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2019 National Survey of Prosecutors

Cognitive Interview Report

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1. Introduction

During the design phase of the 2019 National Survey of Prosecutors (NSP), RTI International (RTI) conducted a series of cognitive interviews with participants recruited from district attorney offices across the United States. The cognitive interviews allowed RTI to assess question and response comprehension and burden in responding. This report describes the methods we used in recruiting and conducting the cognitive interviews, provides a detailed summary of global and question by question findings, and recommends changes to the questionnaire.

2. Methods

Cognitive interviewing is used to assess a range of potential problems with survey questions. The most frequently used model for cognitive interviewing has four primary features: (1) question comprehension, (2) retrieval of relevant information from memory, (3) decision processes, and (4) response processes (Tourangeau, 1984). Cognitive interviewing is used to explore a person's decision-making processes in each of these areas. Willis (1999) summarizes how cognitive interviewing can be used to explore these four aspects of responding to questions:

1. Question comprehension—studies both question intent (what does the participant believe the question to be asking?) and the specific meanings of terms in the question.
2. Retrieval from memory—examines recallability of information and the strategies used to retrieve that information (i.e., estimation strategies or counting of individual events).
3. Decision processes—examines the participant's motivation to thoughtfully provide an accurate response and issues related to desirable responding (or social desirability—the desire to respond in such a way as to make oneself look better, either through intentional deception or unconscious self-deception).
4. Response processes—evaluates the ability of the participant to match his or her estimation (e.g., perception, behavior) with the response options available.

The 2019 NSP project used two cognitive interviewing approaches to probe question understanding and responding: *think-aloud techniques* and *verbal probing*. The think-aloud technique asks the participant to provide a continuous verbal narrative while interpreting the question, recalling the information requested, considering how to respond, and matching his or her response to the response options provided. With verbal probing, moderators ask participants targeted questions, called probes, about their experiences completing the survey. For this study, probes were administered concurrently (i.e., immediately after the participant answered an item). Both scripted probes (developed in advance based on the findings from the expert review) and spontaneous probes (identified during the interview to further explore participants' responses) were used to understand the participants' understanding of the question, answer retrieval, decision processes, and response processes.

3. Procedures

The draft survey instrument was converted into a fillable .pdf file and emailed to participants in advance of the interview. Participants were asked to complete the .pdf version of the survey and return it to RTI in advance of the interview. Cognitive interviewers then reviewed the completed survey and noted item-nonresponse, responses that did not calculate correctly according to the instructions, and any other issues that may have suggest that a questionnaire item could be problematic for respondents. During the cognitive interview, the interviewers reviewed these discrepancies along with the scripted probes outlined in the cognitive protocol (see **Attachment A**).

Each interview was conducted by one of three project staff experienced and trained in cognitive interviewing methods. The interviews were conducted between May 6th, 2020 and July 7th, 2020 through a virtual meeting platform. Interviewers provided participants with a short description of the study and described the goals of cognitive testing. Interviewers then asked about the following topics:

1. Issues or problems in understanding individual questions, including sentence structure, individual word comprehension, and answer choices.
2. Instructions or transitional statements used in the questionnaire.
3. Spontaneous probes for issues that arose during the interview process.

To minimize participant burden, the cognitive interviews were designed to last no more than 60 minutes. Interviewers typed notes into the protocol document during each interview. Following each interview, the interviewers transferred their notes to a summary table, allowing for easier analysis of findings across interviews. In some cases, the interviewer paraphrased the dialog, especially if the discussion was lengthy. Interviewers included in their notes any additional observations about issues that could help to improve the quality of questions or response categories.

Following the completion of the cognitive interviews, the cognitive testing team analyzed the notes and summarized key findings and recommendations across all interviews on a question-by-question basis. These findings and recommendations can be found in Section 5 of this report, which presents a summary of global issues, detailed findings for each item tested, and recommendations for item revision.

4. Participant Characteristics

To identify a diverse set of agencies for the cognitive interviews, RTI developed an initial agency dataset from the 2014 NSP frame provided by BJS and the National District Attorneys Association (NDAA) member list. RTI drew a convenience sample of 250 counties from the dataset, stratified across geographic areas: South (S), West (W), Midwest (MW), and Northeast (NE) and jurisdiction sizes: Large (population of 810,000 or more), medium-large (population of 250,000 – 809,999), medium-small (population of 100,000 – 249,999), and small (population of under 100,000).

Of the 250 jurisdictions on this list, the RTI team aimed to complete cognitive interviews with twenty-five jurisdictions. Included in these twenty-five jurisdictions would be **eight** jurisdictions in the Midwest and **five** each in the South, West, and Northeast geographical strata. At the same time, the team aimed to interview **thirteen** of the smallest-size jurisdictions, **five** of the medium-small jurisdictions, **four** of the medium-large jurisdictions, and **three** of the large jurisdictions according to the definitions above. Among these twenty-five interviews would also be at least **two** prosecutors' offices whose members were not affiliated with RTI's project partner, NDAA, to ensure that lack of NDAA involvement did not negate interest in participation. Finally, the team aimed to include, within these twenty-five interviews, at least two jurisdictions from a separate group comprised of Connecticut, Alaska, and New Jersey, which have appointed, as opposed to elected, chief prosecuting attorneys.

The RTI team completed recruitment in "batches" of jurisdictions (described in **Table 1** below) with six steps per recruited jurisdiction (described in **Table 2** below). If the team completed all six steps and no response was received, they considered the jurisdiction to have "timed out" and replaced it with another. If a jurisdiction refused to participate or if an email address bounced, it was likewise replaced in a subsequent batch. Each jurisdiction was replaced with another that filled both strata of the original – its geographical area and its population range – with an eye to the necessary numbers in each stratum as recruitment proceeded.

To recruit each batch, the project manager sent a mail-merged email invitation to potential participants, using previously drafted recruitment documents. This initial invitation was considered "Day 1 - Invitation." Five business days later, the project manager replied on the same email chain to follow up on the invitation ("Day 5 - Email"). The same day as the email follow-up, the project manager telephoned the prosecutor's office to follow up by email ("Day 5 – Telephone"). An additional four business days later, the project manager sent another email on the same chain ("Day 9 – Email"). That same day, the project manager telephoned the office ("Day 9 – Telephone"). Four business days later, the project manager telephoned the office a final time ("Day 13 – Telephone"). See **Table 2** for visualization.

"Batch 1" was comprised of a random sample of seventy-five jurisdictions that covered all strata. As this sample was a heavy load on the recruitment team to ensure that all calls were made within one day, "Batch 2" consisted only of the replacement jurisdictions for the previous batch. Recruitment for "Batch 2" began two weeks after "Batch 1," as the first group had not "timed out" yet, so the only components of the second batch were refusals or email bounces from the first. This included eleven jurisdictions. "Batch 3" similarly included appropriately stratified replacements for the previous time-outs and refusals, comprising sixteen jurisdictions. "Batch 4" comprised the same type of replacement, as well as the remaining non-NDAA members on the frame, since the recruitment process had not yet attained enough from that stratum. This group numbered thirty-four. Finally, "Batch 5" included the same type of stratified replacements from previous groups, as well as the remainder of the smallest jurisdictions (sub-100,000 populations). This was again because this stratum was behind in recruitment and numbered thirty-four jurisdictions. See **Table 2** for visualization.

If the team received no response throughout these three calendar weeks, the project manager deemed the jurisdiction unresponsive and replaced it using the process mentioned above. If a site responded and showed interest, it was marked "Interested." The respondent was usually a Chief Prosecutor, but sometimes a First Assistant, Assistant District Attorney, or other office staff member. The project manager sent the contact a selection of dates and times on which the cognitive interviewing team was available and asked the site contact to pick a time. Some "interested" individuals failed to reply to this message. Those who replied with a time were sent the survey instrument, a Zoom line for the meeting, and some further information on the project. The interviews were carried out at the scheduled times.

After the twenty-third interview, the cognitive interview team determined that the project was reaching a saturation threshold in terms of new information gained from continuing interviews. The RTI project manager was part of the way through the "Batch 5" list, of the smallest jurisdictions, making the second round of telephone calls (five of six total recruitment steps for that group). RTI and the client team together decided that the second round of calls would be completed and any subsequent interested jurisdictions interviewed, but that the third and final call would not be completed for that final batch, and that this would be the final group invited to participate. One more individual responded, and twenty-four cognitive interviews were completed in total.

Table 1. Cognitive Interview Recruitment Outreach and Outcome, by Batch

Batch/date	DAs contacted	#NO (refusals)	# Timed out/ Bounced	# INTERESTED (inc)	# CIs scheduled	# CIs completed
Batch 1: Invited 4/13/20	75	14	49	21	12	12 of 12
Batch 2: Invited 4/27/20	11	2	9	2	2	2 of 2
Batch 3: Invited 5/4	16	1	12	5	3	3 of 3
Batch 4: Invited 5/18	34	1	28	8	5	5 of 5
Batch 5: Invited 6/2	34	5	0	3	2	2 of 2
Total	**170**	**23**	**98**	**39**	**24**	**24**

Table 2. Cognitive Interview Recruitment Approach

Recruitment Day	Action
Day 1 (e.g., Monday, 4/13)	Invitation email
Day 5 (e.g., Monday, 4/20)	Follow-up email 1
Day 5 (e.g., Monday, 4/20)	Follow-up telephone call 1
Day 9 (e.g., Friday, 4/24)	Follow-up email 2
Day 9 (e.g., Friday, 4/24)	Follow-up telephone call 2
Day 13 (e.g., Thursday, 4/30)	Follow-up telephone call 3
Day 14 (e.g., Friday, 5/1)	Replace

Table 3. Number of Cognitive Interviewee Agencies by Agency Strata and Response Stage

	Number of Agencies				
	Response Stage				Target completes*
Agency strata	Recruited	Interested	Scheduled	Completed	
All offices	**240**	**43**	**26**	**24**	**25**
Region					
Northeast	60	10	5	5	
South	60	12	7	6	
Midwest	60	12	9	8	
West	60	9	5	5	
Non-NDAA Offices	34	7	2	2	2-5
Offices in states with appointed DAs	17	4	2	2	2-3
Offices serving pop of 810,000 or more	32	7	3	3	3
Region					
Northeast	8	2	0	0	
South	8	0	0	0	
Midwest	8	2	2	2	
West	8	3	1	1	
Non-NDAA Offices	5	1	0	0	
Offices in states with appointed DAs	3	1	0	0	
Offices serving pop of 250,000 to 809,999	48	11	8	7	4
Region					
Northeast	12	2	2	2	
South	12	3	2	1	
Midwest	12	3	2	2	
West	12	3	2	2	
Non-NDAA Offices	5	2	1	1	
Offices in states with appointed DAs	8	2	2	2	
Offices serving pop of 100,000 to 249,999	48	8	7	6	5
Region					
Northeast	12	1	1	1	
South	12	4	3	3	
Midwest	12	3	3	2	
West	12	0	0	0	
Non-NDAA Offices	2	0	0	0	
Offices in states with appointed DAs	4	0	0	0	

Table 3. Cognitive Interviewee Agency Strata, by Response Stage and Number of Agencies (continued)

Agency strata	Number of Agencies				
	Response Stage				Target completes*
	Recruited	Interested	Scheduled	Completed	
Serving pop of less than 100,000	112	17	8	8	13
Region					
Northeast	28	5	2	2	
South	28	5	2	2	
Midwest	28	4	2	2	
West	28	3	2	2	
Non-NDAA Offices	22	4	1	1	
Offices in states with appointed DAs	2	1	0	0	

* Blank cells indicate that target completes were not tracked at that level.

5. Findings and Recommendations

The global issues observed during cognitive testing are discussed in Section 5.1. Question-by-question findings and recommendations are presented in Section 5.2 in the order they appear in the instrument. These findings include specific comments raised by participants and interviewer observations.

5.1 Global Findings

The following are global issues and considerations.

Overall, the survey worked well for most participants. Some concepts were particularly hard for participants, such as determining whether they should include felony cases or misdemeanor cases when providing values. In addition, the definitions of diversion and problem-solving courts provided on the instrument were not clear to many interviewees.

We initially asked participants the amount of time it took for them to compile the information needed and to complete the survey. Generally, smaller offices reported the shortest amount of time, but overall, the time ranged from about 30 minutes to 2 hours, with an average of 45 to 60 minutes to complete the survey. Based on this information, RTI estimates that the average time to complete the survey is one hour. The team believes this is a reasonable burden to place on these agencies; however, if a lower burden is desired, it will be necessary to remove some questions that are currently included in the survey. During the debriefing, participants reported that the following topics were of lower priority to them which could be used to inform decisions about items to remove:

- Caseload data
- Question C11 (table on disposition of cases table): This question was burdensome, as many participants' jurisdictions did not track these data.
- Non-litigating activities data
- Civil matters

Several participants noted that they had passed entire sections of the survey off to a delegated individual, particularly the budget-related questions. To facilitate the delegation of questions in the main data collection, RTI will have a downloadable .pdf version that can be used as a worksheet prior to entry into the web survey. This will allow respondents to collect information in advance of completing the survey and encourage accurate responses rather than including an estimate.

