Multnomah County District Attorney:
Data, Technology, and Communication
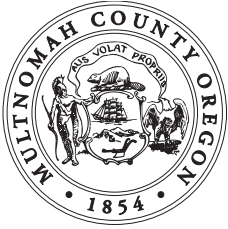## with the Public

September 2009

Steve March
Multnomah County Auditor

Audit Staff
Shea Marshman

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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MEMORANDUM

Date: September 10, 2009

To: Michael Schrunk, Multnomah County District Attorney
         Ted Wheeler, Multnomah County Chair
         Deborah Kafoury, Commissioner, District 1
         Jeff Cogen, Commissioner, District 2
         Judy Shiprack, Commissioner, District 3
         Diane McKeel, Commissioner, District 4
         Bob Skipper, Multnomah County Sheriff

From: Steve March, County Auditor
         Shea Marshman, Public Safety Auditor

Re: Audit of the District Attorney's Data, Technology, and Communication with the Public

The attached report covers our audit of the Multnomah County District Attorney's Office: data, technology, and communication with the public. We reviewed the efficiency, effectiveness, and performance of these department-wide policies and practices that affect operations across the organization. We found a number of areas in which successful changes are under way as well as areas where improvements can be made. We recommend several changes to enhance productivity through use of existing technology and improved communication with the public, while preserving the integrity of the county's public safety system.

This audit and our recommendations arrive at a difficult financial time for the county, when departments, including the District Attorney's Office, have been asked to do more with less. Multnomah County is fortunate to have a District Attorney who has long been a proponent of using technology to aid decision making and promote efficiencies in the area of public safety.

We want to thank District Attorney Schrunk, Chief Deputy District Attorney Rod Underhill, and the other members of the District Attorney's management team for their cooperation and assistance throughout the audit. In particular, we want to thank the prosecutors, administrative staff, and information technology staff in the District Attorney's Office, who spent time facilitating direct observations of prosecutorial functions, answering our numerous questions, assisting us with retrieving data, and helping us obtain a thorough understanding of the complexities of the essential services they provide.

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Multnomah County District Attorney:
Data, Technology, and Communication with the Public

Executive Summary

The Multnomah County District Attorney's Office (MCDA) is an important element of the public safety system, representing the state in the prosecution of criminal defendants. Prosecutors decide what cases should be issued, what criminal charges will be included, and what sentences should be recommended to the judge. If MCDA does not function effectively, public safety related to criminal prosecution may suffer. We analyzed MCDA's practices related to data-based decision-making, use of technology, and communication with crime victims, witnesses and the general public to determine whether functional improvements are needed.

The audit found that:
- Data are used effectively to support essential functions. Improvements in data collection techniques would help managers make better use of data to inform decision making and analyze policy outcomes.
- Existing technology is used to support legal research. Low cost enhancements to current systems show promise for improved efficiency.
- On-going efforts are being made to optimize case management tools using existing technology and to use electronic rather than printed documents where possible. Continued work will be needed to maintain the efficiencies that have been attained.
- Written and telephone communication with the public can be improved by simplifying word choice and clarifying management expectations through targeted training and policies.

Recommendations included in this report are intended to improve MCDA's ability to fulfill their mission of providing the citizens of Multnomah County with fair, timely, and cost-effective justice services. MCDA managers have already begun implementing improvements in several areas.

Introduction

The Multnomah County District Attorney's Office (MCDA) represents the state in the prosecution of criminal defendants. When crimes are alleged, MCDA's prosecuting attorneys (prosecutors) review the cases and determine whether or not to issue criminal charges. Prosecutors decide what cases should be issued, what criminal charges will be included, and what sentences should be recommended to the judge. Criminal justice scholars recognize prosecutors as among the most powerful actors in the criminal justice system, exercising considerable authority over life and liberty. If MCDA does not function effectively, public safety related to criminal prosecution may suffer.

The mission of MCDA is: "To provide the citizens of Multnomah County with fair, timely, and cost-effective justice services." To successfully achieve their mission, MCDA must work to ensure that all internal processes are as effective and efficient as possible. As will be discussed in more detail below, MCDA contains specialized units to prosecute specific crime types. Each unit functions in a slightly different way than the others. However, this audit focused on reviewing department-wide policies and practices that effect operations across the organization.

After assessing overarching operations, the auditor determined that MCDA's use of data to inform decision-making, use of technology to streamline processes, and communication with the public were in need of additional review. As a result, the specific audit objectives were to: 1) determine whether MCDA is making optimal use of data to manage and evaluate its services; 2) determine whether improved use of existing technology could streamline processes; and 3) determine whether adequate policies are in place to ensure quality communication with the public.

Background MCDA is the largest county prosecutor in Oregon. From 2006-2008, MCDA issued criminal charges against (issued) more than 20,000 criminal cases annually. The MCDA attorneys and legal support staff prosecuted crimes ranging from low-level misdemeanors like offensive littering to violent felonies such as murder, rape, and robbery. In addition, MCDA is nationally recognized as an innovator in community-based prosecution strategies.

Oregon State Law (Oregon Revised Statutes 8.610-8.852) gives authority to the elected District Attorney to prosecute all felony and misdemeanor crimes in Multnomah County as well as city code violations in the City of Portland[1]. MCDA reviews and prosecutes criminal cases presented by the police agencies in the County, represents the State in cases of juvenile dependency and delinquency, enforces child support orders, and provides services to victims. MCDA also works in collaboration with other public safety and social service organizations to prevent and intervene in domestic violence, elder abuse, and child abuse, and to eliminate chronic sources of crime through appropriate sanctions, supervision, and treatment programs.

MCDA is part of the larger criminal justice system in Multnomah County. The county's criminal justice agencies also include the Multnomah County Sheriff's Office, responsible for jails and some law enforcement and the Department of Community Justice, responsible for probation, parole, and juvenile justice services. The criminal justice agencies located within the borders of Multnomah County, but which do not fall under Multnomah County authority, include: the Portland Police Bureau, Gresham Police Department, Troutdale Police Department, Fairview Police Department, and the Courts.

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[1] MCDA has specific jurisdiction over municipal (city code violation) cases only in the City of Portland, not the other incorporated cities in the County.

Figure 1 illustrates how the criminal justice system is interconnected. Even though the individual agencies are not necessarily governed by the same authority or funded through the same sources, they are interdependent. For example, if the District Attorney's Office changes the way it prosecutes certain types of crimes, it may impact the other criminal justice agencies by affecting jail bed usage or the number of people sentenced to probation.

MCDA's managers must consider organizational interdependence, time constraints, and budgetary factors when making decisions. As an organization, MCDA is directly impacted by its interdependence with other criminal justice agencies. Because MCDA is part of the larger criminal justice system in Multnomah

Figure 1: The Criminal Justice System in Multnomah County
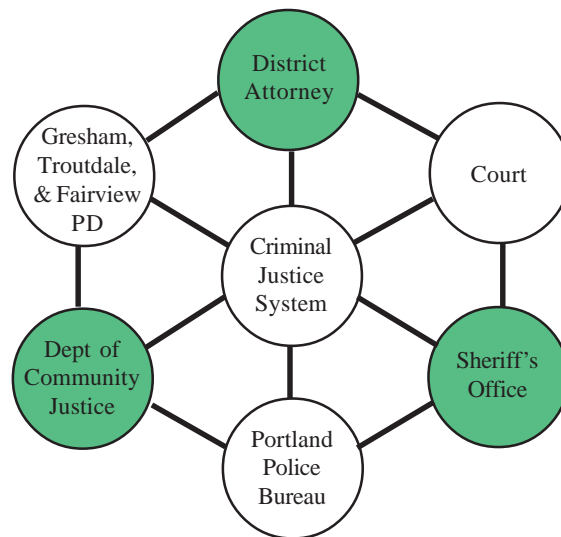
Source: Multnomah County Auditor's Office

County, policy decisions must be carefully considered to identify how they might affect other agencies and the safety of the public. In some cases, policies may not be implemented without direct collaboration with other agencies.

