,000 to 99,999 residents.

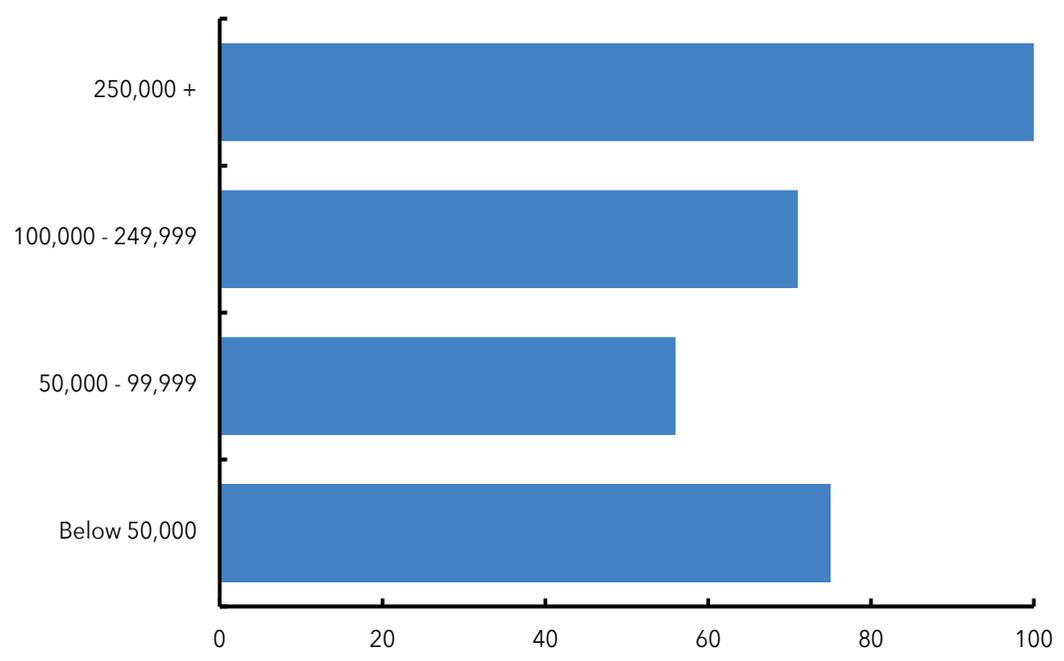


Figure 18. Need for Additional Staff to Review BWC Footage by Jurisdiction Size (N = 33).

## WEBSITES

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Asked what they share with the public online, 98% of survey respondents reported having office websites and 51% reported updating their websites routinely (monthly, quarterly, or annually).

## RESEARCH

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A minority of the responding offices reported engaging in research and analysis. Twenty-eight percent (28%) of offices reported involvement in a research project in the last two years with a university, college, consultant, or independent research firm.

Fifty-five percent (55%) of offices reported analyzing crime data, caseloads, or other types of information routinely on a monthly, quarterly, or annual basis. Twenty-three percent (23%) of offices reported providing an annual report to the public on the work of the office.

Fifty-six percent (56%) of the responding counties had participated in major U.S. Department of Justice grant-based programs. Of those offices, all reported having participated in Violence Against Women Act programs. Sixty-eight percent (68%) had participated in Federal Victims of Crimes Act programs, and 32% reported participating in a Project Safe Neighborhoods program. Nine percent (9%) of offices had participated in a Violence Reduction Network program, and 5% had participated in a Smart Prosecution Initiative.



# STATE-SPECIFIC QUESTIONS

The state of New York requested specific questions addressing the impact of the new bail, discovery, and speedy trial statutes. Sixty-one percent (61%) of responding counties have a government or non-profit agency that can monitor individuals released under non-monetary conditions. Of those 25 offices, 64% indicated that probation is solely or jointly responsible for monitoring individuals released under non-monetary conditions. Thirty-six percent (36%) of offices reported using pretrial services agencies for this function.

Of the responding prosecutors' offices in the state of New York, 65% were not using electronic discovery at the time of the survey (N=26). Of the 14 offices that reported using electronic discovery, all stated that they would need to expand their electronic discovery to accommodate the new statutes. Figure 19 displays the percentage of counties that reported planning to implement electronic discovery because of the new statutes. Eighty-eight percent (88%) of responding offices reported that they would be implementing electronic discovery.