The .pdf version of the survey that was sent to cognitive interviewees included some auto-filled blank numeric answers of "0," as this was used as the field to calculate responses from sub-items and provide a total. In some cases where the participant did not fill any of the fields and the "0" was remaining, it was difficult to determine if the "0" response was accurate or whether this was a result of item-nonresponse. This will not be an issue in the Hatteras-coded final survey nor in the final paper version of the survey instrument.

During many of the cognitive interviews, participants were unsure whether they should include felony cases or misdemeanor cases when providing values. In addition, they suggested providing clear descriptions of both diversion and problem-solving courts. RTI recommends including the following transition at the beginning of Section C:

Unless explicitly instructed otherwise, when answering the questions in this instrument, please consider only the felony cases that your office has handled (no misdemeanor cases). Additionally, please consider only the adult cases that your office has handled (no juvenile cases).

When answering questions regarding diversion programs and problem-solving courts, please use the following definitions:

- Diversion: *Diversion initiatives serve as an alternative to law enforcement or court involvement and may occur before or after the filing of a criminal charge. Examples of diversion programs include supervised probation, restitution, and mandatory community service.*
- Problem-solving courts: *Problem-solving courts are specially designed court dockets that address one type of offender and offense, often with collaboration by judiciary staff and social service agencies or other case management. Examples of problem-solving courts include Mental Health Courts, Veterans' Courts, and Drug Courts.*

The latter part of the same transition – the definitions of diversion programs and problem-solving courts – will also be placed at the start of Section E for easy reference as the participant fills out the relevant section.

5.2 Question-by-Question Findings and Recommendations

The following are question by question findings and recommendations.

For each question, we reviewed the comments and issues found by interviewers. These are noted in each of the questions in this section. If no issues were found, we noted "No issues found." If no question changes were recommended by RTI, we noted "None." If there were any cognitive findings, we provided the context of the issue, paraphrased dialog, and used direct quotes from the participants to highlight the issue.

Section A: Staffing and Services

A1. In what year did the current chief prosecutor first assume the official duties of chief prosecutor for this office?

The chief prosecutor is the elected or State-appointed head of the prosecutorial district.
If there was an interruption in the chief prosecutor's term, please select the most recent year elected or appointed.

_____ [YEAR ELECTED OR APPOINTED]

Findings: One participant explained that the DA's title is "Elected Prosecutor," and he has someone under him titled "Chief Prosecutor," so at first, he did not answer questions A1-A5 about himself. During the cognitive interview, he read the instructions and realized our definition meant that these questions were directed at him.
Recommendations: None.

A2. As of September 30, 2019, is the chief prosecutor a full-time or part-time employee of your office?
[ ] Full Time
[ ] Part time

Findings: One participant did not answer the question, explaining that it was an oversight on their part.
Recommendations: None.

A3. As of September 30, 2019, is the chief prosecutor male or female?
[ ] Male
[ ] Female

Findings: No issues found.
Recommendations: None.

A4a. Please provide the ethnicity of the chief prosecutor as of September 30, 2019.

[ ] Spanish, Hispanic, or Latino
[ ] Not Spanish, Hispanic, or Latino

Findings: No issues found.
Recommendations: None.

A4b. Please provide the race of the chief prosecutor as of September 30, 2019. *Please select all that apply.*

[ ] White
[ ] Black or African American
[ ] American Indian or Alaska Native
[ ] Asian
[ ] Native Hawaiian or Other Pacific Islander
[ ] Other (*Please specify*):_____

Findings: No issues found.
Recommendations: None.

A5. For the pay period that included September 30, 2019, how many full- and part-time litigating attorneys were employed in your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box. A litigating attorney is an attorney who carries an assigned caseload (e.g., assistant prosecutors, civil attorneys).*

a. _____ Full-time litigating attorneys **[ ]** *Estimate*
b. _____ Part-time litigating attorneys **[ ]** *Estimate*
c. _____ TOTAL NUMBER OF LITIGATING ATTORNEYS (Sum of A5a and A5b) **[ ]** *Estimate*

[ ] Do not track this information

Findings: A few participants checked the "Estimate" box when providing a response. One participant left A5b blank when they should have entered "0." All the participants provided responses that totaled correctly in A5c. Most participants found this question easy to answer and did not encounter any problems. However, a few participants explained that the timeframe made it a little challenging as this did not fit their fiscal year. One participant explained that they operate fiscally on a calendar year. The participants understood what was being asked and made calculations based on the time frame we provided without much difficulty. One participant was confused by the definition. He asked, "For an attorney who is currently in a more administrative role, but could pick up cases if necessary, where are they counted?" Another participant explained that it might be helpful to bring more attention to the definition.
Recommendations: None.

A6. For the pay period that included September 30, 2019, how many full-time litigating attorneys were male and female? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this*

information' box. ***The total number of male and female litigating attorneys should sum to the total in column A5c.***

A litigating attorney is an attorney who carries an assigned caseload.

a. _____ Male litigating attorneys **[ ]** *Estimate*
b. _____ Female litigating attorneys **[ ]** *Estimate*

[ ] Do not track this information

Findings: A few participants checked the "Estimate" box when providing a response. One participant left A6b blank when they should have entered "0". As with question A6, participants did not specifically look up this information, but rather provided responses by what they know of their staff. They found it easy to calculate, and most felt this was fairly accurate and did not select "Estimate" as they were relying on their knowledge of agency staff.
Recommendations: None.

A7. Please provide the number of full-time litigating attorneys by race and ethnicity who were employed by your office during the pay period including September 30, 2019. *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.* ***The total number of litigating attorneys should sum to the total in column A5c.*** A litigating attorney is an attorney who carries an assigned caseload.	**Number**
a. White (non-Hispanic)	_____ [ ] *Estimate*
b. Black or African American (non-Hispanic)	_____ [ ] *Estimate*
c. Hispanic	_____ [ ] *Estimate*
d. American Indian or Alaska Native (non-Hispanic)	_____ [ ] *Estimate*
e. Asian (non-Hispanic)	_____ [ ] *Estimate*
f. Native Hawaiian or Other Pacific Islander (non-Hispanic)	_____ [ ] *Estimate*
g. Two or more races	_____ [ ] *Estimate*
h. Not known	_____ [ ] *Estimate*
i. TOTAL FULL-TIME LITIGATING ATTORNEYS (sum of rows a through h)	_____ [ ] *Estimate*
[ ] Do not track this information	

Findings: Several participants left items blank rather than entering "0" as instructed. However, all the responses entered summed to the total provided in A7i. A few participants checked the "Do not track this information" field.

Most of the participants provided these numbers from what they know of their staff. They explained that they either do not track this information, do not ask their staff these questions, or did not have access to records. They generally estimated based on personal knowledge. One participant mentioned that this may be tracked in their HR system, but he does not have access to this information.
Recommendations: None.

A8-A9. During the pay period ending September 30, 2019, how many of the following types of non-attorney staff were employed in your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

Full-time staff: Enter the number of full-time personnel according to their PRIMARY job responsibility for the pay period that included September 30, 2019. Count each full-time employee only once. If full-time staff perform more than one job function, enter their count in the job category where they spend most of their time.

Part-time staff: Enter the number of employees who work fewer hours than your standard work week, including employees in job-sharing arrangements, according to their PRIMARY job responsibility for the pay period that included September 30, 2019. Count each part-time employee only once. If part-time staff perform more than one job function, enter their count in the job category where they spend most of their time.

Staff position	**A8. Number Full-time**	**A9. Number Part-time**
a. Investigators A person who investigates crime for the prosecutor's office, interviews witnesses, and evaluates evidence	_____ [ ] *Estimate*	_____ [ ] *Estimate*
b. Victim/ witness staff A professional who supports crime victims and witnesses by promoting rights, assessing needs, and linking to support services. Please include paid staff only and include anyone in your office whose main tasks are to assist victims (e.g., advocates, compensation claims processors).	_____ [ ] *Estimate*	_____ [ ] *Estimate*
c. Support staff Examples include administrative staff, clerical staff, human resources, paralegals, information technology (IT) staff, accounting staff, etc.	_____ [ ] *Estimate*	_____ [ ] *Estimate*
d. Review/redaction staff Staff member(s) whose position is devoted to the review and redaction of digital evidence	_____ [ ] *Estimate*	_____ [ ] *Estimate*
e. TOTAL ACTUAL STAFF (sum of rows a through d)	_____ [ ] *Estimate*	_____ [ ] *Estimate*
[ ] Do not track this information		

Findings:
Question A8: A few participants checked the "Estimate" box when providing a response. A few participants left blanks when they should have entered "0", but all the participants provided responses that totaled correctly in A8e.

Question A9: A few participants checked the "Estimate" box when providing a response. Several participants left blanks when they should have entered "0", but in several cases, participants left all the fields blank, but there was a "0"

in A9e. However, since the form was fillable .pdf, a “0” is automatically included in the form when delivered. It was not clear if the participants entered “0” or did not enter anything in the total field.

One participant entered “1” full-time staff member in A8b and “1” part-time staff member under A9b, explaining that they were both employed by the county rather than employed by his own office.

Participants explained that they had to consider the “primary” job responsibility of staff when completing this table. They explained that staff either come or go often (e.g., review/redaction staff) or staff have multiple responsibilities. Overall, participants generally did not have trouble responding to this question.

When asked if the descriptions of the various staff make sense to them, one participant explained that in regards to “review/redaction staff’, other than really large prosecutors’ offices, it is not likely that this is often a primary responsibility. One participant suggested adding "Discovery clerks/paralegals" to category A8c and A9d.
Another participant explained that this table does not completely cover all their staff as they have a family justice center, a trauma recovery center, and a research institute. This includes research analysts, psychologists, therapists, and child development staff.

Recommendations:
As mentioned in the global findings, we will be able to address the issue encountered by cognitive participants with the “0” prefilled on the .pdf instrument. This will not be an issue for the main study.

Based on the cognitive findings, we recommend including the following:

- Add “research and discovery clerks” as an example in A8c:

  Examples include administrative staff, clerical staff, research and discovery clerks, human resources, paralegals, information technology (IT) staff, accounting staff, etc.

- Add “trauma recovery staff” as an example in A8c:

  A professional who supports crime victims and witnesses by promoting rights, assessing needs, and linking to support services. *Please include paid staff only and include anyone in your office whose main tasks are to assist victims (e.g., advocates, compensation claims processors, trauma recovery staff).*

- Add a new category: Other staff. Please specify:_____

A10. Please provide the minimum and maximum dollar amounts that best encompass the range of entry-level salaries of full-time litigating attorneys hired by your office during the 12-month period ending on September 30, 2019. *If there is no range, please provide the same value for the minimum and maximum entry-level salaries*.

a. $_____.00 [MINIMUM]
b. $_____.00 [MAXIMUM]

[ ] *Estimate*

Findings:
Participants did not have any issues with this question. A few of them selected estimate, but all the participants provided responses.

One participant noted that the county sets the salary ranges so these numbers may vary to some degree. Another participant explained that the current salary had increased on October 1, 2019, and the new salary was different from the previous one, which ended the day before. Another participant explained that he was not sure because they did not have any new hires. There is no N/A or D/K box, so he just entered his salary. However, he was the only employee at this agency.

One participant read the question too quickly and thought that it requested the hourly rate for staff rather than annual salary for their attorneys.

Recommendations:
Based on the cognitive findings, we recommend including "directly out of law school…" following "hired" in question and adding a "Not applicable" box to the questions.

Consider the following edits in red text:

A10. Please provide the minimum and maximum dollar amounts that best encompass the range of entry-level salaries of full-time litigating attorneys hired, directly out of law school, by your office during the 12-month period ending on September 30, 2019. *If there is no range, please provide the same value for the minimum and maximum entry-level salaries.*

a. $_____.00 [MINIMUM]
b. $_____.00 [MAXIMUM]
[ ] *Estimate*
[ ] *Not applicable*

A11. During the 12-month period ending on September 30, 2019, how many full-time litigating attorneys were hired by your office and how many separated from your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

A litigating attorney is an attorney who carries an assigned caseload.

a. _____ Full-time litigating attorneys hired [ ] *Estimate*
b. _____ Full-time litigating attorneys separated [ ] *Estimate*

[ ] Do not track this information

Findings:
Participants did not have any issues with this question. A few of them selected estimate, but all the participants provided responses.

One participant noted that this question asks about staff that have been hired or separated, but due to budget constraints, their agency intentionally keeps positions vacant to repurpose the money elsewhere. This participant suggests restructuring this to ask about the number of positions an office has, how many are filled, and how many hires/leavings have occurred.