Time is also a factor that MCDA's managers must consider. Many of the legal functions that MCDA performs are time sensitive. For example, people arrested for a crime must be

arraigned in court within a certain number of hours (generally the next court day) or the case may be dismissed. Policies that increase the time needed to process cases may be impossible to implement.

As this audit was conducted, MCDA was facing a reduction in budget brought on by the county budget constraints. The county general fund allocation for MCDA was reduced in FY2010. This may result in the loss of a number of administrative staff and attorney positions. Policies and practices that make better use of limited resources are essential in the current environment.

MCDA is organized into units that specialize in prosecuting specific crimes and providing support services for victims. Figure 2 shows how MCDA is structured. The prosecution units (Felony Division and Family Justice Division) are shaded.

Figure 2: MCDA Organizational Structure
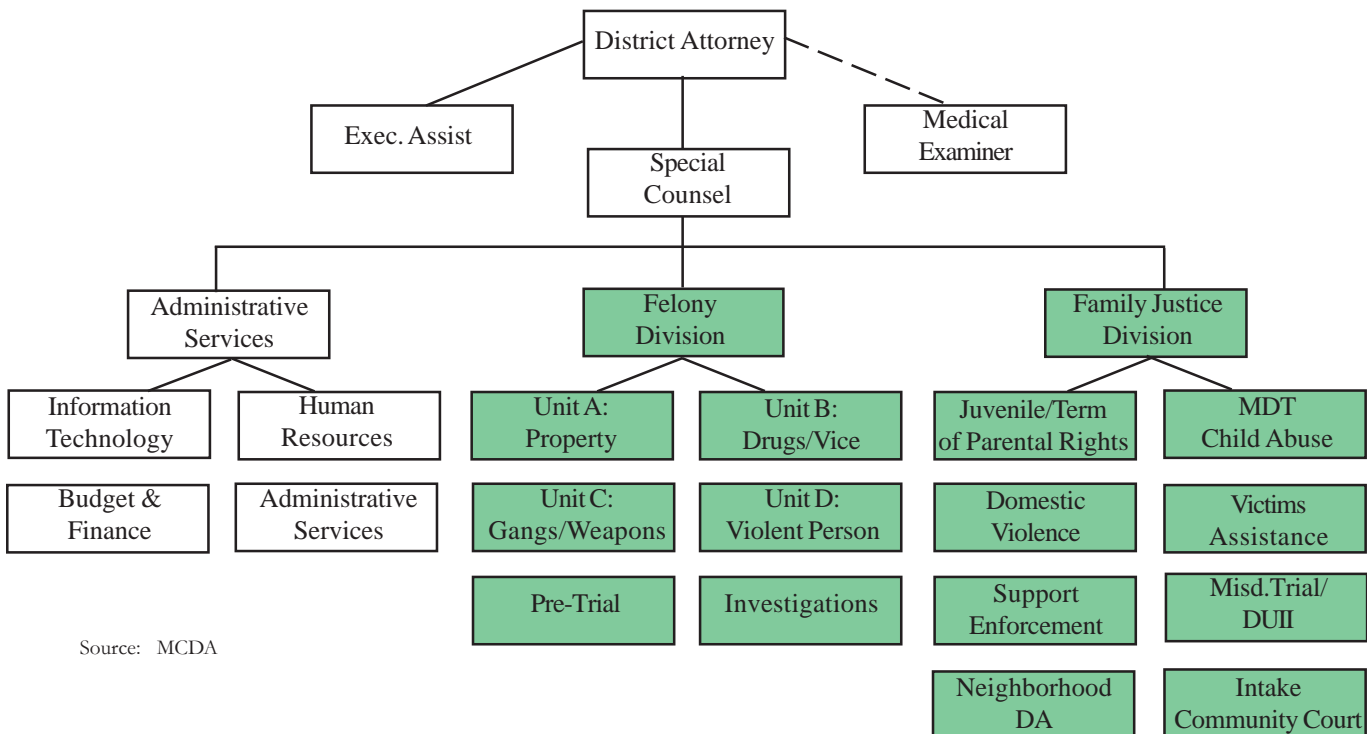
Source: MCDA

Audit Findings

The audit findings fall into three broad categories of analysis: use of data to inform decision-making, use of technology to streamline processes, and communication with the public.

Use of Data to Inform Decision-making

MCDA maintains a case management and data collection system called CRIMES. CRIMES was designed to track cases through the prosecution process and allow managers to evaluate large amounts of data. When a case is entered into CRIMES it includes basic information about the alleged crime, the defendant(s), victim(s), and witness(es). As the case proceeds through the system, data such as case notes and detailed information about the legal proceedings associated with the case are added. Once the case is closed, the information is maintained in the database and can be retrieved for review as necessary.

Managers explained that the primary purpose of CRIMES has been to carry out tasks on cases that were previously often performed manually, such as issuing charging instruments and subpoenaing witnesses. For these purposes, the CRIMES system has allowed the office to more efficiently and effectively accomplish its primary tasks. Even though tracking cases and allowing managers to evaluate large amounts of data are secondary purposes of the system, CRIMES has had recognized success in these areas. Managers said MCDA frequently receives requests for case information and data from local, regional, and national criminal justice organizations.

The data in CRIMES must be accurate to inform decision-making and to help ensure that MCDA is doing the best possible job for the community. It may ultimately affect public safety because mistakes can be made if managers base their decisions on incorrect or incomplete data. However, once accuracy is assured, the data can be used to evaluate practices and make improvements as needed.

Finding 1: Improvements to data collection processes are needed to ensure that data are accurate

- Unnecessary and inconsistently selected reason codes and case flags make drawing accurate and inclusive data cumbersome
- Informed decision-making is limited by inconsistent data entry in some areas

Reason codes and case flags are data elements assigned to cases. For example, when attorneys reject a case they select a reason code such as "insufficient evidence as a whole" that indicates why the case was rejected. Case flags are used to identify cases by type. For example, a case prosecuted under a specific federal grant would be flagged for inclusion in summary grant reports. Reason codes and case flags are important because they provide specific information, which would not otherwise be available, about cases. When used consistently and correctly, data collected from reason codes and case flags can allow MCDA to identify what has transpired in individual cases, track specific case types, and more completely evaluate their practices.

Our evaluation of current reason codes and case flags identified problems. In an effort to capture detailed information, MCDA has too many codes with no accompanying direction about how staff and attorneys should select them. For example, all of the reason codes associated with dismissed and rejected cases are included in drop down menus from which the most appropriate code must be selected. Over time, dismissal reason codes and case rejection codes have been added, but no effort has been made to ensure that they are being used correctly. At the time of this audit, there were 65 dismissal reason codes and 63 case rejection reason codes to choose from.