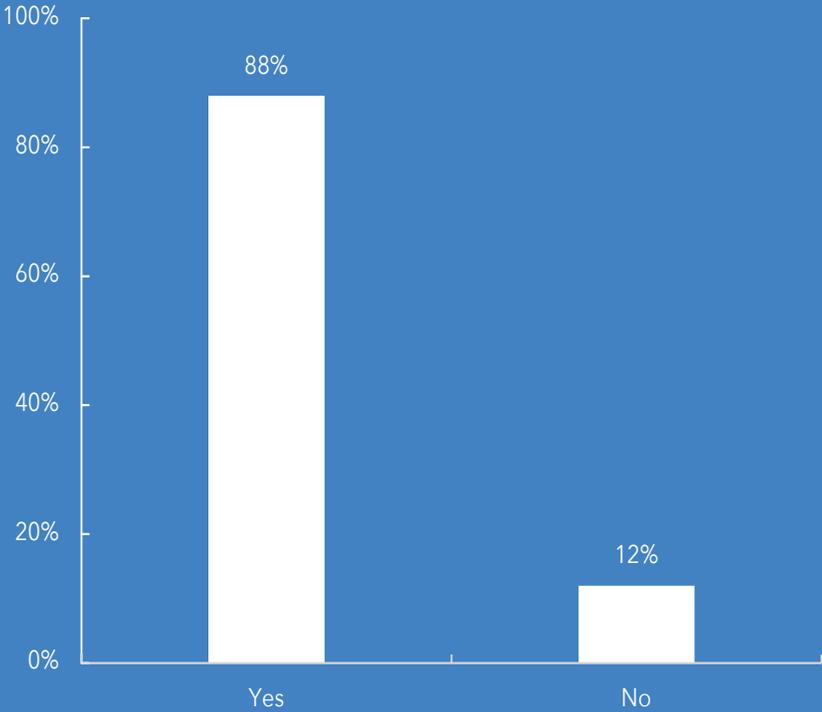


Figure 19. Percentage of Counties Planning to Implement Electronic Discovery (N = 25).

Respondents were also asked whether they would need additional lawyers to comply with the new statutes. Ninety-five percent (95%) of responding offices anticipated needing additional lawyers to comply with the new statutes. All but one responding office stated that they would need additional non-legal staff. On average, offices anticipated needing 4 additional lawyers and 6 additional non-legal staff to comply with the new statutes.

When asked whether they would need additional funding for non-personnel costs to comply with the statutes, 97% of those surveyed responded in the affirmative. **Figure 20** below displays the frequency of offices needing funding for various items associated with the new statutes. Thirty-seven offices reported needing additional funding for electronic discovery, 30 offices reported needing funding to protect victims and witnesses, and 19 offices needed funding for other reasons.

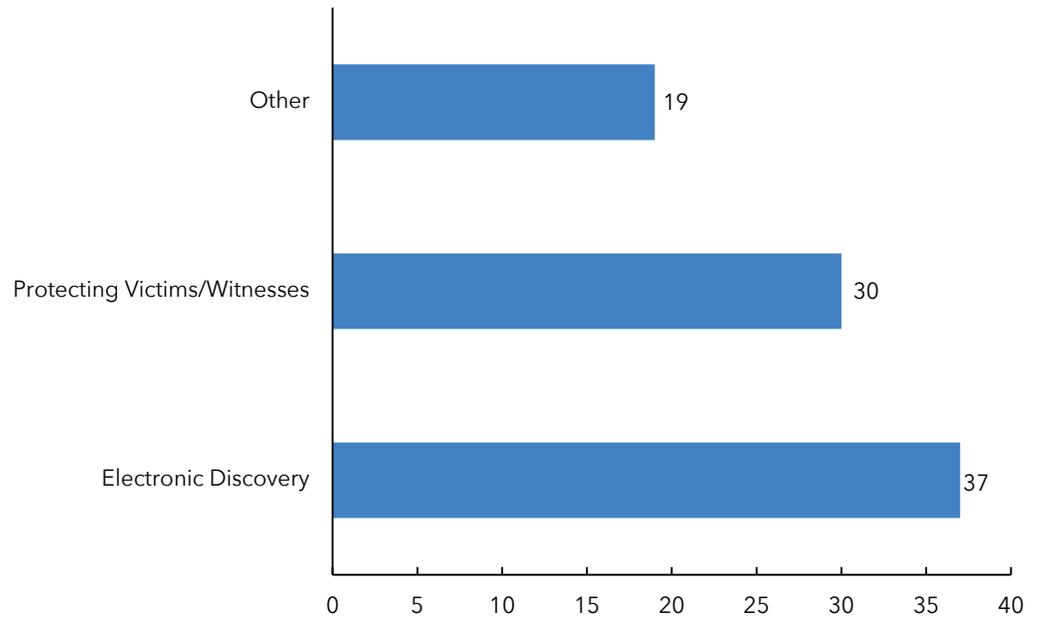


Figure 20. Need for Additional Funding for New Statutes (N = 39).