Recommendations:
None.

A12. How many attorneys are required to work an on-call position at any given time? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

An on-call position is one where the attorney is required to respond at any time in a 24-hour period.

_____ [NUMBER ATTORNEYS]
[ ] *Estimate*
[ ] Do not track this information

Findings:
A few participants selected "Estimate" while one participant selected "Do not track this information".

Most participants explained that this was easy to answer. While some agencies have attorneys and investigators that are "On-call", other agencies, which are generally smaller, have attorneys that are always available. One participant explained that the number of individuals on call on a random weekend night is going to be much different than time expended over 4th of July weekend. He suggested asking the number of attorneys on call for a normal weekend vs for a holiday weekend.

When asked about the 24-hour time frame, the participants thought it was fine and easy to understand. One participant was confused and was not sure how to answer. A few others mentioned that they had to calculate day vs night coverage and come up with an average. However, several participants thought about night coverage since the question refers to "on-call." These respondents explained that during the day there would usually be more staff working, and they considered only coverage at night to come up with their response.

Recommendations:
Based on the cognitive findings, we recommend rewording the question as follows and removing the instruction.

Consider the following edits in red text:

A12. On average, how many attorneys are required to work an on-call position during any given 24-hour period? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

_____ [NUMBER ATTORNEYS]
[ ] *Estimate*
[ ] Do not track this information

A13. Are staff in your office responsible for any of the following non-litigating activities? *Select (X) all that apply.*

Activities	**1. Yes – Attorney(s)**	**2. Yes – Other staff**	**3. No**
a. Community events	[ ]	[ ]	[ ]
b. Expungements	[ ]	[ ]	[ ]
c. FOIA requests	[ ]	[ ]	[ ]
d. Restoration of rights	[ ]	[ ]	[ ]

e. Training	[ ]	[ ]	[ ]
f. Other. Please describe: _____	[ ]	[ ]	[ ]

Findings:
One participant left A13d blank. Another participant only answered A13b and A13c while leaving the others blank. A few participants left A13f blank. One participant entered, "Citizen and police liaison and intake", while another entered, "Legislation, advice to other executive branch agencies" as descriptions in A13f.

When asked if "non-litigating activities" best describes these extra-legal duties, some of the participants were fine with the wording while others thought it could be clarified. For example, one participant explained that we should clarify training. He asked if we meant internal or external training. Another participant explained that in his state, expungements and restoration of rights can sometimes become litigating activities. A few other participants had similar comments.

One participant commented that "community events" is broad and was not sure what that meant. Another participant suggested adding "administrative" or "public awareness" activities.

When CI team inquired as to whether asking if staff are "broadly responsible for these activities" is the best way to collect this information, many of the participants felt it was sufficient. However, other participants offered suggestions. One participant explained that by "staff" we mean "attorneys," as some may consider "staff" to be other non-attorney staff in the office. A few participants had concerns with the word "responsible." One participant asked if this was meant to be their primary responsibility or just one of their required responsibilities. Another participant felt that "responsible" means that the individual in question organizing or leading the activity. To avoid confusion, he suggested we phrase this as "coordinate/facilitate." Another participant felt that instead of "are staff responsible for", we could ask "do staff participate." Another participant recommended using the wording "assists with" as some units or staff are the final sign-off on an activity (like FOIA) but do not do all the work themselves. "Responsible" to him meant that this individual has "sign-off" authority but does not do the bulk of the work.

Recommendations:
Based on the cognitive findings, we would like to discuss with BJS whether the chief prosecutor should be considered when respondents answer this question. If we exclude the Chief Prosecutor, the stem of the question would read: "Excluding the Chief Prosecutor, do staff in your office…"

In terms of "Training", should the focus of the question be on internal training, external training, or both? We are assuming external training with our recommendations.

We recommend rewording to remove "non-litigating" from the question:

Do staff in your office participate in any of the following activities?

Furthermore, we recommend the following edits, in red text, to the list of activities:

a. Community events (county fairs, town halls, parades)
b. Expungements
c. FOIA requests
d. Restoration of rights
e. Training and advice to external agencies
f. Other. Please describe: _____

A14. Does your office provide any direct victim assistance or referrals for victims or their families in any of the following situations? *Select (X) all that apply.*

	1. Provide direct victim assistance Someone on your staff is providing victim assistance	**2. Provide referrals for victims or their families** Someone on your staff refers the person to an outside organization	**3. Not Provided**
a. Child abuse and other youth violence	[ ]	[ ]	[ ]
b. Domestic or other dating violence	[ ]	[ ]	[ ]
c. Elder abuse	[ ]	[ ]	[ ]
d. Hate crime victimization (i.e., basis for crime is related to race, religion, disability, sexual orientation, ethnicity, gender, or gender identity)	[ ]	[ ]	[ ]
e. Homicide support (family members/co-victims of homicide)	[ ]	[ ]	[ ]
f. Human trafficking	[ ]	[ ]	[ ]
g. Sexual assault	[ ]	[ ]	[ ]

Findings:

Some of the participants found this question to be challenging to answer. One participant explained that there will be a wide interpretation on what is meant by "provide direct victim assistance" as he thinks this could be widely or narrowly interpreted depending on the agency.

Another participant explained that at their agency, victim/witness coordinators provide help by assistance with filling out paperwork and lending an ear. He explained that it is a complicated position. Sometimes these coordinators refer people to an outside agency and sometimes they do not. This participant struggled with the phrase "direct victim assistance," as he does not have a psychologist or social worker on his staff.

Another participant interpreted the first column as meaning that someone on staff provides the service directly, such as counseling. However, all they do is refer these cases. Another participant assumed that "provide direct victim assistance" meant assistance provided by a professional qualified and/or certified staff member. At their agency, they have someone who serves as a victim's advocate, but she is not necessarily trained in any specific thing, so this participant selected "2". If this meant someone at the agency that provides this assistance, then he would have selected "1" for every box.

One participant assumed that "child abuse" includes child sexual abuse and suggested we clarify this.

When asked if there any other categories that should be included in this question, the participants suggested the following:

- Financial crimes
- Crime of violence against a person
- Gun crimes and drug crimes
- Involuntary commitments/mental health commitments
- Juvenile/youth court

- Victim assistance in cases of officer involved shooting
- Change sexual assault to include abuse
- Direct victim assistance for a violent crime victimization

Recommendations:
Based on the cognitive findings, we would like to discuss with BJS whether respondents should consider trained and non-trained staff providing the assistance in column 1. We are assuming both training and non-trained staff with our recommendations.

We recommend the following revisions:

- Change the definition in column 1 to: Someone on your staff is providing victim assistance (formally trained or otherwise)
- Change the definition in column 2 to: Someone on your staff connects the person with an outside organization
- Add "Other. Please specify: _____" based on the number of other categories provided by the cognitive participants

Section B: Budget

B1. During the fiscal year including September 30, 2019, what were the total operating expenditures of your office, excluding capital outlays for construction? *If you are uncertain, please provide your best estimate and check the 'estimate' box.*

Operating expenditures or budget are defined as all recurring fixed and variable costs associated with the management and administration of your system. It does not include non-recurring fixed capital costs such as building construction and major equipment purchases.

Total office expenditures during the fiscal year that included September 30, 2019:

$ _____. 00 [OFFICE EXPENDITURES]
[ ] *Estimate*

Findings:
Several participants checked the "Estimate" box when completing this item.

When asked about the time frame, the participants generally felt it was fine since each agency may operate under a different fiscal year. Several participants explained that they operate under a calendar year, while others mentioned a time frame of July 1 to June 30. Other participant agencies operate from October 1 to September 30. In general, they were able to provide the expenditures by doing some calculations depending on their fiscal year, while a few participants provided their calendar year operating expenditures as they felt this would be easiest. They did mention that it would be close to accurate.

Recommendations:
None.

B2. From which of the following sources did your office receive funding during the fiscal year including September 30, 2019? *Select Yes or No for each option.* Please consider only direct revenue from these sources.	**Yes**	**No**
a. Federal government	[ ]	[ ]
b. State government	[ ]	[ ]
c. County government (Including multi-county prosecution districts)	[ ]	[ ]
d. Traffic tickets/Court fees (directly or through collection efforts)	[ ]	[ ]
e. Grant funding [IF NO, SKIP TO QUESTION C1]	[ ]	[ ]
f. Other. Please describe: _____	[ ]	[ ]

Findings:
Several participants left some of the categories blank. Two participants left B2a, B2b, and B2c blank, one participant left B2d blank, and another left B2e blank. Several participants left B2f blank. A few participants entered comments in B2f, such as "State and Federal Forfeiture Funding" and "Forfeitures".

Asked whether it was difficult to provide responses for each category, the participants generally felt this was easy. One participant explained that all county funding, including his own office's funding, comes through one county pool, but originally this came from the state. As a result, he marked "No" for state and "Yes" for county.

Recommendations:
Based on the cognitive findings, we recommend the following: adding " Civil forfeiture/related sales" as a category.

B3. [IF QUESTION B2e (Grant Funding) = Yes]:
How much direct revenue did you receive in the form of grant funding during the fiscal year including September 30, 2019? *If you cannot provide an exact amount, please provide an estimate and check the estimate box. If you do not track this information, please check the 'Do not track this information' box.*

$ _____. 00 [DIRECT REVENUE]
[ ] *Estimate*
[ ] Do not track this information

Findings:
Most of the participants checked the "estimate" box when completing this question. They did not feel this was an overly burdensome question to estimate. However, one participant felt it would be burdensome to get an exact figure. Another participant had handed this to their business manager to complete and they wanted to know whether grant funding included county matches to state and federal grants. The total they provided included the matched county funds. Another participant had to provide an estimate as his office receives a total of three grants. One of the three is fully directed into his office, but the other two fund various positions in the county, and he was not sure how much ties into his own office's funding.

Recommendations:

Several of the chief prosecutors that were interviewed stated that office funds were pulled from a county-level pool, often including grant funding. Although an office may receive direct grant income or grant-funded staff members, these funds may instead be dispersed to other offices simultaneously. For instance, one chief prosecutor originally mentioned a dollar amount in grant funding provided to his office exclusively. He then mentioned that his office receives two other federal grants that trickle down to his office via the state. One of them provided a grant-funded victim advocacy position that his office shared with another county. As a result, he was unable to provide the dollar amount awarded by the grant to his office alone but shared that it would be a wildly different number compared with the one office-specific grant. It will be difficult to obtain meaningful numbers in similar situations.

Based on the cognitive findings, we recommend deleting this question as it was difficult to provide a meaningful estimate.

Several of the chief prosecutors that were interviewed stated that office funds were pulled from a county-level pool, often including grant funding. Although an office may receive direct grant income or grant-funded staff members, these funds may instead be dispersed to other offices simultaneously. For instance, one chief prosecutor originally mentioned a dollar amount in grant funding provided to his office exclusively. He then mentioned that his office receives two other federal grants that trickle down to his office via the state. One of them provided a grant-funded victim advocacy position that his office shared with another county. As a result, he was unable to provide the dollar amount awarded by the grant to his office alone, but shared that it would be a wildly different number compared with the one office-specific grant. It will be difficult to obtain meaningful numbers in similar situations.

Based on the cognitive findings, we recommend deleting this question as it was difficult to provide a meaningful estimate.

Section C: Caseload

C1. During the 12-month period ending on September 30, 2019, did your office have either formal or informal policies for case-processing related to the following? *Select Yes or No for each option.* A policy is a shared understanding, written or unwritten, among attorneys in the office relating to how a case or type of case is processed.	**Yes**	**No**
a. Bail recommendation/pretrial release for felony defendants – Circumstances under which cash bail is requested for any felony offenses or judge is asked to deny bail for any felony offenses	[ ]	[ ]
b. Bail recommendations/pretrial release for misdemeanor defendants – Circumstances under which cash bail is requested for any misdemeanor offenses or judge is asked to deny bail for any misdemeanor offenses	[ ]	[ ]
c. Caseloads – Number of open cases one prosecutor can carry at one time	[ ]	[ ]
d. Charging standards – Specific standards of prosecutorial action and charging	[ ]	[ ]
e. Conviction integrity – Identifying or correcting false convictions	[ ]	[ ]
f. Diversion/problem-solving courts – Recommendations on cases eligible and ineligible for diversion or problem-solving courts	[ ]	[ ]
g. Non-prosecution – Declining any cases referred without review (e.g., marijuana possession, theft less than $100)	[ ]	[ ]
h. Plea bargains – Circumstances under which cases or offenders are eligible or ineligible for plea bargains	[ ]	[ ]

Findings:

The participants had several comments regarding this question. One participant felt it would be helpful to split "Formal" and "Informal" as his "Yes" responses were mainly informal policies. This seems to be similar to how other participants responded, as several agencies have informal policies. However, another respondent thought the term "Informal policy" is vague. Another participant suggested a third category of "Yes – outside agency".