As discussed previously, attorneys and staff have considerable time constraints that limit the time they can dedicate to searching through a long list of reason codes or case flags. Studies show that when seasoned professionals make decisions under time constraints they are significantly more likely to save time by choosing the first option that will effectively solve the problem than to take the time to make sure they have made the optimal choice[2].

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[2] Klein, A. & Calderwood, R. (1991) *Decision models: Some lessons from the field.* Transactions on Systems Management, and Cybernetics. 21:5. Sept/Oct.

Over the past three calendar years, more than two thirds of the dismissal and rejection codes have been used less than one percent of the time and managers are not confident that those codes that are being used were selected correctly. However, problems were not identified for reason codes with a list of options short enough to be easily scanned for the optimal selection. Although case flags are used for different purposes that may make accurate selection more likely, similar problems were found with case flags, which have been used inconsistently and not removed once they become unnecessary.

Inconsistencies in some of MCDA's data entry practices does not imply that case information is inaccurate. The CRIMES system receives a download of case events each night from the Oregon Judicial Information Network (OJIN). This process helps ensure that CRIMES case information is consistent with case activity recorded in the courts' data system. Managers also said that inconsistencies in data do not ultimately result in inaccurate reports because the data and the resultant reports are subject to careful and inclusive scrutiny. However, they also described situations in which the process of ensuring that data are correct has been cumbersome and time consuming. By identifying and correcting current problem areas and conducting regular spot-checks of reason codes and case flags in the future, MCDA will promote increased data usability.

Managers said that work is currently underway to identify dismissal and rejection reason codes that can either be eliminated or collapsed. Some case flags may be eliminated if no unacceptable loss of data results from the change. Further, an annual or bi-annual review of codes and flags will be established.

Recommendations:
1.1 Continue to work with IT to remove and collapse reason codes and case flags that are confusing, no longer needed, or duplicate other functions in CRIMES
1.2 Conduct regular tests of reason codes and case flags to ensure that they are maintained at a workable size and are being selected appropriately
1.3 Spot check new reason codes and case flags to ensure that they are being used correctly
1.4 Develop guidelines and conduct on the job training if needed to standardize use of reason codes and case flags

Finding 2: More thorough analysis of data is needed to inform management decisions and evaluate practices and policy outcomes

- Management reports are primarily used to assess case management and general performance information rather than specific areas for improvement
- Data are not commonly used to assess policy outcomes

A common goal of prosecutors is to effectively manage their offices by using sufficient resources to provide quality prosecution services consistent with their policies. To achieve this goal, prosecutors must have management information to know what is happening in their offices and to make informed decisions. They also have to be able to analyze and act on this information[3].

There are two types of data-driven information that help to inform prosecutorial management: operational information and management information. Both types of information are important. Operational data provide information needed to run an office. This may include elements like the status of cases or where cases are in the court system, the inventory of cases that attorneys are currently prosecuting, the docket and the files needed for court proceedings, scheduled hearings, or how cases can be moved along to disposition.

Management data provide information needed to assess the office's performance and to identify areas needing change or improvement. For example, management information about case processing and disposition provides answers to important questions like: how good are MCDA's conviction rates?; are too many cases being dismissed and if so why?; if attorneys are having trouble with trial calendars breaking down, where is the problem occurring?; are attorneys following the plea policy?

MCDA currently draws upon a wide array of operational information to inform decision-making. Managers explained that senior management uses a variety of reports on a monthly, semi-annual, and annual basis. Some of those reports originate with

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[3] Jacoby, J et al (1999). *Prosecutor's Guide to Management Information.* Jefferson Institute for Justice Studies. http://www.jijs.org/publications/prospubs/mgtinfo.pdf

CRIMES, some do not. The reports include, but are not limited to: fiscal reports by division, case statistics broken down by unit, year-to-date and year-to-year statistics by unit, and case-aging data. Managers also said that they review case issuing and cases reviewed reports similar to those shown below on a periodic basis throughout the year.

MCDA managers currently have access to mostly operational information that helps them to manage cases. Improvements could be made to promote the better use of management information. MCDA's data could be, but are not commonly used to analyze practices to determine whether MCDA is meeting policy goals over time or to identify problem areas in the process.

Figures 3 and 4 are examples of one way that existing data analysis could be used to evaluate trends in case issuing and to make comparisons between units to assess the success of practices.

Figure 3: Downtown Misdemeanor Unit

Figure 4: Gresham Misdemeanor Unit
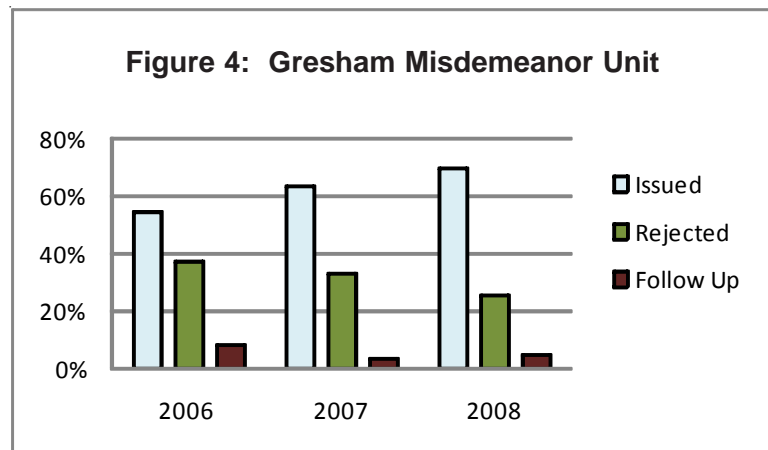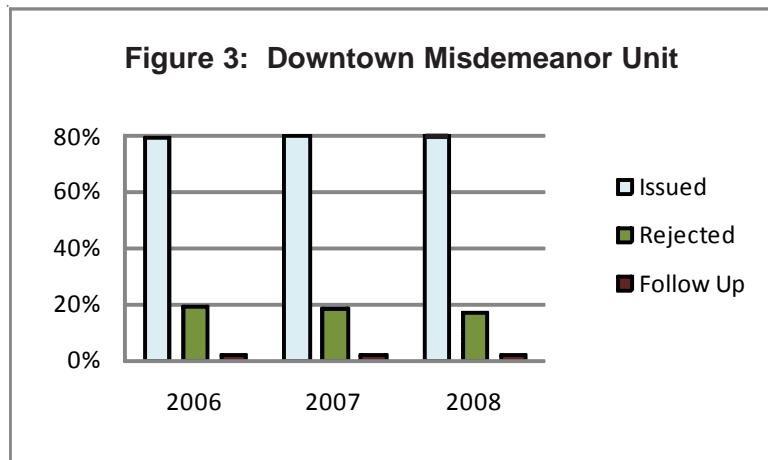
Source: MCDA data compiled by Auditor's Office

Figures 3 and 4 show the percentage of cases received in which MCDA issued charges, rejected the case, or returned the case to police for follow up investigation. During 2006, 2007, and 2008 the downtown misdemeanor unit issued criminal charges on a higher percentage of cases than the Gresham misdemeanor unit. However, the percentage of cases the Gresham unit issued has increased steadily over the same time period. If these trends do not support the anticipated results for the units, managers will need to look closer at how charges are issued and why they are being rejected.