Respondents were also asked questions relating to accusatory instruments and police involvement in felony and misdemeanor complaints. Of the 40 responding offices, 90% indicated that the initial accusatory instruments were drafted by police in the majority of misdemeanor and felony cases. In 10% of counties, prosecutors reported drafting the initial accusatory instrument in both misdemeanor and felony complaints. [possible to make next part its own paragraph?] Finally, prosecutors were asked about their receipt of any police paperwork within 15 days of lower court arraignment for misdemeanors and felony complaints. Figure 21 below displays respondents' answers to this question. The majority of offices reported "sometimes" receiving police paperwork within 15 days of lower court arraignment for both felonies and misdemeanors. Thirteen percent (13%) of responding offices reported not receiving police paperwork within 15 days for both felony and misdemeanor cases.

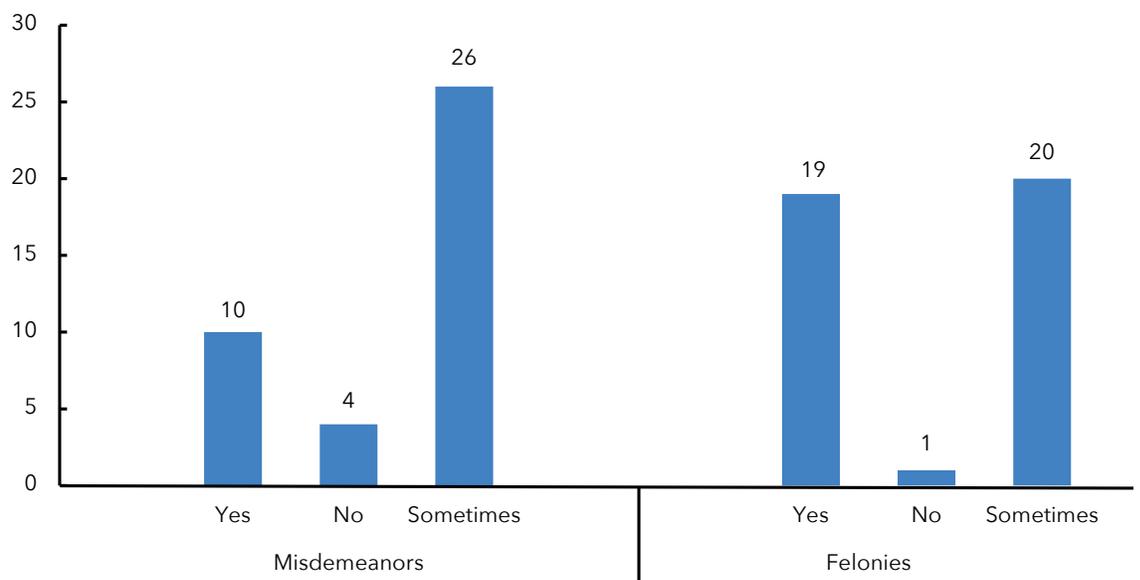


Figure 21. Counties receiving police paperwork for felonies and misdemeanors within 15 days of lower court arraignment (N = 40).

# CONCLUSIONS

The statewide survey administered by JSS and PCE has provided many insights into the day-to-day functioning of New York prosecutors' offices. From the wide range of submissions from New York counties thus far, a number of trends have emerged.

In the survey, the majority of responding New York prosecutors' offices reported handling felonies, misdemeanors, and infractions. Additionally, just under half of responding offices reported handling civil matters.

The responding prosecutors' offices reported elected Chief Prosecutors with an average tenure of 9 years. Eighty-eight percent (88%) of the offices reported budgets under \$5 million. The number of full-time employees per 10,000 population was highest for the largest counties.

The per capita rates of misdemeanor cases reviewed was very similar across all population categories. Offices with fewer than 50,000 residents reviewed the most felony cases per 10,000 residents. Additionally, the largest offices had the highest number of total employees, full-time attorneys, and non-attorneys per capita.

It is apparent that nearly all offices offered specialty or problem solving courts and that some courts were significantly more common than others. While all of the responding offices reported

offering Drug courts, fewer offices reported offering Alcohol/Driving Sobriety and Human Trafficking courts. No offices offered Re-entry or Homeless courts.

Most offices reported running specialized programs. The most common offerings in this category fell under the headings of Victim Assistance and Victim Services without Arrest programs. On the other hand, fewer offices had Community Affairs Units and Crime Strategies Units.

The majority of respondents reported providing specific community programs. The most common offerings were Co-located Child Abuse and Community Engagement programs.

This research has provided great insight into the basic needs of prosecutors' offices. Further research based on these findings should focus on prosecutors' caseloads. Specifically, researchers should continue to investigate ideal caseloads for prosecutors and evaluate proper resource management.

All in all, the New York offices that completed the statewide prosecutor survey provided vital data that increased the knowledge base on the functioning of New York prosecutors' offices as well as on the role of New York prosecutors.