In terms of the definitions provided, most of the participant felt they were clear. One participant felt "Caseloads" is overly broad. He suggested splitting "new cases" from "revocations." He also felt that C1d was similar to C1a and C1b. One participant explained that with "Conviction integrity" you do not only look at false convictions, but also look at where the sentence may be disproportionate.

Another participant felt that "Charging standards" is broad. He asked, "Does this encompass the specifics of the language of a charge you might use. Does it include when you might deviate or not from a charge?" It might be clearer to broaden this by asking about the severity of punishment/guidelines for when someone gets a plea bargain.

When asked if there are any other case topics they are seeing in their jurisdiction, the participants provided the following:

- Some of us have an appeals division, which is not handled in pretrial
- Homicide
- Under charging standards: witness cooperation

- Non-internet related child abuse/exploitation
- Opioids
- Added to Caseloads: Domestic violence/intimate partner violence
- Sex offenses, white collar crimes—tax evasion, welfare fraud, disability fraud, Medicaid fraud, weapon crimes—illegal gun sales, possession of illegal weapons and firearms, violent felonies
- Intake/assignment process

Recommendations:

Based on the cognitive findings, we recommend the following revisions:

- Change categories to: Yes – Formal/written, Yes – Informal/unwritten, No
- Change "Caseloads" to: Allowed caseload (number)
- Change "Charging standards" to: Charging standards (other than bail)
- Change the definition of C1e to: Identifying or correcting false convictions and disproportionate sentences
- Add "Other. Please specify: _____" based on the number of other categories provided by the cognitive participants

C2. During the 12-month period ending on September 30, 2019, did your office prosecute the following types of felony offenses? *Select Yes or No for each option.*	**Yes**	**No**
a. Computer hacking or network disruption (cybercrime)	[ ]	[ ]
b. Elder abuse/neglect	[ ]	[ ]
c. Gang-related violence	[ ]	[ ]
d. **Hate crime (i.e. basis for crime is related to race, religion, disability, sexual orientation, ethnicity, gender, or gender identity)**	[ ]	[ ]
e. Human trafficking	[ ]	[ ]
f. Methamphetamine production or distribution	[ ]	[ ]
g. Mass murder (the killing of four or more people at the same place and time)	[ ]	[ ]
h. Opioids distribution (including prescription fraud)	[ ]	[ ]
i. Police use of excessive force	[ ]	[ ]
j. Use of internet for child exploitation/child sexual abuse/child pornography/child abuse	[ ]	[ ]

Findings:
That participants were able to answer this question easily. While larger agencies would likely have a dedicated unit, this would not be the case with smaller agencies as many agencies handle these cases as they come in. One participant said this question is really getting at whether we are prosecuting these kinds of cases. However, another participant felt that if staff were personally dedicated to these types of offenses then it would be a better measure of burden.

In some cases, participants answered “Yes” or “No”, but this was due to the lack of a “NA” category.

When asked how they would you have responded if we asked about prosecuting hemp, CBD, and marijuana regulations, the participants were split between answering “Yes” and “No”. One participant said this would be complicated as states all handle these differently. This would also vary depending on whether it was marijuana or hemp/CBD and the amount of substance.

Recommendations:
Based on the cognitive findings, we recommend the addition of a not applicable column:

N/A – Office does not handle this type of case

Without this third column, respondents indicated confusion over whether the question concerns office policy (i.e., Would the office prosecute this case if it arose?) or actual events (i.e., Did the office prosecute this case within this time period?). The addition of this third column would allow for the following options:

Yes – Office handled this type of case during this period
No – Office handles this type of case but did not do so during this period
N/A - Office does not handle this type of case

C3. During the 12-month period ending on September 30, 2019, did your office have jurisdiction for the prosecution of criminal cases (misdemeanor and/or felonies) occurring on tribal lands?

The term "tribal lands" includes areas also labeled Indian Country, federal or state recognized reservations, trust lands, Alaska Native villages, and/or tribal communities.

[ ] YES
[ ] NO

Findings: No issues found.
Recommendations: None.

C4. During the 12-month period ending on September 30, 2019, did your office have a digital/electronic case management system?

[ ] YES
[ ] NO

Findings: One participant explained that their system is a shared server but responded "Yes." Another participant explained that they do not have a full CMS but do have an electronic tracking system, which can look back in time for events (court, etc.) but not manage documents. He answered "No" because it was not comprehensive. Another participant was not sure what a digital/case management system was, but this could be a result of not using one. They monitor their cases electronically but not with dedicated software.
Recommendations: None.

C5. During the 12-month period ending on September 30, 2019, was your office responsible for prosecuting or litigating the following case types? *Select Yes or No for each option.*	**Yes**	**No**
a. Felony matters	[ ]	[ ]
b. Misdemeanor matters	[ ]	[ ]
c. Juvenile matters	[ ]	[ ]
d. Civil matters [IF NO, SKIP TO QUESTION C7]	[ ]	[ ]
e. Other matters (including municipal and traffic)	[ ]	[ ]

Findings: No issues found.

Recommendations:
Consider revising the response categories to add a NA column, similar to the recommendation for question C2. For example:

Yes – Office handled this type of case during this period
No – Office handles this type of case but did not do so during this period
N/A - Office does not handle this type of case

C6a. If your office was responsible for prosecuting or litigating civil matters during this time period, how many times did your office act as counsel for the plaintiff (state or county)?
_____ [PLAINTIFF]

[ ] *Estimate*
[ ] Do not track this information

Findings:
A few participants checked "Do not track this information" while a few others provided a response and checked "Estimate."

Recommendations:
Based on the cognitive findings, we recommend the following change, in red text, to the question:

If your office was responsible for civil litigation cases during this time period, how many times did your office act as counsel for the plaintiff (state or county)?

C6b. If your office was responsible for prosecuting or litigating civil matters during this time period, how many times did your office act as counsel for the defendant?

_____ [DEFENDANT]
[ ] *Estimate*
[ ] Do not track this information

Findings:
A few participants checked "Do not track this information" while a few others provided a response and checked "Estimate."

One participant noted that this question seems nonsensical, as they would never represent a defendant because they are prosecutors. Another participant provided a similar response in explaining that they represent the plaintiff.

When asked if C6a and C6b were sufficient to cover civil matters, several participants were confused as to what would fall under "civil matters." One participant noted that it would be helpful if we could add what is meant by "civil matters" by providing some examples like "weapons or property forfeitures." Another participant felt "civil matters" was broad. One example would be violation of a growth policy/suing over a zoning issue versus wrongful discharge or involuntary commitment. He was unclear whether all these matters, would be included in this question. Another participant echoed these concerns, explaining that we should clarify what is to be included, such as civil asset forfeiture. He explained that the team must determine what constitutes prosecuting or litigating a civil matter. Another participant explained that their office breaks down civil cases in different areas, such as environmental, consumer protection, and real estate.

Recommendations:
Based on the cognitive findings, we recommend the following change, in red text, to the question:

If your office was responsible for civil litigation cases during this time period, how many times did your office act as counsel for the defendant?

C7. Does your jurisdiction allow police to file cases directly in court without prosecutorial review (including traffic, municipal, and infraction cases)?

[ ] Yes
[ ] No **[SKIP DIRECTLY TO C9]**

Findings:
The participants did not have any difficulty with this question. However, one participant was confused and unsure what the question was asking. He explained that if an officer witnesses an offense, they can file that offense in court for the most part. However, there are some that they are not allowed to file. He suggested responses such as (Yes-All, Yes-Some, and No).

Recommendations:
Based on the cognitive findings, we would like to discuss with BJS whether prosecutorial review means in-depth review or a quick scan before court. See cognitive findings in question C8b for more information.

C8a. [IF YES] After a case is filed directly in court by the police, does your office then handle those cases?

[ ] Yes
[ ] No **[SKIP DIRECTLY TO C9]**

Findings:
No issues found.

Recommendations:
None.

C8b. [IF YES] If your office handles cases that were filed directly in court by the police, how many of those cases did your office prosecute without review in the 12-month period ending on September 30, 2019?

_____ [NO REVIEW]
[ ] *Estimate*
[ ] Do not track this information

Findings:
The participants had trouble understanding this question. When asked if they understood the prompt [NO REVIEW] as an indicator of the number of cases directly filed by police, rather than undergoing prosecutorial review, one participant considered both felonies and misdemeanors explaining, "In order to jump them into the District Court, we have to review them. I do not get copies of misdemeanors unless they plead not guilty, so I cannot give you a good answer to

this because I do not even know that these are out there. The felonies are all reviewed, but a ton of the misdemeanors are not."

Another participant explained, "When you are saying 'without review', I took it to mean that law enforcement could go to a magistrate and get a warrant without ever consulting a prosecutor, make an arrest without ever involving the DA's office. Unless they call us to consult on a case, we are not reviewing cases that are 'filed directly' with the court. Every arrest warrant that they took, we would prosecute without taking an arrest warrant."

Another participant interpreted this as meaning, "How many cases did you prosecute without reviewing them?", which was confusing to them as they review every case.

One participant suggested adding "prior to filing" as they review all cases.

Recommendations:
Based on the cognitive findings, we would like to discuss with BJS whether prosecutorial review means in-depth review or a quick scan before court.

C9a. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following public order offenses?

	Prosecution was almost always pursued	**Prosecution was pursued more than half the time**	**Prosecution was pursued less than half the time**	**Prosecution was rarely or never pursued**	**My office has jurisdiction but no cases of this type were referred to my office**	**My office has no jurisdiction over this offense**
Public Order Offenses						
Driving under the influence of alcohol	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Driving under the influence of marijuana	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Driving with a suspended license	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Fare evasion, including turnstile jumping, etc.	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Drinking in public, or open container	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Public intoxication	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Disorderly conduct	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Resisting arrest	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Vagrancy	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Public urination/defecation						
Prostitution	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Solicitation of prostitution	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

Findings:
The participants found this question easy to answer and it was not too burdensome. Several participants explained that they do not prosecute misdemeanors. One participant explained that cases that are solely misdemeanors are not under their office's jurisdiction, as they only prosecute misdemeanors if there was a felony involved.

One participant noted that this list does not address cases that are declined based on lack of evidence.

One participant stated that the columns are oddly worded. They seem to ask whether someone would decline a case and not whether they would prosecute a case.

Another participant found this question difficult. We do not provide an opportunity to discuss diversion so this table might be a little misleading.

When asked if it was possible to access either the proportion of each type of case for which prosecution was pursued or the fact that no prosecution was pursued, participants explained that this information is either not available or would be difficult to obtain exact numbers.

When asked if any other offenses should be added to the list, the participants provided the following:

- Trespassing
- Domestic violence cases
- Combine: "DUI/DWI/BAC," the latter being "driving with excessive BAC," a separate offense from the other two
- Reckless conduct and criminal mischief

Recommendations:
Based on the cognitive findings, we recommend the following changes, in red text, to the question and offense categories. Note that the categories have been reorganized alphabetically:

In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following public order offenses, assuming sufficient evidence?

Disorderly conduct
Driving under the influence of alcohol or drugs
~~Driving under the influence of marijuana~~
Driving without a license (including licenses suspended or revoked)
Drinking in public, or open container
Fare evasion, including turnstile jumping, etc.
Public intoxication
Public urination/defecation
Prostitution
Reckless conduct/criminal mischief
Resisting arrest
Solicitation of prostitution
Vagrancy

C9b. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following drug offenses?

	Prosecution was almost always pursued	Prosecution was pursued more than half the time	Prosecution was pursued less than half the time	Prosecution was rarely or never pursued	My office has jurisdiction but no cases of this type were referred to my office	My office has no jurisdiction over this offense
Drug Offenses						
Smoking marijuana in public	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Marijuana possession	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Marijuana possession with intent to distribute	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Non-marijuana drug possession	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

Findings:

The participants had no difficulty answering these questions. Like C9a, some participants noted that these are misdemeanors, except for "intent to distribute", and would not prosecute unless accompanied by a felony.

One participant was confused by the term "prosecute" as used in this question. They believe that "prosecute" means that they pursue the case in a traditional way. For instance, marijuana possession can be "prosecuted", but they almost always end in diversion.

When asked if any other offenses should be added to the list, the participants provided the following:

- Trafficking - non-marijuana possession with intent to distribute
- Marijuana paraphernalia
- Distribution of non-marijuana drugs
- Methamphetamine trafficking and possession offenses
- Manufacturing offenses should be added - growing pot is an offense

Recommendations:

Based on the cognitive findings, we recommend adding the following categories, in red text. Note that the categories have been reorganized alphabetically:

Marijuana manufacturing/growth
Marijuana paraphernalia
Marijuana possession
Marijuana possession with intent to distribute
Marijuana: Public use
Non-marijuana drug manufacturing
Non-marijuana drug possession
Non-marijuana drug paraphernalia
Non-marijuana drug possession with intent to distribute
Non-marijuana drug: Public use

C9c. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following property offenses?