Among the other types of data that could be analyzed are: plea bargaining and dismissal patterns by case and charge type, the point in the system in which most cases are disposed and/or delayed, case backlogs, and the impact of changes in population and crime types[4].

MCDA data can also be used to analyze policy outcomes. For example, Oregon law gives District Attorneys the authority to decide at what level (e.g. felony, misdemeanor, or violation) some criminal charges will be prosecuted. The District Attorney may reduce many felony charges to misdemeanors and misdemeanor charges to violations if there is reason to believe that the interests of justice would be served in doing so. Reducing a felony to a misdemeanor limits the types of sentences and fines that can be requested if the defendant is found guilty. Reducing a misdemeanor to a violation means that the charge will not be recorded in the defendant's criminal history and may be resolved by paying a fine rather than by proceeding through the court system.

MCDA managers have indicated that they may attempt to meet budgetary shortfalls through cost savings that result from reducing some crimes from felony to misdemeanor and more misdemeanors to violations. Therefore, at this time, it is particularly important for MCDA managers to pay attention to outcomes related to levels of prosecution.

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[4] Areas for data analysis based on recommendations from research conducted by the Jefferson Institute for Justice Studies.

The following is an example of how managers could use data they already collect to evaluate MCDA's current policy supporting the reduction of some low-level misdemeanors to violations if the defendant appears in court for his or her scheduled arraignment.

MCDA policies instruct attorneys on how to decide whether certain types of misdemeanors should be: 1) issued as a violation; 2) issued as a misdemeanor and set up for reduction to a violation at arraignment; or, 3) issued as a misdemeanor. Under option two, if a defendant charged with certain catagories of low-level, non-violent misdemeanors appears in court for arraignment, the charge may be reduced to a violation. If the defendant fails to appear (FTA) in court, the judge will issue an arrest warrant and the original charge will be issued as a misdemeanor.

MCDA managers explained that the purpose of this policy is to expedite the processing of very low-level, non-violent misdemeanors if the defendants follow the law by appearing in court while still holding them accountable if they continue to break the law by failing to appear. As discussed previously, MCDA policies affect other criminal justice agencies. In this case, MCDA's policy directly impacts both the courts and the Multnomah County Sheriff's Office (MCSO). For the courts, there is a cost associated with every warrant issued. If the administrative cost of processing an FTA warrant is greater than processing a violation, it is important for MCDA managers and the courts to be confident that the policy balances the interest of justice with the effective use of scarce resources. For MCSO, every warrant must be resolved by booking the defendant into custody. MCDA and MCSO managers should consider whether the cost of booking defendants into custody is equal to the public safety benefit of holding low-level, non-violent misdemeanants accountable in this way.

Currently, MCDA managers do not know how often this policy is used or whether it appears to be an effective use of court resources because they have not analyzed available data to evaluate the policy outcomes. The following is an example of one way that managers might use existing data to evaluate the policy.

Among the many variables that MCDA managers might consider are: 1) the number of misdemeanor cases that are set up for reduction to violation; 2) the number of reduction cases that result in FTAs (and an arrest warrant); and 3) the number of FTAs in which the defendant is alleged to have committed new crimes while the resultant arrest warrant was in effect. Although some of the potential implications of the data are included below, this example is intended as a demonstration of possible methods that could be used rather than an analysis MCDA's current policy.

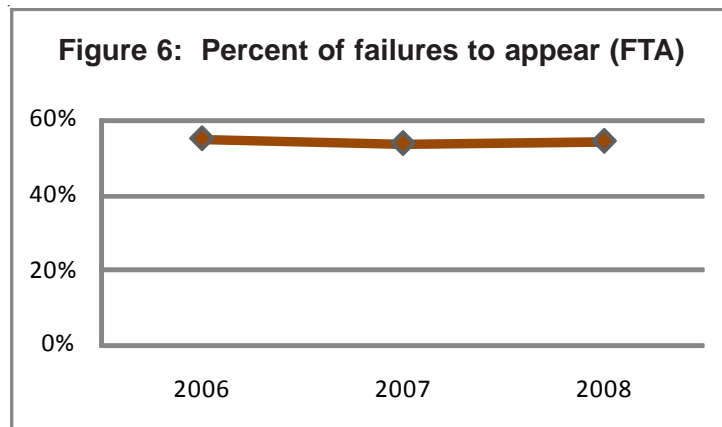**Figure 5: Misdemeanors set up for reduction to violation**
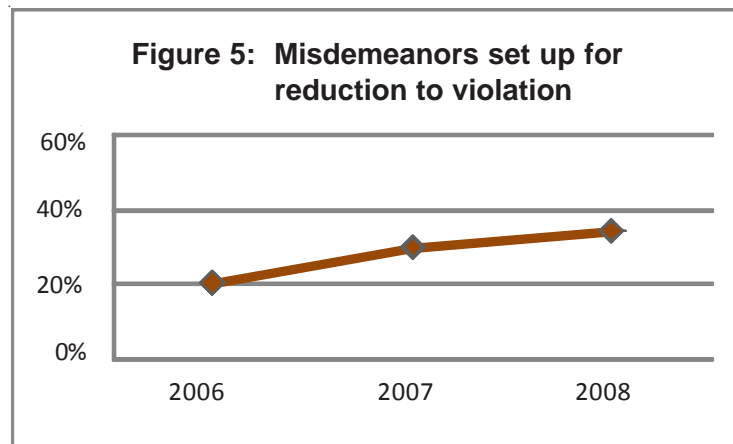
Source: MCDA data compiled by Auditor's Office

Figure 5 shows the percentage of misdemeanors set up for reduction to violations at arraignment in MCDA's downtown Portland misdemeanor unit[5].

Between 2006 and 2008, the percentage of misdemeanors set up for reduction to violation increased from twenty percent (1,781 cases) of the total number of misdemeanors issued to thirty-four percent (3,148 cases). It can be assumed that MCDA and court resources were saved every time a defendant appeared at arraignment because the charge would have been issued as a violation and there would have been no need for the case to be processed through the formal court system.

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[5] Similar cases issued by the Gresham misdemeanor unit are not included in this example.

Figure 6 shows the number of misdemeanors set up for reduction to violations in which the defendant failed to appear (FTA) in court.
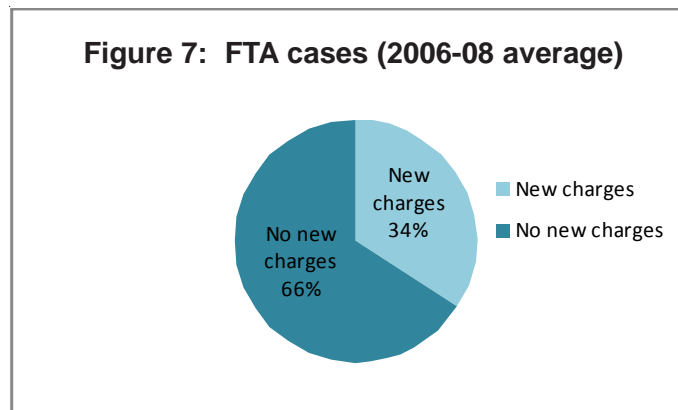

Source: MCDA data compiled by Auditor's Office

An average of just over fifty-four percent (1,350) of defendants with cases assigned to the Portland misdemeanor unit failed to appear in court for arraignment on misdemeanors set up for reduction to violation during 2006, 2007, and 2008.

These data demonstrate that over three year more than 3,400 cases that might otherwise have entered the formal court system were processed as violations. In addition, there was an increase in the number of cases processed as violations without a corresponding increase in FTA problems. Conversely, the data also show that between 2006 and 2008, more than 4,000 warrants were issued for low-level, non-violent misdemeanor crimes that had been set up for reduction to violation.

The data raise a variety of policy questions. On one hand, if the cases had all been prosecuted as violations rather than misdemeanors set up for reduction at arraignment, MCDA, the court, and MCSO would have saved the cost of all 7,484 cases. On the other hand, MCDA managers have said that issuing all of the reduction cases as violations would fail to support justice and public safety because defendants would not be held accountable for the criminal acts that they are alleged to have committed.

Figure 7 shows the three-year average percent of cases in which defendants with an FTA warrant on cases set up for reduction to violation were arrested for a new crime during the time that the warrant was in effect. Between 2006 and 2008, an average of thirty-four percent (462 of 1,350 cases) of the FTAs on cases set up for reduction to violations were arrested for committing new crimes. It cannot be assumed that everyone who committed a crime was caught, but this measure demonstrates that behaviors associated with a criminal lifestyle may contribute to FTAs.

Figure 7: FTA cases (2006-08 average)

Source: MCDA data compiled by Auditor's Office

Again, there are many ways to evaluate this information. These data may demonstrate the benefit of the existing policy for holding defendants accountable by enhancing the likelihood that they will be held in custody. On the other hand, the police may have caught the defendants committing new crimes regardless (and without the added cost) of the FTA warrant. In order to answer this question, MCDA managers may choose to consider the types of crimes that are being alleged. If even a few serious crimes appear to have been thwarted as a result of this policy, the potential benefit to public safety may outweigh other costs. However, if the new charges are the same low-level, non-violent misdemeanors, the cost to the criminal justice system may be too great. In light of current budgetary constraints, managers may wish to consider whether or not MCDA and public safety would benefit from similar policies in other areas of the criminal justice system.

Similar evaluations of policies can be used to estimate the possible impact of current budget changes and track actual changes resulting from policy implementation. To date, MCDA managers have rarely analyzed data in this way, thus limiting their ability to assess the office's performance and to identify areas needing change or improvement.

Managers pointed out that there are many variables that make analyzing MCDA's policy outcomes difficult. For example, while the quantity of cases processed (as demonstrated in this report) is an easy piece of data to obtain, determining the quality of an outcome is more complicated. MCDA managers said just a few of the variables are: cooperativeness of victims, quality of witnesses and evidence, complexity of the case issues and charges, and trial by jury. They also said the forty circuit court judges and the fourteen referees that may be assigned can be a factor. Managers also explained that there are also cases in which the best outcome is not a guilty verdict or plea, but rather a successful diversion program followed by a dismissal of charges. In addition, there is a significant difference in the way misdemeanor cases are handled versus felony cases in that felony cases are assigned to specific attorneys from their inception while misdemeanors may be prosecuted by a different attorney than the one who issued the case.

These complexities demonstrate why meaningful data analysis of MCDA's management information must include collaboration between information technology staff and prosecutors. Prosecutors provide the professional expertise to develop analytical questions and reports that meaningfully inform real world decision-making. IT staff can ensure the appropriate data are drawn and analyzed. Managers explained that MCDA has already taken steps to address this issue by converting a clerical support position to a data analyst position. The goal of this shift is to provide organizational capacity to drill deeper into data and analyze its meaning. Further, managers have expressed interest in considering possible options for increased use of data for evaluating key policies.

Recommendations:

2.1 Continue to shift IT and administrative staff efforts toward broader analysis of data

2.2 Ensure that collaboration between IT staff, clerical staff, and mid-level managers is resulting in meaningful decision-making data

2.3 Increase the use of data to analyze key policies for effectiveness, consistency, magnitude of use, interagency concerns, and impacts

Use of Technology to Streamline Processes

Technology is essential for effective prosecution. Computerized functions save time by streamlining the process and ensuring uniformity of legal practices. However, MCDA must monitor its technology to ensure that it is working as intended and available as needed.

Finding 3: Electronic knowledge management tools for legal research and document sharing will make more effective use of attorney time

- Re-creating rather than re-using legal research is a poor use of attorney time
- Low cost technological knowledge management options available to prosecutors are not used

Legal research is an essential and often time consuming part of prosecution. Good legal research requires that attorneys fully capture the appropriate precedent setting cases and present them to the court in a well written document. Legal scholars argue that modern innovations in information technology have increased the amount of legal information that attorneys must capture, which also increases the amount of time that must be spent to be sure they have the most accurate information and decreases the time available for writing. To be effective, legal research must include the cases that established a legal precedent as well as all the newest information relating to the case. Since technology has resulted in a huge increase in information and case law, it takes longer for attorneys to search for the newest information. Therefore, it is important that they be able to re-use rather than re-create legal research when possible so they only have to update the research with the newest information rather than starting from scratch.

Knowledge management systems and brief banks reduce the time needed for legal research by sharing legal documents among attorneys, giving examples of the standard of writing that the office expects, and supporting a legal search engine. They do not take the place of the legal expertise required of a professional prosecutor, and it cannot be assumed that a prosecutor can simply pull an existing document from a brief bank and submit it after only having changed a name or date. However, knowledge management systems do help to make better use of existing intellectual capital.

Prosecutors across the country report that they struggle to maintain knowledge management systems in the face of limited financial resources. MCDA managers said several years ago the MCDA Librarian position, responsible for maintaining the law library and brief bank, was eliminated as part of budget constraints. MCDA has continued to purchase and update essential legal research materials and provides access to LexisNexis, one of the leading legal research tools available on-line. As is the case in many prosecutor's offices, attorneys in MCDA often share information from existing briefs by word of mouth and via email. Managers pointed out that, in some respects, this is as effective as a knowledge management system. However, it can also be inefficient and is limited by attorneys' knowledge of the cases other prosecutors have tried or whether attorneys are available to reply to emails when information is needed.

Managers explained that they know a knowledge management system could save time and effort, but have not fully explored options because they have assumed solutions would mean purchasing costly specialized software packages and hiring additional staff. Currently many of MCDA's most commonly used documents are stored in the CRIMES data system. In addition, managers said they have purchased an electronic document management system and are exploring using the system as a brief bank.

While knowledge management software systems can be very expensive, there are less expensive methods available to facilitate information sharing. In fact, legal scholars[6] recommend careful

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[6] Sanders C. (2002). *KM 101: Assistive Technology for Knowledge Management Initiatives.* American Bar Association Legal Technology Resource Center.

consideration of existing technology and office needs before purchasing new software systems.

No matter how they choose to enhance their practices, MCDA managers will need to explicitly promote information sharing and provide examples of how knowledge management can be used to increase efficient and effective prosecution. Managers said that they support a culture of information sharing as demonstrated by trainings designed to provide the most current legal research in specialized areas. Further, managers explained that they believe the collective knowledge of attorneys that have reviewed and updated certain materials will often result in the best product.