	Prosecution was almost always pursued	Prosecution was pursued more than half the time	Prosecution was pursued less than half the time	Prosecution was rarely or never pursued	My office has jurisdiction but no cases of this type were referred to my office	My office has no jurisdiction over this offense
Property Offenses						
Breaking and entering	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Breaking into a motor vehicle	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Shoplifting	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Pickpocketing or purse-snatching	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Possession of stolen property	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Criminal trespassing	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Vandalism/intentional damage to property	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

Findings:
The participants found this relatively easy to answer. Like the previous questions, it would depend on whether they were misdemeanors or felonies.

One participant explained that this does not capture cases referred to diversion. She explained that the question seems to focus on “pursue or not pursue.” She would like the community to know that her office has a middle ground between "nothing" and "incarceration."

When asked if any other offenses should be added to the list, the participants provided the following:

- Pickpocketing or purse-snatching seem different. Purse-snatching is more violent then pickpocketing so consider separating these
- Robbery and various types of robbery
- Sexual assault cases (children vs adult victims)
- Criminal mischief
- General theft
- Possession of a stolen motor vehicle

Recommendations:
Based on the cognitive findings, we recommend removing the offense of: Pickpocketing or purse-snatching

C10. What if any effect did offender characteristics have when deciding whether to prosecute these offenses? *Please check only ONE box per horizontal row.*

Offender had prior offenses	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was intellectually disabled	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was a non-U.S. citizen	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was a minor	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Other characteristics (specify): _____			

Findings:
The participants provided responses to this question. A few participants added information into the "Other field" which included:

- We have a robust diversion and specialty court programs that take into account an individual's criminal history, disabilities, age, addictions etc. These are post arrest programs that may result in the dismissal and immediate expungement of arrest and charge upon completion.
- Offenses committed by minors are handled in Juvenile Court.
- Prior referrals that were not prosecuted and whether someone is in a position of public trust make prosecutor more likely to prosecute

When asked it if was possible to access information regarding the offender characteristics, the prosecutors explained that they would receive whatever information was provided in the police report. This may or may not include all this information at the time of charging. Occasionally, they learn of additional information, usually from the defense, which may lead to a decision to dismiss the case.

When asked if any other offender characteristics should be added to the list, the participants provided the following:

- Race/ethnicity/gender
- Veteran status
- Offenders who are very old
- Offenders who have severe health problems
- Substance abuse and substance abuse history

Recommendations:
Based on the cognitive findings, we recommend the following changes:

- Change the category "Offender had prior offenses" to: Offender had prior related offenses
- Add the category: Offender had prior unrelated offenses
- Remove the category "Other characteristics"

C11. In the 1st column below, please indicate the number of cases reviewed by your office during the 12-months ending September 30, 2019. Next, please indicate the number of each type of case in Columns 2 through 3 for which your office was responsible during the 12-month period ending on September 30, 2019. The sum of Columns 2 through 3 should not exceed the number in Column 1. *If you are uncertain, please provide your best estimate and check the estimate box. Check NA if your office is not responsible for prosecuting or litigating these types of cases – Not selected in question C5.*

	1. Number of cases reviewed by office during 12-months ending 9/30/19	**2. Number of cases filed in court**	**3. Number of cases diverted/declined** (Diverted post arrest prior to filing in court / Prosecuting party does not pursue charges)	**4. NA** *Not selected in question C5*
a. Felony matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
b. Misdemeanor matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
c. Other matters (including, juvenile, municipal, and traffic)	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]

Findings:
The participants generally answered this question correctly. However, some participants marked the “Estimate” box. In a few cases, the sum of columns 2 and 3 exceeded the total in column 1.

In terms of the definition provided in column 3, several participants found it to be confusing. Several participants explained that diversion can also take place post-arrest and after filing in court, while others explained that this can be done pre-arrest, especially with juvenile cases. Another participant recommended not using the word “diverted”. To them this means “putting [a case] into pre-trial or diversion program.” One participant said the wording related to "post-arrest, pre-filing" was confusing to her, as cases are filed in municipal court and then a preliminary hearing rules whether it goes to a grand jury or not. Several participants recommended not providing a definition as this can vary quite a bit by jurisdiction. If a definition is used, participants recommended being very clear as to what we mean by diversion.

When asked whether they prefer the word “deferred”, the participants were mixed in their preference. There was a lot of different ways to interpret as it varied by jurisdiction. One participant suggested, “number of cases resolved before conviction by guilty plea or verdict.” Another participant suggested including “diverted/deferred” in one column and “declined” in a separate column, while another participant suggested including all three in one column.

Recommendations:
Based on the cognitive findings, we recommend changing C11_3 to: Number of cases resolved before conviction by guilty plea or verdict

If the column heading is changed, we then recommend removal of the definition.

C12. Of the cases filed in court (reported in the second column of question C11), how many were concluded by…
If you are uncertain, please provide your best estimate and check the estimate box. Check NA if your office has not filed cases named in question C5 or handled these types of cases.

	1. Number of cases concluded by court or jury trial	**2. Number of cases concluded by plea**	**3. Number of cases referred to Problem-Solving Court** (Court dockets designed to serve a particular group of offenses or offenders)	**4. Number of cases concluded by Nolle prosequi or dismissal**	**5. NA** *Not reported in question C5*
a. Felony matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
b. Misdemeanor matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
c. Other matters (including juvenile, municipal and traffic)	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]

Findings:
The participants provided responses but in a few cases the numbers did not match what was reported in the second column of C11 and in some cases they were higher. Some participants provided only partial values leaving some of the fields blank.

Asked whether they would be able to provide the number of cases that were "successfully" concluded in problem-solving courts, the participants generally said this would be burdensome. Some would find it easy as their system is designed to handle the request while others would need to do a manual count. However, the participants did feel this would be useful information to collect.

When asked if the definition for "Problem-Solving Court" is appropriate, participants generally approved of the definition. One participant interpreted this as a drug court, veterans court, etc. He mentioned that there are other prosecutor-led diversionary programs that may or may not involve the court. He suggested contacting someone at the National Association for Diversionary Courts for the appropriate terminology. Another participant explained that they use "treatment courts" or "accountability courts."

Recommendations:
Based on the definitions provided on the National Institute of Justice website, suggest placing the following definitions at the top of the instrument for consistent use during this survey:

- Diversion: *Diversion initiatives serve as an alternative to law enforcement or court involvement and may occur before or after the filing of a criminal charge. Examples of diversion programs include supervised probation, restitution, and mandatory community service.*

- Problem-solving courts: *Problem-solving courts are specially designed court dockets that address one type of offender and offense, often with collaboration by judiciary staff and social service agencies or other case management. Examples of problem-solving courts include Mental Health Courts, Veterans' Courts, and Drug Courts.*

Source: NIJ Diversion and NIJ Problem Solving Courts

C13. Of the felony cases concluded by court or jury trial (reported in the first column of question C12 for felony matters), how many resulted in… *If you are uncertain, please provide your best estimate and check the estimate box.*

a. _____ Conviction on one or more charges [ ] *Estimate*
b. _____ Not guilty/ acquittal on all charges [ ] *Estimate*
c. _____ Mistrial [ ] *Estimate*
d. _____ Other [ ] *Estimate*

[ ] Do not track this information

Findings:
While a few agencies do not track this information, a few participants provided values that exceeded the corresponding value in C12.

We asked participants if the question should focus on "Conviction or dismissal on one or more charges." Most participants explained that we should not include both as that would add to confusion. A few participants suggested splitting these out and asking them separately.

Recommendations:
Based on the cognitive findings, we recommend adding a new category to follow C13a: Dismissal of all charges

C14. If values were entered in C13d above (Other), please describe the other way that the felony cases were concluded:

_____

Findings: Only two participants entered information in C14 as they provided a value in C13d. They included: • Nollie Prosequi entered mid-trial • The juvenile cases were not all felonies. Approx. 50 were misdemeanors Participant generally felt that C13 covered the cases they see, and it may not be useful to specify the reason in C14.
Recommendations: Based on the cognitive findings, we recommend removing C14 and leaving C13e to capture other cases as it is unlikely that we will receive useful information in C14.

Section D: Evidence in Prosecution

D1. During the 12-month period ending on September 30, 2019, what percentage of the felony cases reported in question C11a, column 2 did your office prosecute that involved the collection, analysis, review, and/or admission of the following types of <u>digital evidence</u>? *If you are uncertain, please provide your best estimate and check the 'estimate' box. If your office did not collect, analyze, review, and/or admit the following types of digital evidence, please mark the percentage as 0.*

Digital evidence includes information that is stored, transmitted or received on an electronic device.

	Percentage of cases
a. Cameras (police body-worn, police dashcam, other camera evidence):	_____ [ ] *Estimate*
b. Cell phones	_____ [ ] *Estimate*
c. Computer hard drive	_____ [ ] *Estimate*
d. Calls from jail/prison:	_____ [ ] *Estimate*
e. Social media	_____ [ ] *Estimate*

Findings:
Most participants checked "Estimate" for these items. We did not encounter item-nonresponse as they were able to provide an estimate.

A participant felt we should provide examples for "Cell phones," as information retrieved from cell phones could include cell phone text and call records, cell GPS information, and other included information.

When asked whether the time waiting for test results or the number of staff that had to review the test results would that have been a better question, the participants felt that would be very useful information to collect. While it would be more burdensome to answer, the participants agreed that this would be analytically useful information. Other participants felt that the number of cases would be less burdensome to collect and that the time waiting would vary greatly. Overall, most participants felt that adding these would result in an estimate since they do not track this information.

One participant suggested increasing the table to include percentage of cases, time waiting on results and number of staff. Another participant felt that a better question would be how much time staff must spend reviewing digital evidence.

Recommendations:
Based on the cognitive findings, we recommend including the following examples for cell phone: (Information on cell phone use including communication records and location information)

D2. During the 12-month period ending on September 30, 2019, what percentage of the felony cases reported in C11a, column 2 did your office prosecute that involved the collection, analysis, review, and/or admission of the following types of <u>forensic evidence</u>? *If you are uncertain, please provide your best estimate and check the 'estimate' box. If your office did not collect, analyze, review, and/or admit the following types of forensic evidence, please mark the percentage as 0.*	
	Percentage of cases
a. Autopsy	_____ [ ] *Estimate*
b. Ballistics	_____ [ ] *Estimate*
c. Chemical/drug testing	_____ [ ] *Estimate*
d. DNA or other blood evidence	_____ [ ] *Estimate*
e. Fingerprints	_____ [ ] *Estimate*
f. Sexual assault evidence	_____ [ ] *Estimate*
g. Toxicology	_____ [ ] *Estimate*

Findings:
Like D1, most participants checked "Estimate" for these items. We did not encounter item-nonresponse as they were able to provide an estimate.

One participant suggested adding a category for "Witness evidence."

When again asked whether the time waiting for test results or the number of staff that had to run/wait on test results would that have been a better question, most participants felt this would be useful information but would be burdensome to report. Number of cases seem to be more manageable then the time waiting as this can vary quite a bit. While burdensome, it was clear that the participants felt these would be a better measure than the percentage of cases. One participant explained that you could review this in different ways. For example, the amount of time spent waiting for test results and the amount of time it takes to review them.

Recommendations:
Based on the cognitive findings, we recommend including the category: Witness evidence

D3. Does your office have an established policy on how digital evidence is provided to defense attorneys?
[ ] Yes
[ ] No – **[IF NO, SKIP TO QUESTION D4]**

Findings:
No issues found.

Recommendations:
Based on the cognitive findings, we recommend combining questions D3 and D3a. For example:

D3. Does your office have an established policy on how digital evidence is provided to defense attorneys?

For this question please consider a digital platform to mean a shared platform such as www.evidence.com. Please consider a hard handoff to mean a physical device such as a CD or USB flash drive.

1. Yes - Digital platform only
2. Yes - Hard handoff only
3. Yes – Digital platform and/or hard handoff
4. No

D3a. If your office has an established policy on the sharing of digital evidence with defense attorneys, what is the usual method by which this information is shared? *Please select only the most frequently used method.*

[ ] Digital platform only (e.g., www.evidence.com)
[ ] Hard handoff only (e.g., CD or USB flash drive)
[ ] Both platform and hard handoff
[ ] Method of sharing depends on specifics of case

Findings:
We experienced significant item nonresponse with this question with most participants skipping this item. A few participants explained that they use both digital evidence and hard handoffs.

Recommendations:
Due to the high item-nonresponse to this item, we recommend deleting question D3a and combining with D3 as described above.