Recommendations:

3.1 Make it clear to attorneys that information sharing to re-use rather than re-create intellectual capital where possible continues to be valued in the organization

3.2 Develop a knowledge management group including staff with IT, clerical, and legal expertise to contribute a portion of their time to setting standards for document sharing mechanisms, vetting documents, and improving information sharing

3.3 Explore existing no-cost prosecution brief banks to determine whether they would be beneficial for MCDA

3.4 Use the office shared drive to provide legal writing samples, aside from the document templates maintained in CRIMES, to demonstrate management's expectation for writing quality

Finding 4: Better monitoring of case management technology is needed to ensure it optimal use

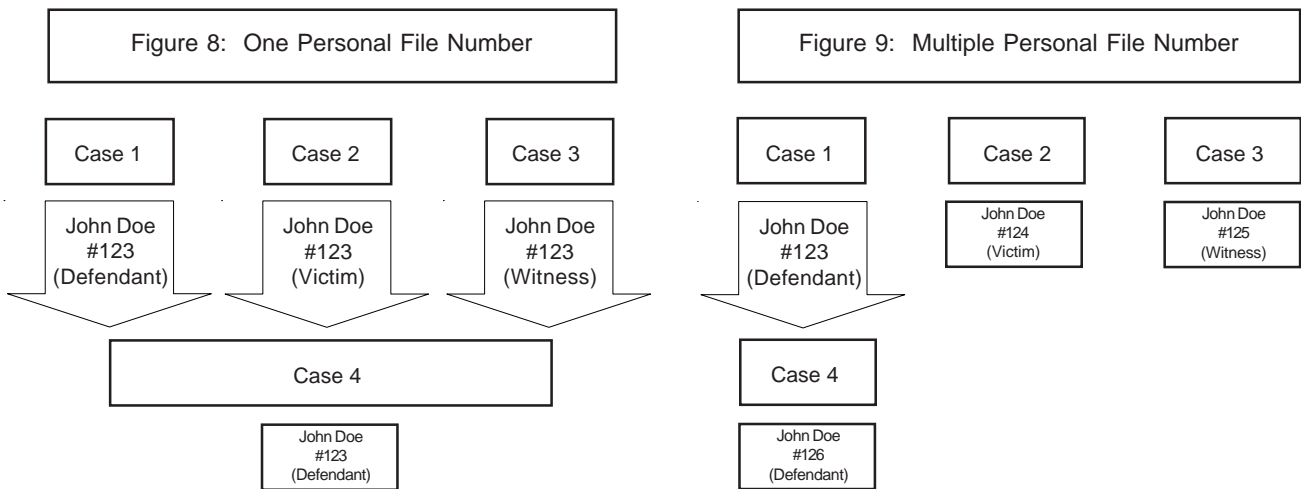- Multiple personal file numbers reduce efficiency, increase the likelihood of data entry inaccuracy, and limit case information available to prosecutors
- Increased efforts have recently been made to remove multiple personal file numbers from MCDA's case management database, but ongoing work is needed

The CRIMES system designates a unique Personal File Number (PFN) to each person, business, or agency associated with a case.

In the same way that people have a unique social security number defendants, victims, witnesses, emergency medical personnel, law enforcement officers, and all other persons of interest are given a PFN.

The intended purpose of the PFN is to uniquely identify each entity so it can be retrieved even if the name, address, or other identifiers change. The PFN also saves time and limits data entry errors because attorneys and staff members can simply enter a PFN rather than having to retype the information. After staff have compiled a complete criminal history using the Law Enforcement Data System (LEDS), National Crime Information Center (NCIC), Portland Police Bureau Data System (PPDS), Department of Motor Vehicles (DMV), and other law enforcement data from across the country, PFNs can be used to help prosecutors establish a case history if a person involved in the case has also been involved in other criminal cases.

Figure 8 illustrates how a PFN can be used to gather information about John Doe. Although John Doe is the victim in case 2 and the witness in case 3, the prosecutor can use case notes about John Doe along with criminal history reports to inform his or her prosecution strategy in case 4.

Figure 8: One Personal File Number	Figure 9: Multiple Personal File Number

Figure 8: One Personal File Number

Case 1	Case 2	Case 3
John Doe #123 (Defendant)	John Doe #123 (Victim)	John Doe #123 (Witness)

Case 4

John Doe #123 (Defendant)

Figure 9: Multiple Personal File Number

Case 1	Case 2	Case 3
John Doe #123 (Defendant)	John Doe #124 (Victim)	John Doe #125 (Witness)

Case 4

John Doe #126 (Defendant)

Source: Multnomah County Auditor's Office

If, on the other hand, John Doe is assigned a new PFN for each case, the prosecutor's information about him will be limited to general criminal history information that can be obtained in the criminal justice databases without the additional benefit of past case notes regarding behavior or willingness to work with prosecutors. Figure 9 illustrates how multiple PFNs can limit prosecutors' access to case history.

Managers explained that avoiding multiple PFNs has been a difficult and on-going process for MCDA because individuals trying to avoid prosecution often provide inaccurate identification information to mislead the police and the court. This is a problem that MCDA shares with all of its criminal justice partners. Also, MCDA staff may legitimately hesitate to select an existing PFN if there is any doubt about the individual's identity. Managers said that they would rather staff err on the side of caution and create a second PFN than incorrectly assign an existing PFN to the wrong individual.

During this audit, MCDA increased efforts to merge multiple PFNs that had been assigned to individual people and businesses. Clerical staff who had been inadvertently creating multiple PFNs have received brief, targeted training and have been able to correct errors. Further, managers report that system-wide testing for multiple PFNs and staff trainings have been updated to include specific instructions for correctly reviewing PFNs that might need to be merged.

By the end of audit fieldwork, only three percent of all PFNs were potential multiples. Only 0.3% of the PFNs assigned to individuals were potential multiples. However, almost ninety-five percent of PFNs assigned to businesses were potential multiples. Managers report that MCDA IT staff are working to mitigate this problem by creating easily accessible drop down menus containing the most commonly selected businesses, hospitals, and other non-person participants in criminal cases. Because the problem of multiple PFNs can never be completely eliminated, continued efforts are needed to keep the problem under control.

Recommendations:

4.1 Continue to conduct regular tests of PFNs to identify multiples, determine why they are being created, and provide specific training for clerical staff and prosecutors who are creating multiples

4.2 Continue to develop and update guidelines and conduct on the job training as needed to ensure that employees are confident in selecting an existing PFN rather than creating a new ones

4.3 Develop lists of commonly used PFNs (i.e. businesses and hospitals) so staff can avoid searching for them

4.4 Continue to work with IT to consolidate multiple PFNs

Finding 5: Efforts are being made to limit unnecessary use of printed documents and avoid wasted resources. Continued work will be needed to identify and reduce unnecessary use of printed materials

- Few unused documents are auto-generated and managers are seeking an even greater reduction in printed materials
- A recent collaboration with the Portland Police Bureau (PPB) is facilitating electronic information sharing where printed legal documents are not necessary

MCDA managers said the court system and its legal requirements have a long tradition of being a paper driven process. Legal requirements for specific documents and the approaches that are necessary to avoid potential civil liability are often cumbersome, but well known and unavoidable. Only recently have the court and other involved agencies moved to use technology to improve the system by working toward implementing an electronic document filing system (E-court) that is currently under construction.