D4. During the fiscal year that included September 30, 2019, what were the total expenditures of your office for the storage of digital evidence (including licensing fees, maintenance fees, IT support, and storage costs)? *If you are uncertain, please provide your best estimate and check the estimate box.*
$ _____. 00 [EXPENDITURES]
[ ] *Estimate*

Findings:
Participants entered values but all of them checked "Estimate." Several participants explained that this would be a very burdensome question to gather accurate values. Several of the values provided: $10,000; $100,000; $175,000; $1,000,000 seem to be very broad estimates that may not be close to accurate.

A few participants were not able to answer as this digital evidence is stored by the county or on servers not owned by the agency which would require outside IT help to gather this information.

We asked participants if this was the best measure of the burden incurred by your office related to how digital evidence is used. A few participants felt it was a good measure, but most did not believe it was. They felt the values would be too broad of an estimate. One participant suggested focusing on the staff time in saving the evidence.

Recommendations:
Considering the burden and challenge in obtaining accurate expenditure figures, we recommend deleting this item.
If it is decided to keep this item, we recommend including a list of ranges to lessen the burden and move this item to Section B.

If BJS prefers to keep this item, we suggest the following changes and the addition of a follow-up question and moved to Section B. Consider:

B3. During the fiscal year including September 30, 2019, what were the total expenditures of your office for the storage of digital evidence (including licensing fees, maintenance fees, IT support, and storage costs)? *If you are uncertain, please provide your best estimate and check the estimate box.*

a. Less than $1,000
b. $1,001- $5,000
c. $5,001- $25,000
d. $ 25,001 - $75,000
e. More than $75,000

B3a. If you are able to provide an exact amount, please provide this amount:

$_____.00 [DIGITAL EXPENDITURES]

We may need a discussion to determine the expenditure ranges that should be included.

D5. During the fiscal year that included September 30, 2019, what were the expenditures of your office for the physical storage of forensic evidence? *If you are uncertain, please provide your best estimate and check the estimate box.*

$ _____. 00 [EXPENDITURES]
[ ] *Estimate*

Findings:
Some participants entered values and then checked "Estimate", while others entered "$0."

When asked whether D4 and D5 should be asked here or moved to Section B with other budget-related questions, the participants were split with some preferring this location and others moving the items as they delegate Section B to another staff member to complete. Participants advocating for the questions to remain in this section believed this was more appropriate in terms of the flow of the survey.

The participants noted that agencies store things in different ways. For example, forensic evidence is likely to be stored outside of the agency.

One participant noted that evidence includes the personnel and cost of storing in addition to the physical evidence. Another participant suggested asking about staffing hours in budget section, separate from non-personnel costs (like servers).

Recommendations:
Considering the challenge in obtaining accurate expenditure figures, we recommend deleting this item.
If it is decided to keep this item, we recommend including a list of ranges to lessen the burden, add a category for: This office does not physically store forensic evidence, and move this item to Section B.

If BJS prefers to keep this item, we suggest the following changes and the addition of a follow-up question and moved to Section B. Consider:

B4. During the fiscal year including September 30, 2019, what were the total expenditures of your office for the physical storage of forensic evidence? *If you are uncertain, please provide your best estimate and check the estimate box.*

f. Less than $1,000
g. $1,001- $5,000
h. $5,001- $25,000
i. $ 25,001 - $75,000
j. More than $75,000

B4a. If you are able to provide an exact amount, please provide this amount:

$_____.00 [DIGITAL EXPENDITURES]

We may need a discussion to determine the expenditure ranges that should be included.

Section E: Diversion Programs and Specialty Courts

E1. Within your jurisdiction, do individuals in the following positions refer offenders to <u>diversion programs?</u> *Select Yes or No for each option.*	**Yes**	**No**
a. Judge	[ ]	[ ]
b. Law enforcement	[ ]	[ ]
c. Prosecutor [IF NO, GO TO QUESTION E3]	[ ]	[ ]
d. Someone else. Please describe: _____	[ ]	[ ]
e. Referrals are mandated by statute	[ ]	[ ]

Findings:
The participants did not have any trouble answering this question. Three participants responded "Yes' to E1d and entered: Juvenile Court Services, Defense Counsel, and Juvenile Probation.

One participant was not sure how to answer this question as the phrasing was too general. Judges can sentence an offender to a treatment court. The participant suggested expanding the definitions, as in Section C, which might be helpful.

Recommendations:
Based on the cognitive findings, we recommend adding the category: Defense

E2. During the 12-month period ending on September 30, 2019, did your jurisdiction divert the following types of offenses from prosecution prior to adjudication? *Select (X) all that apply.*	**Yes – Felony cases**	**Yes – Misdemeanor cases**	**No**
a. Child abuse	[ ]	[ ]	[ ]
b. Child neglect	[ ]	[ ]	[ ]
c. Drug manufacturing/dealing offenses	[ ]	[ ]	[ ]
d. Drug simple possession offenses	[ ]	[ ]	[ ]
e. Domestic violence offenses	[ ]	[ ]	[ ]
f. DUI/DWI offenses	[ ]	[ ]	[ ]
g. Simple assault (other than domestic violence offenses)	[ ]	[ ]	[ ]

Findings:
The participants generally felt this was easy to complete. A few participants explained that they get some cases with both felony and misdemeanors. One participant felt we should include a column for both.

Several participants explained that they only handle felonies.

One participant explained that the words "diversion programs" and "specialty courts" have different meanings. He explained diversion program is the same as a specialty court in his view. However, others may consider a diversion program literally diverting a case from prosecution.

One participant suggested including separate juvenile and adult columns for better accuracy.

Recommendations:
None.

E3. Within your jurisdiction, do individuals in the following positions refer offenders to problem-solving courts? *Select Yes or No for each option.*	**Yes**	**No**
a. Judge	[ ]	[ ]
b. Law enforcement	[ ]	[ ]
c. Prosecutor	[ ]	[ ]
d. Someone else. Please describe: _____	[ ]	[ ]
e. Referrals are mandated by statute	[ ]	[ ]

Findings:
The participants did not have any trouble answering this question. Three participants responded "Yes' to E1d and each specified the defense (Defense attorney/Defense Counsel).

Recommendations:
Based on the cognitive findings, we recommend adding the category: Defense

E4. To what types of problem-solving courts do you refer offenders? *Select Yes or No for each option.*	**Yes**	**No**
a. Adult drug court	[ ]	[ ]
b. Juvenile court	[ ]	[ ]
c. Mental health court	[ ]	[ ]
d. Family court	[ ]	[ ]
e. Hybrid DWI/Drug court	[ ]	[ ]
f. DWI court	[ ]	[ ]
g. Domestic violence court	[ ]	[ ]
h. Veterans court	[ ]	[ ]
i. Tribal wellness court	[ ]	[ ]
j. Environmental court (e.g. refineries)	[ ]	[ ]

Findings: Several participants mentioned not having an Environmental court. There seemed to be consensus on removing this and adding an "Other" category for these types of courts that are less prevalent.
Recommendations: Based on the cognitive findings, we recommend removing E4j and replacing this with "Other court. Please describe: _____"

E5. Is the prosecutor expected to monitor cases that are referred to problem-solving courts?

[ ] Yes – A member of the prosecutor's office is present and is responsible for monitoring PSC cases

[ ] Yes – Prosecutors are not required to be present, but do receive reports from PSC teams and are expected to provide some feedback

[ ] No – Prosecutor only knows if the defendant completes the court or is terminated from the court **[IF SELECTED, YOU HAVE COMPLETED THIS SURVEY. THANK YOU FOR YOUR TIME.]**

Findings: No issues found.
Recommendations: None.

E6. How are prosecutors assigned to the problem-solving courts?

[ ] Original prosecutor assigned to case is responsible for handling case while in problem-solving court

[ ] Dedicated prosecutor(s) are assigned to all cases in one specific problem-solving court (e.g., one prosecutor for drug, one prosecutor for veterans, one prosecutor for DWI)

[ ] Dedicated prosecutor(s) are assigned to all cases in multiple problem-solving courts (e.g. one prosecutor for drug, veterans and DWI courts)

Findings:
No issues found in completing question E6.

When asked if questions E1 through E6 adequately cover the topic of diversion and problem-solving courts, several participants felt it was adequately covered. One participant explained that there would be a big difference if we wanted to measure how many people are referred to a particular program vs. how many are accepted into and participate in the program.

One participant suggested including an estimate on court capacity (how many participants in each court in one jurisdiction compared to other jurisdictions). Another participant suggested we ask about restorative justice, which that jurisdiction calls “settlement conference." This is a mediation where a judge meets with different parts of a criminal case, to help parties come to a plea agreement. In addition, this participant suggested asking about pretrial services, as the survey may benefit from exploring more about collateral services that are available to help guide plea agreements.

When asked if questions E1 through E6 adequately cover all the individuals who move through their justice system, participants said that it does not cover outright dismissals, mental commitments, and traffic diversion programs. One participant suggested we add "other diversion courts" as an option.

One participant explained that there is no mention of what the outcomes are in these questions. For example, almost all the people that go through their drug court still come out with a criminal conviction. He thinks asking what percentage end up with a conviction would be worth noting.

Another participant explained that “expungements” are becoming a big trend in his state. A new statute allows someone to apply for an expungement of a given record. Prosecutors and legal aid groups can assist that effort, but in this county that belongs to legal aid groups and prosecutors are not really involved. This participant suggested we add “expungement services” as many prosecutors' offices handle those services.

Recommendations:
No recommendations for question E6.

Regarding the comments provided for questions E1 through E6, RTI suggests establishing definitions of diversion programs and problem-solving courts at the beginning of sections C and E for consistent use throughout the completion of the questionnaire. See global comment section above.

Cognitive Debriefing Questions

After reviewing the questions and administering cognitive probes, the cognitive interviews asked several overall debriefing questions. The responses provided could provide additional context in making decisions of which questions to remove or preserve. Furthermore, this information is helpful in understanding the burden placed on the participants as they completed the survey.

The following are the debriefing questions and responses provided by the cognitive participants.

Debrief Question	Participant responses
What types of cases not seen five years ago are becoming common now?	• Child porn/ sexual exploitation with minors through social media • Identity theft • Synthetic marijuana • Methamphetamine cases • Elder abuse • Aggravated assaults • Anything involving an officer (shooting, any alleged police misconduct) • Domestic violence cases • Heroin trafficking now • Sexual exploitation • Gun violence • Cybercrime
Did you have difficulty with any aspect of the survey that we have not already discussed?	• C11-C12-C13, D1, D2 – these would have required a lot of work to gather the information. These were my best guesses. Misdemeanors were a guess. Separate municipal and traffic from juvenile in C11. We handle other jurisdictions regarding traffic related issue. We lumped them into misdemeanors. • It felt long. It might be nice to see how use of force cases are being reviewed. Section on reporting requirements – who do we report to? How to prosecute specific drug cases uniformly. • Need a lot more N/A boxes for smaller jurisdictions. • Participant suggested that we enlist the help of individual state prosecutors' associations when fielding the survey. • We need to specifically capture gun violence.
How much of the information needed to answer these questions do you have available?	In general, participants felt the questionnaire was not too burdensome and could gather the information. There were a few questions more burdensome than others. • Financial information and evidence in prosecution were somewhat difficult to answer • Case information tracked at the state level and budgetary information had to be looked up but was available • Evidence question about percentages is a difficult question • Getting staff numbers took time

What information did you need to get from other people at your agency?	• Budgetary items • Demographics • Charging decisions • Evidentiary questions • Digital storage questions • IT questions
How do you feel about the length and time needed to complete the questionnaire. Did you feel that it was reasonable or overly burdensome?	The participants did not find it overly burdensome and although some felt it was long, they felt the information was useful to collect. Some specific comments included: • It would have been a very burdensome to give specifics to answer this questionnaire • It is an investment of time, but the information is available • It was a little long, but thorough. When it is sent out, there should just be a note that it may require somebody with familiarity with the budget and the financial aspect to fill out.
Was there anything in this survey that you think we could drop or which you feel is less critical information to collect?	The participants generally felt that all the questions were useful. There were a few items that participants noted but they did not feel strongly about removing them. They included: • Caseloads • Question C11 is burdensome since we don't have a good tracking mechanism. • Staff in the office that did non-litigating activities – seems this is not as critical and useful. • Civil part could be dropped • A13 (non-litigating activities) is not a priority
Which one question would you most like to receive the answers to from other offices?	• The question on whether we have a dedicated unit. A8-A9. If length of time for evidentiary analysis were included – this would give us a good benchmark. • Time/effort in analyzing forensic evidence. • Policies and procedures that they have for charging and bail. • C9, C10—when prosecution is pursued (types of cases, characteristics). • Seeing how other counties answered percentage questions in section C would have been helpful for reference. Seeing "nationally, the number was x—do you think you're above or below it." • C9- the drug offenses that are all dealing with marijuana. • Data on problem solving courts • On C1, I would like to see if other offices have policies in place. • Data storage • Other treatment courts are being implemented • Staff demographics

References

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Appendix A

Cognitive Interview Protocol

National Survey of Prosecutors: Cognitive Interview Protocol

DATE: START TIME: Interviewer: Agency:

Thanks for agreeing to help us develop the questionnaire for the National Survey of Prosecutors. This call will take about an hour. If this time still works for you, I'd like to start with a short summary of the goals for today's call and explain a bit about how I'll conduct the interview.

- IF NO LONGER A GOOD TIME, OFFER TO RESCHEDULE
- IF STILL GOOD TIME, CONTINUE

As you may know, the Bureau of Justice Statistics and RTI are preparing to conduct the National Survey of Prosecutors in the summer of 2020. As we get ready for the study, we are asking representatives from the offices of county-level prosecutors to review the draft questionnaire. During this call, I'll ask for your reactions to the draft questions – including things like how the questions are worded, ways to clarify instructions, and challenges related to obtaining the requested information, as your office may or may not easily track this information.

Please keep in mind that there are no right or wrong answers to my questions. One of our main goals is to draft questions that make sense, so if anything about the questions is confusing or unclear, you can help by pointing this out. Also, if you're not sure how you would respond to any of the questions, please tell me that, too.

I am interested in hearing all of your feedback on the survey, but because there are a lot of topics to discuss and we only have an hour, sometimes I might ask that we move on to the next question before you've had a chance to share everything on your mind. At the end of the interview you can share any important feedback that you didn't have a chance to share earlier.

Do you have any questions before we begin?

First, do you happen to recall approximately how much time you spent completing the questionnaire? Please include the time you and any others at your office spent gathering information needed to answer the questions.

_____ HOURS
_____ MINUTES

I'm planning to discuss only some of the questions on the questionnaire, but if you have comments or concerns about any of the questions I skip, please feel free to share them with me at any time.

Do you have any questions before we begin?

INTERVIEWERS: REVIEW PARTICIPANT RESPONSES TO THE SURVEY IN ADVANCE. NOTE ANY DISCREPANCIES, QUESTIONABLE RESPONSES, OR MISSING RESPONSES. USE SPONTANEOUS PROBES DURING THE INTERVIEW WHEN YOU COME TO THAT ITEM TO CLARIFY OR TO SEE IF PARTICIPANT HAD TROUBLE COMPLETING THE QUESTION.

Section A: Staffing and Services

A1. In what year did the current chief prosecutor first assume the official duties of chief prosecutor for this office?

The chief prosecutor is the elected or State-appointed head of the prosecutorial district.
If there was an interruption in the chief prosecutor's term, please select the most recent year elected or appointed.

_____ [YEAR ELECTED OR APPOINTED]

NOTE: A FEW JURISDICTIONS MAY EMPLOY A PRIVATE ATTORNEY AS THEIR CHIEF PROSECUTOR.

A2. As of September 30, 2019, is the chief prosecutor a full-time or part-time employee of your office?

[ ] Full Time
[ ] Part time

A3. As of September 30, 2019, is the chief prosecutor male or female?

[ ] Male
[ ] Female

A4a. Please provide the ethnicity of the chief prosecutor as of September 30, 2019.

[ ] Spanish, Hispanic, or Latino
[ ] Not Spanish, Hispanic, or Latino

A4b. Please provide the race of the chief prosecutor as of September 30, 2019. *Please select all that apply.*

[ ] White
[ ] Black or African American
[ ] American Indian or Alaska Native
[ ] Asian
[ ] Native Hawaiian or Other Pacific Islander
[ ] Other (*Please specify*):_____

PROBE: REVIEW A1-A4b RESPONSES WITH PARTICIPANT. Then ask: For questions A1-A4b, did you have any challenges answering these questions?

PROBE: Is race stored separately from ethnicity in your system? Can you report race and ethnicity separately?

A5. For the pay period that included September 30, 2019, how many full- and part-time litigating attorneys were employed in your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not*

track this information' box. A litigating attorney is an attorney who carries an assigned caseload (e.g., assistant prosecutors, civil attorneys).

a. _____ Full-time litigating attorneys **[ ]** *Estimate*
b. _____ Part-time litigating attorneys **[ ]** *Estimate*
c. _____ TOTAL NUMBER OF LITIGATING ATTORNEYS (Sum of A5a and A5b) **[ ]** *Estimate*

[ ] Do not track this information

PROBE: How much difficulty did you have retrieving this information?

A6. For the pay period that included September 30, 2019, how many full-time litigating attorneys were male and female? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.* ***The total number of male and female litigating attorneys should sum to the total in column A5c.***

A litigating attorney is an attorney who carries an assigned caseload.

a. _____ Male litigating attorneys **[ ]** *Estimate*
b. _____ Female litigating attorneys **[ ]** *Estimate*

[ ] Do not track this information

A7. Please provide the number of full-time litigating attorneys by race and ethnicity who were employed by your office during the pay period including September 30, 2019. *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.* ***The total number of litigating attorneys should sum to the total in column A5c.*** A litigating attorney is an attorney who carries an assigned caseload.	**Number**
j. White (non-Hispanic)	_____ [ ] *Estimate*
k. Black or African American (non-Hispanic)	_____ [ ] *Estimate*
l. Hispanic	_____ [ ] *Estimate*
m. American Indian or Alaska Native (non-Hispanic)	_____ [ ] *Estimate*
n. Asian (non-Hispanic)	_____ [ ] *Estimate*
o. Native Hawaiian or Other Pacific Islander (non-Hispanic)	_____ [ ] *Estimate*
p. Two or more races	_____ [ ] *Estimate*
q. Not known	_____ [ ] *Estimate*
r. TOTAL FULL-TIME LITIGATING ATTORNEYS (sum of rows a through h)	_____ [ ] *Estimate*
[ ] Do not track this information	

PROBE: Did you have any challenges completing questions A6 and A7?

PROBE: A7 - Is race stored separately from ethnicity in your system? Can you report race and ethnicity separately?

PROBE: Does your office track this information, including the "Two or more races" option?

PROBE: Is including a "TOTAL FULL-TIME LITIGATING ATTORNEYS" line helpful to you?

INTERVIEWER: CHECK TO BE SURE TOTAL LINE in A7 EQUALS THE TOTAL PROVIDED IN A6 – ELSE PROBE DISCREPANCY.

A8-A9. During the pay period ending September 30, 2019, how many of the following types of non-attorney staff were employed in your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

Full-time staff: Enter the number of full-time personnel according to their PRIMARY job responsibility for the pay period that included September 30, 2019. Count each full-time employee only once. If full-time staff perform more than one job function, enter their count in the job category where they spend most of their time.

Part-time staff: Enter the number of employees who work fewer hours than your standard work week, including employees in job-sharing arrangements, according to their PRIMARY job responsibility for the pay period that included September 30, 2019. Count each part-time employee only once. If part-time staff perform more than one job function, enter their count in the job category where they spend most of their time.

Staff position	**A8. Number Full-time**	**A9. Number Part-time**
b. Investigators A person who investigates crime for the prosecutor's office, interviews witnesses, and evaluates evidence	_____ [ ] *Estimate*	_____ [ ] *Estimate*
b. Victim/ witness staff A professional who supports crime victims and witnesses by promoting rights, assessing needs, and linking to support services. *Please include paid staff only and include anyone in your office whose main tasks are to assist victims (e.g., advocates, compensation claims processors).*	_____ [ ] *Estimate*	_____ [ ] *Estimate*
c. Support staff Examples include administrative staff, clerical staff, human resources, paralegals, information technology (IT) staff, accounting staff, etc.	_____ [ ] *Estimate*	_____ [ ] *Estimate*
d. Review/redaction staff Staff member(s) whose position is devoted to the review and redaction of digital evidence	_____ [ ] *Estimate*	_____ [ ] *Estimate*
e. TOTAL ACTUAL STAFF (sum of rows a through d)	_____ [ ] *Estimate*	_____ [ ] *Estimate*
[ ] Do not track this information		

PROBE: Please look at the instructions for this question.

For "Full-time staff" we include a description for respondents to "…Enter the number of full-time personnel according to their PRIMARY job responsibility…" Does this wording make sense or not?

PROBE: How difficult was it for you to answer this question? Why?

PROBE: Do the descriptions of the various staff positions make sense? If not, do you have any recommendations to make them more clear?

A10. Please provide the minimum and maximum dollar amounts that best encompass the range of entry-level salaries of full-time litigating attorneys hired by your office during the 12-month period ending on September 30, 2019. *If there is no range, please provide the same value for the minimum and maximum entry-level salaries*.

a. $_____.00 [MINIMUM]
b. $_____.00 [MAXIMUM]

[ ] *Estimate*

A11. During the 12-month period ending on September 30, 2019, how many full-time litigating attorneys were hired by your office and how many separated from your office? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

A litigating attorney is an attorney who carries an assigned caseload.

a. _____ Full-time litigating attorneys hired [ ] *Estimate*
b. _____ Full-time litigating attorneys separated [ ] *Estimate*

[ ] Do not track this information

PROBE: Did you have any challenges in answering question A10 or A11?

A12. How many attorneys are required to work an on-call position at any given time? *If none, enter "0." If you are uncertain, please provide your best estimate and check the 'estimate' box. If you do not track this information, please check the 'Do not track this information' box.*

An on-call position is one where the attorney is required to respond at any time in a 24-hour period.

_____ [NUMBER ATTORNEYS]
[ ] *Estimate*
[ ] Do not track this information

PROBE: What is this question asking in your own words?

PROBE: We use a time frame of "24-hour period" in this question. What did you think about this time period? Did you have any challenges providing a response for a given 24-hour period?

PROBE: Do you think this question will adequately cover the amount of work expended by different offices if we're only asking about "any given" 24-hour period?" Might this number change over the course of time?

A13. Are staff in your office responsible for any of the following non-litigating activities? *Select (X) all that apply.*

Activities	1. Yes – Attorney(s)	2. Yes – Other staff	3. No
g. Community events	[ ]	[ ]	[ ]
h. Expungements	[ ]	[ ]	[ ]
i. FOIA requests	[ ]	[ ]	[ ]
j. Restoration of rights	[ ]	[ ]	[ ]
k. Training	[ ]	[ ]	[ ]
l. Other. Please describe: _____	[ ]	[ ]	[ ]

PROBE: Does "non-litigating activities" best describe these extra-legal duties?

PROBE: Is asking whether staff are broadly responsible for these activities the best way to collect this information? If not, do you have any other recommendations?

A14. Does your office provide any direct victim assistance or referrals for victims or their families in any of the following situations? *Select (X) all that apply.*

	1. Provide direct victim assistance Someone on your staff is providing victim assistance	**2. Provide referrals for victims or their families** Someone on your staff refers the person to an outside organization	**3. Not Provided**
h. Child abuse and other youth violence	[ ]	[ ]	[ ]
i. Domestic or other dating violence	[ ]	[ ]	[ ]
j. Elder abuse	[ ]	[ ]	[ ]
k. Hate crime victimization (i.e., basis for crime is related to race, religion, disability, sexual orientation, ethnicity, gender, or gender identity)	[ ]	[ ]	[ ]
l. Homicide support (family members/co-victims of homicide)	[ ]	[ ]	[ ]

m. Human trafficking	[ ]	[ ]	[ ]
n. Sexual assault	[ ]	[ ]	[ ]

PROBE: Did you have any challenges answering question A14?

PROBE: Are there any other categories that you think should be included here?

Section B: Budget

B1. During the fiscal year including September 30, 2019, what were the total operating expenditures of your office, excluding capital outlays for construction? *If you are uncertain, please provide your best estimate and check the 'estimate' box.*

Operating expenditures or budget are defined as all recurring fixed and variable costs associated with the management and administration of your system. It does not include non-recurring fixed capital costs such as building construction and major equipment purchases.

Total office expenditures during the fiscal year that included September 30, 2019:

$ _____. 00 [OFFICE EXPENDITURES]
[ ] *Estimate*

PROBE: For this and other budget-related questions, we ask about the relevant fiscal year. Do you think this is an appropriate time frame? If not, what time frame would be more appropriate?

B2. From which of the following sources did your office receive funding during the fiscal year including September 30, 2019? *Select Yes or No for each option.* Please consider only direct revenue from these sources.	**Yes**	**No**
g. Federal government	[ ]	[ ]
h. State government	[ ]	[ ]
i. County government (Including multi-county prosecution districts)	[ ]	[ ]
j. Traffic tickets/Court fees (directly or through collection efforts)	[ ]	[ ]
k. Grant funding [IF NO, SKIP TO QUESTION C1]	[ ]	[ ]
l. Other. Please describe: _____	[ ]	[ ]

PROBE: Do you receive funding from multiple counties? IF YES: Do you feel this question is worded adequately to provide the answer? How so?

PROBE: How difficult was it for you to provide responses for each of the funding sources?