In MCDA, auto-generated documents are legal forms necessary for prosecuting cases. The documents are automatically produced and printed by computer then manually sorted and mailed by administrative staff. Managers report that in 2008 MCDA used approximately 12,000 reams of paper in the preparation of hundreds of thousands of legal documents. MCDA produces hundreds of auto-generated documents such as subpoenas and notices to victims every day. The auto-generating tool saves time for administrative staff and alleviates the need to keep track of whether documents have been sent to victims and witnesses. However, because the system is automated, it is

important to monitor auto-generated documents to ensure that they are being generated correctly and are discontinued when no longer legally necessary. Failure, to do so may result in wasted time and resources.

The auditor found that only about one ream of unused documents were auto-generated during the week-long test period. Even thought the amount of unused paper was small, managers expressed interest in considering options to limit it even further. Managers said that, as an organization, MCDA has always looked for ways to maximize technology and find efficiencies that work within the requirements of the court. They also said that staff members regularly provide feedback and suggestions to improve office efficiencies.

During the audit fieldwork, the auditor observed other efforts MCDA is making to reduce the need for printed documents that have become unnecessary due to changes in practices. For example, clerical staff identified a potential area where some printed documents MCDA produces to facilitate its work with the Portland Police Bureau (PPB) might be reduced. During the audit, MCDA managers initiated collaboration with PPB that has the potential to alleviate the need to send more than 71,000 paper subpoenas per year to officers scheduled to appear in court. Managers said MCDA and PPB are carefully considering all legal impediments to a shift away from these printed documents. Attempts are being made to increase the use of electronic methods for sharing documents and information.

Recommendations:
5.1 Conduct regular reviews of the auto-generated documents to identify ineffective printing practices
5.2 Continue to discourage paper usages through use of electronic documents and methods for sharing information where legally possible
5.3 Continue to promote collaboration with other agencies and private businesses that receive large numbers of paper documents from MCDA to establish methods for reducing dependence on printed documents

Communication with the Public

The people MCDA works with have often been directly affected by criminal activity. These include crime victims, witnesses, and criminal defendants. Many victims and witnesses are upset or are confused by the complicated criminal justice process. Effective communication with citizens helps prosecuitors establish credibility and trust by providing accurate, timely information that supports the interests of justice.

Finding 6: Clear expectations and specific training will improve communication with the public

- Call taking and voice mail policies do not make management expectations clear
- All voice mail greetings are professional and brief, but some lack basic information
- Continued training is needed to ensure management's expectations for call taking are met

In many cases, the telephone is the first (and possibly only) method by which the public will have contact with MCDA. The importance of effective telephone communication by clerical staff and attorneys should not be underestimated. MCDA managers agree that professional telephone communication is important to the work they do. Further, they point out that working with the public is always a learning experience. Managers said MCDA strives to ensure that all employees are trained and coached to meet expectations and confidentiality requirements.

Given the nature of the work, callers may range from citizens asking how to resolve a traffic citation to victims of a violent crime who need immediate assistance. Further, it is not uncommon for staff members to receive calls from people who have called MCDA in error. For example, callers seeking a marriage license may call MCDA for information even though the function is not within its authority. MCDA's clerical staff and attorneys must skillfully assist all callers while also protecting sensitive or confidential information.

In addition, the quality of voicemail greetings on MCDA telephone lines can affect whether callers feel comfortable leaving a voice message. It is important that voicemail greetings clearly convey all necessary information. For example, if voicemail greetings on attorney's phones give their names, but

do not mention that they work in MCDA, callers may worry that they are leaving a message for the wrong person and hesitate to leave sensitive information.

MCDA's expectations for taking calls are written into work assignments and job descriptions as appropriate. Managers said follow-up and coaching for call taking practices happens when a customer service complaint is received and/or during the course of regular supervisory review. Managers explained that general voicemail guidelines are provided to staff and prosecutors during their initial employee orientation. The guidelines are printed directly from the county's website, which provides suggested greetings and instructions on how to record greetings. The county's general guidelines suggest that voicemail greetings identify the person and/or office the caller has reached, the availability of the person called, and instructions for gaining immediate assistance.

The auditor tested MCDA's telephone practices to determine whether improvements are needed. A random sample of 40 voicemail greetings demonstrated that all voice messages were professional, brief, and to the point. In several cases, greetings included the person's name, but not the organization or did not include contact information for immediate assistance. A clear statement of expectations specific to MCDA voicemail greetings could help managers set a consistent tone for interactions with the public.

Testing call taking practices at MCDA was somewhat more complicated. MCDA call takers answer a very large volume of calls every day. The auditor and managers agreed that conducting a lengthy evaluation by repeatedly calling to test a random sample of call taking practices would only add to the already heavy workload. Therefore, the auditor worked with managers to establish call times and days that would capture the broadest range of call taker practices by calling MCDA's main information telephone lines during low call load times. Supervisors provided the auditor with general questions that callers routinely ask and the expected answers or actions that should be taken. These questions were combined with professional best practices criteria for call takers to develop the test tool. To further ensure that the small, targeted sample captured legitimate problem areas, the auditor asked supervisors

to inform call takers when the test would occur and the questions that would be used to evaluate their call taking.

With only one exception, call takers were polite, professional, and offered assistance. However, lack of specific management guidance and training appears to contribute to inconsistent practices and, at times, inaccurate responses to questions. Some call takers provided inaccurate information about basic MCDA functions or were unable to direct callers to the City/County information line for general information. Several call takers transferred calls to the MCDA general information telephone line rather than answering basic questions themselves. Managers explained that call takers are expected to transfer calls to the appropriate unit to answer specialized questions. However, a practice of transferring callers with general questions may reduce efficiency by contributing to the workload at the general information desk. It may also add to caller fustration.

Cross-training of clerical staff is a common practice that MCDA uses to encourage professional development. Newer employees who have not yet gained broad experience in MCDA appear to need more detailed information about organizational practices early on. Also, spot checks by supervisors and call taking training may benefit more experienced staff who are not meeting management's professional expectations. Managers said that as possible areas for improvement were identified during the audit, immediate action was taken to provide information and coaching,

Recommendations

6.1 Develop policies and procedures for voicemail greetings and call taking that include general guidelines or detailed procedures as appropriate

6.2 Train all call takers about basic MCDA functions and provide guidance about when to refer to the City/County information line

6.3 Conduct spot checks to ensure that probationary and experienced call takers clearly understand organizational expectations

Finding 7: Clearly worded forms and documents will improve written communication with victims and witnesses

- Documents sent to victims and witnesses are too complicated and increase the likelihood of miscommunication

The law requires MCDA to send a variety of documents and forms to crime victims and witnesses. Some of these documents are intended to provide information about how the case was resolved and do not require action. Others, such as subpoenas, inform victims and witnesses that they are required to appear in court. Forms that are unclear and unnecessarily complicated increase the likelihood that people involved with the criminal justice system will be confused or frustrated by an already complicated process. They also cause recipients to spend time trying to get their questions answered over the telephone. This takes time that staff, attorneys, victims, and witnesses could use more productively. However, managers explained that legal requirements may limit their ability to word documents in the most ideal way.

Documents that are both legible and readable are most likely to convey the intended information. Elements of legibility such as font sizes, bolded text, and boxes to focus the reader's attention on important information can be used to help readers recognize important information on the document. We assessed the quality of MCDAs documents and found that, on average, most (80%) of the documents are designed adequately to allow readers to easily recognize and identify the intended information. When considered by type, however, subpoena documents are somewhat less likely (62%) to convey the intended information as compared with documents sent to victims (82%).

Readability is a measure of the likelihood that the reader will understand the information contained in the document. For example, complicated word choice and sentence structure will decrease readability. Research[7] indicates that, to be most effective, the documents MCDA sends to victims and witnesses

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[7]Cotugna, N. et al (2005). *Evaluation of literacy level of patient education pages in health-related journals.* Journal of Community Health, Vol. 30, No. 3. June. Rogers, R et al (2007). *An analysis of Miranda warnings and waivers: Comprehension and coverage. Law and Human Behavior. Vol. 31.*

Figure 10: Average document grade level (goal 7th grade)
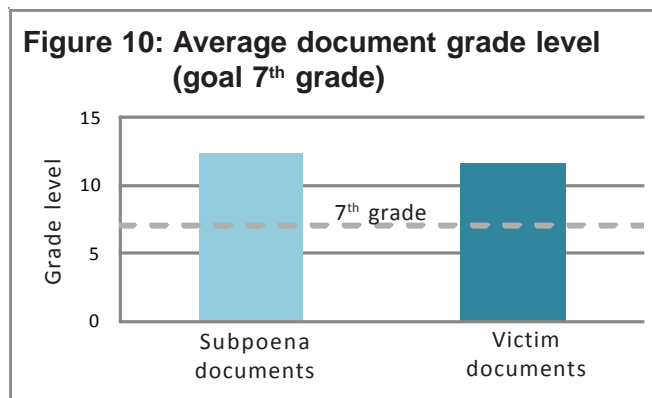
Source: Multnomah County Auditor's Office

should be written at about a 7th grade reading comprehension level. The auditor tested the readability of MCDA's documents and found that, on average, they are written at much higher grade levels (Figure 10).

Figures 11 and 12 demonstrate how wording choices can improve the readability of MCDA's documents. A quick analysis using a tool available in all Microsoft Word documents shows that figure 12 is approximately 50% more readable than figure 11 without any loss of information. These are given as examples of the kind of revisions MCDA should consider for all of its subpoena and victim documents.

Figure 11: Current document wording

> Please call (503) 988-3122 immediately upon receipt of every subpoena to verify that you have received the subpoena and to state your availability for trial. To avoid unnecessary appearances, please call again the day before the trial date to confirm that the trial is still scheduled. It is important to give the subpoena clerk your unavailable dates for the upcoming four to six weeks to help avoid scheduling conflicts if the case is set-over to a new date.

Source: MCDA

Figure 12: Suggested readability improvements

> - Please call (503) 988-3122 as soon as you get this subpoena.
> - When you call, tell the clerk whether or not you can be in court on the scheduled date.
> - Court dates are often rescheduled, so tell the clerk what dates you cannot be in court for the next 6 weeks.
> - Call (503) 988-3122 the day before the trial date to make sure the date has not been changed.

Source: Multnomah County Auditor's Office

Recommendations:

7.1 Evaluate all documents provided to the public and make changes to improve readability and legibility

7.2 Develop guidelines for creating documents for the public that include readability tests

7.3 As possible, remove unnecessary legal language from documents sent to the public

Objective, Scope, and Methodology

The objectives of the audit were to:

- Determine whether MCDA is making optimal use of data to manage and evaluate its services
- Determine whether improved use of existing technology can be used to streamline processes
- Determine whether adequate policies and procedures are in place to ensure the quality of communication with the public

The scope of the audit was generally limited to policies and practices in MCDA that impact the entire organization rather than one or more of the individual units. This audit included all units and programs under the authority of the District Attorney with the exception of the Support Enforcement Division (SED), which is regularly audited by the federal government. The Medical Examiner was not included in this audit because it is funded by MCDA, but not under the organizations authority.

During the course of the audit, the auditor conducted more than fifty interviews, including all management staff (both attorneys and administrative support), deputy district attorneys, clerical staff from all units, and information technology (IT) personnel responsible for maintaining all data systems. The auditor also interviewed prosecutors, attorneys, judges, and scholars with experience working with MCDA and in the field of prosecution in general.

The auditor observed legal proceedings, key administrative meetings, and work activities essential to the primary functions of MCDA and reviewed MDCA general policies for all units, clerical job descriptions for all desks, and internal fiscal policies. The auditor reviewed professional and scholarly literature related to the role and practices of prosecutors as well as the professional standards from organizations such as the American Bar Association (ABA), the Oregon State Bar (OSB), the

National District Attorneys Association (NDAA), and the Jefferson Institute for Justice Studies (JIJS). The auditor also reviewed performance audits of prosecution functions from Snohomish County, Washington, the State of Minnesota, and from this office. There is a scarcity of performance audits of district attorneys and prosecutorial functions.

All management data were collected from MCDA's CRIMES case management data system. CRIMES data were used to evaluate MCDA's data collection and analysis practices to identify areas for improvement and provide examples of how trend analyses and unit comparisons can be used. Specific criteria for the analysis of prosecution management data were based on research conducted by the Jefferson Institute for Justice Studies.

To assess the use of auto-generated documents, the auditor collected a sample of all such documents produced by MCDA during a one week period and conducted hand counts of document totals by type and unit.

The overall quality of forms and documents was evaluated based on a review of all legal document templates designed to be sent to victims and witnesses. Selected portions of each document were analyzed for readability, legibility, and completeness using the Flesch Reading Ease and the Flesch-Kincaid Grade Level formulas available in Microsoft Word software. Documents were also evaluated based on visual communication recommendations for forms design that allows readers to quickly find and understand important elements of the documents. Criteria for the specific information that should, optimally, be included in MCDA's documents were based on interviews with MCDA staff and attorneys.

Telephone practices were evaluated using a random sample of 40 (20%) voicemail greetings recorded by MCDA employees and a judgmental sample (35) of call taking practices. Professional standards for telephone protocols were drawn from a telecommunication audit conducted by the City of Portland Auditor's Office. Specific criteria for call taking expectations in MCDA were based on questions developed by administrative supervisors currently working in MCDA.

This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Responses to Audit

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August 27, 2009

Steve March, County Auditor
501 S. E. Hawthorne, Room 601
Portland, Oregon 97214

Dear Mr. March:

I wish to express my appreciation to you and your staff for the work you have performed in auditing the District Attorney's Office. It is important that the Board of County Commissioners and the public get accurate and relevant information regarding the services provided by their county government programs. As you know, this office is a recognized leader around the country in both the quality of prosecution and in innovative approaches to important public safety issues.

As your office also knows, the District Attorney's Office is responsible for prosecuting crimes committed in Multnomah County, the most populous county in the State of Oregon. At the time this audit was prepared, the office maintained a staff of approximately 223 positions (84.3 attorneys) in fifteen locations around the county and with a fiscal year 2008/2009 operating budget of approximately 26.6 million dollars. In calendar year 2008, the office reviewed over 28,000 cases, issued charges on 5,135 felony cases and over 15,000 misdemeanor cases, collected over 32 million dollars in child support and freed 189 children for adoption.

It is important to understand the overall responsibilities and work of the District Attorney's Office so that the results of this audit may be placed in their proper context. We appreciate some of your suggestions for program improvements in areas such as written and telephone communications and a viable brief bank for our lawyers. While we have reservations regarding some conclusions, we share the fundamentally positive view of the office outlined in your Executive Summary. Thank you for your work.

Very truly yours,

MICHAEL D. SCHRUNK
District Attorney