> **IF DIFFICULT: Would you be able to tell us the funding source from which you receive the majority of your funding?**

B3. [IF QUESTION B2e (Grant Funding) = Yes]:
How much direct revenue did you receive in the form of grant funding during the fiscal year including September 30, 2019? *If you cannot provide an exact amount, please provide an estimate and check the estimate box. If you do not track this information, please check the 'Do not track this information' box.*

$ _____. 00 [DIRECT REVENUE]
[ ] *Estimate*
[ ] Do not track this information

PROBE: Did you have any challenges answering question B3?

Section C: Caseload

C1. During the 12-month period ending on September 30, 2019, did your office have either formal or informal policies for case-processing related to the following? *Select Yes or No for each option.* A policy is a shared understanding, written or unwritten, among attorneys in the office relating to how a case or type of case is processed.	**Yes**	**No**
k. Bail recommendation/pretrial release for felony defendants – Circumstances under which cash bail is requested for any felony offenses or judge is asked to deny bail for any felony offenses	[ ]	[ ]
l. Bail recommendations/pretrial release for misdemeanor defendants – Circumstances under which cash bail is requested for any misdemeanor offenses or judge is asked to deny bail for any misdemeanor offenses	[ ]	[ ]
m. Caseloads – Number of open cases one prosecutor can carry at one time	[ ]	[ ]
n. Charging standards – Specific standards of prosecutorial action and charging	[ ]	[ ]
o. Conviction integrity – Identifying or correcting false convictions	[ ]	[ ]
p. Diversion/problem-solving courts – Recommendations on cases eligible and ineligible for diversion or problem-solving courts	[ ]	[ ]
q. Non-prosecution – Declining any cases referred without review (e.g., marijuana possession, theft less than $100)	[ ]	[ ]
r. Plea bargains – Circumstances under which cases or offenders are eligible or ineligible for plea bargains	[ ]	[ ]

PROBE: Looking at just the question for C1, what did you think of the way the question is worded? Would you recommend any changes?

PROBE: Looking at the definitions we provided for the various policies, were they clear or would you recommend any changes?

PROBE: Would it be helpful for your office to hear the aggregated responses of other offices to this question?

PROBE: We realize that, while question asks about cases reviewed, filed, and terminated during the same one-year time frame, a case may take several years to move through this process. Is a one-year snapshot a helpful way to gather these data from different prosecutor's offices? If not, what wording changes would you suggest?

PROBE: What other case topics are you seeing in your jurisdiction?

C2. During the 12-month period ending on September 30, 2019, did your office prosecute the following types of felony offenses? *Select Yes or No for each option.*	**Yes**	**No**
s. Computer hacking or network disruption (cybercrime)	[ ]	[ ]
t. Elder abuse/neglect	[ ]	[ ]
u. Gang-related violence	[ ]	[ ]
v. Hate crime (i.e. basis for crime is related to race, religion, disability, sexual orientation, ethnicity, gender, or gender identity)	[ ]	[ ]
w. Human trafficking	[ ]	[ ]
x. Methamphetamine production or distribution	[ ]	[ ]
y. Mass murder (the killing of four or more people at the same place and time)	[ ]	[ ]
z. Opioids distribution (including prescription fraud)	[ ]	[ ]
aa. Police use of excessive force	[ ]	[ ]
bb. Use of internet for child exploitation/child sexual abuse/child pornography/child abuse	[ ]	[ ]

PROBE: In question C2, we ask if your office handles these types of cases. What if we were to ask if your office has a dedicated unit to handling these cases – how would you have responded?

PROBE: How would you have responded if we asked about prosecuting hemp, CBD, and marijuana regulations?

C3. During the 12-month period ending on September 30, 2019, did your office have jurisdiction for the prosecution of criminal cases (misdemeanor and/or felonies) occurring on tribal lands?
The term "tribal lands" includes areas also labeled Indian Country, federal or state recognized reservations, trust lands, Alaska Native villages, and/or tribal communities.

[ ] YES
[ ] NO

C4. During the 12-month period ending on September 30, 2019, did your office have a digital/electronic case management system?

[ ] YES
[ ] NO

PROBE: Any challenges completing questions C3 or C4?

C5. During the 12-month period ending on September 30, 2019, was your office responsible for prosecuting or litigating the following case types? *Select Yes or No for each option.*	**Yes**	**No**
f. Felony matters	[ ]	[ ]
g. Misdemeanor matters	[ ]	[ ]
h. Juvenile matters	[ ]	[ ]
i. Civil matters [IF NO, SKIP TO QUESTION C7]	[ ]	[ ]
j. Other matters (including municipal and traffic)	[ ]	[ ]

C6a. If your office was responsible for prosecuting or litigating civil matters during this time period, how many times did your office act as counsel for the plaintiff (state or county)?

_____ [PLAINTIFF]
[ ] *Estimate*
[ ] Do not track this information

C6b. If your office was responsible for prosecuting or litigating civil matters during this time period, how many times did your office act as counsel for the defendant?

_____ [DEFENDANT]
[ ] *Estimate*
[ ] Do not track this information

IF SKIPPED TO C7, SKIP BELOW PROBES

PROBE: How difficult was it for you to answer questions C6a and C6b?

PROBE: Are these two questions (C6a and C6b) sufficient to cover civil matters? Why or why not?

C7. Does your jurisdiction allow police to file cases directly in court without prosecutorial review (including traffic, municipal, and infraction cases)?

[ ] Yes
[ ] No **[SKIP DIRECTLY TO C9a]**

C8a. [IF YES] After a case is filed directly in court by the police, does your office then handle those cases?

[ ] Yes

[ ] No **[SKIP DIRECTLY TO C9a]**

C8b. [IF YES] If your office handles cases that were filed directly in court by the police, how many of those cases did your office prosecute without review in the 12-month period ending on September 30, 2019?

_____ [NO REVIEW]
[ ] *Estimate*
[ ] Do not track this information

PROBE: After reading question C8b., did you understand the prompt "[NO REVIEW]" as an indicator of the number of cases directly filed by police, rather than undergoing prosecutorial review?

PROBE: If NOT: Which one- or two-word phrase would serve as a better indicator?

C9a. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following public order offenses?

	Prosecution was almost always pursued	**Prosecution was pursued more than half the time**	**Prosecution was pursued less than half the time**	**Prosecution was rarely or never pursued**	**My office has jurisdiction but no cases of this type were referred to my office**	**My office has no jurisdiction over this offense**
Public Order Offenses						
Driving under the influence of alcohol	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Driving under the influence of marijuana	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Driving with a suspended license	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Fare evasion, including turnstile jumping, etc.	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Drinking in public, or open container	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Public intoxication	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Disorderly conduct	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Resisting arrest	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Vagrancy	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Public urination/defecation						
Prostitution	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Solicitation of prostitution	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

PROBE: Are you able to answer these questions without expending significant time and effort?

(PROBE: In general, is it possible for you to access EITHER the proportion of each type of case for which prosecution was pursued OR the fact that no prosecution was pursued and why?)

PROBE: Should any other offenses be added to this list?

C9b. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following drug offenses?

	Prosecution was almost always pursued	Prosecution was pursued more than half the time	Prosecution was pursued less than half the time	Prosecution was rarely or never pursued	My office has jurisdiction but no cases of this type were referred to my office	My office has no jurisdiction over this offense
Drug Offenses						
Smoking marijuana in public	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Marijuana possession	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Marijuana possession with intent to distribute	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Non-marijuana drug possession	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

PROBE: Are you able to answer these questions without expending significant time and effort?

(PROBE: In general, is it possible for you to access EITHER the proportion of each type of case for which prosecution was pursued OR the fact that no prosecution was pursued and why?)

PROBE: Should any offenses be added to this list?

C9c. In the 12 months ending on September 30, 2019, how regularly did your office prosecute cases referred for the following property offenses?

	Prosecution was almost always pursued	Prosecution was pursued more than half the time	Prosecution was pursued less than half the time	Prosecution was rarely or never pursued	My office has jurisdiction but no cases of this type were referred to my office	My office has no jurisdiction over this offense
Property Offenses						
Breaking and entering	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Breaking into a motor vehicle	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Shoplifting	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Pickpocketing or purse-snatching	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Possession of stolen property	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Criminal trespassing	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
Vandalism/intentional damage to property	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

PROBE: Are you able to answer these questions without expending significant time and effort?

(PROBE: In general, is it possible for you to access EITHER the proportion of each type of case for which prosecution was pursued OR the fact that no prosecution was pursued and why?)

PROBE: For a general category such as "Breaking and Entering," are you able to generalize cases across this category?
IF NO: Why not? (PROBE: Are Breaking and Entering cases nuanced enough that they're not generalizable?)

PROBE: Should any other offenses be added to this list?

C10. What if any effect did offender characteristics have when deciding whether to prosecute these offenses? *Please check only ONE box per horizontal row.*

Offender had prior offenses	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was intellectually disabled	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was a non-U.S. citizen	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Offender was a minor	[ ] More likely to prosecute	[ ] Less likely to prosecute	[ ] No effect on decision
Other characteristics (specify):			

PROBE: Are you able to answer these questions without expending significant and effort?

(PROBE: In general, is it possible for you to access information regarding the offender characteristics considered when your office chooses to prosecute or not to prosecute a case?)

PROBE: Should any other offender characteristics be added to this list?

C11. In the 1st column below, please indicate the number of cases reviewed by your office during the 12-months ending September 30, 2019. Next, please indicate the number of each type of case in Columns 2 through 3 for which your office was responsible during the 12-month period ending on September 30, 2019. The sum of Columns 2 through 3 should not exceed the number in Column 1. *If you are uncertain, please provide your best estimate and check the estimate box. Check NA if your office is not responsible for prosecuting or litigating these types of cases – Not selected in question C5.*

	1. Number of cases reviewed by office during 12-months ending 9/30/19	**2. Number of cases filed in court**	**3. Number of cases diverted/declined** (Diverted post arrest prior to filing in court / Prosecuting party does not pursue charges)	**4. NA** *Not selected in question C5*
d. Felony matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
e. Misdemeanor matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
f. Other matters (including, juvenile, municipal, and traffic)	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
g.				

PROBE: Are the definitions for "Number of cases diverted/declined" in column 3 appropriate or would you recommend a different description?

PROBE: In Column 3, we are trying to gather information on cases that never reached either a plea or a guilty finding. Are the words "diverted/declined" appropriate, or do you prefer the word "deferred?"

C12. Of the cases filed in court (reported in the second column of question C11), how many were concluded by…
If you are uncertain, please provide your best estimate and check the estimate box. Check NA if your office has not filed cases named in question C5 or handled these types of cases.

	1. Number of cases concluded by court or jury trial	**2. Number of cases concluded by plea**	**3. Number of cases referred to Problem-Solving Court** (Court dockets designed to serve a particular group of offenses or offenders)	**4. Number of cases concluded by Nolle prosequi or dismissal**	**5. NA** *Not reported in question C5*
d. Felony matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
e. Misdemeanor matters	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]
f. Other matters (including juvenile, municipal and traffic)	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	_____ [ ] *Estimate*	[ ]

PROBE: Are you able to provide the number of cases that are "successfully" concluded in problem-solving courts or would that be too burdensome?

PROBE: Do you feel that would that be useful information to collect?

PROBE: Do you feel the definition we provided for "Problem-Solving Court" is appropriate or would you recommend a different description?

C13. Of the felony cases concluded by court or jury trial (reported in the first column of question C12 for felony matters), how many resulted in… *If you are uncertain, please provide your best estimate and check the estimate box.*

a. _____ Conviction on one or more charges [ ] *Estimate*
b. _____ Not guilty/ acquittal on all charges [ ] *Estimate*
c. _____ Mistrial [ ] *Estimate*
d. _____ Other [ ] *Estimate*

[ ] Do not track this information

PROBE: Originally, a version of this question asked for information of "Conviction or dismissal on one or more charges." Should "Dismissal" be included in this question?

C14. If values were entered in C13d above (Other), please describe the other way that the felony cases were concluded:

_____

Section D: Evidence in Prosecution

D1. During the 12-month period ending on September 30, 2019, what percentage of the felony cases reported in question C11a, column 2 did your office prosecute that involved the collection, analysis, review, and/or admission of the following types of <u>digital evidence</u>? *If you are uncertain, please provide your best estimate and check the 'estimate' box. If your office did not collect, analyze, review, and/or admit the following types of digital evidence, please mark the percentage as 0.*

Digital evidence includes information that is stored, transmitted or received on an electronic device.

	Percentage of cases
f. Cameras (police body-worn, police dashcam, other camera evidence):	_____ [ ] *Estimate*
g. Cell phones	_____ [ ] *Estimate*
h. Computer hard drive	_____ [ ] *Estimate*
i. Calls from jail/prison:	_____ [ ] *Estimate*
j. Social media	_____ [ ] *Estimate*

PROBE: In question D1 we ask about the percentage of cases prosecuted involving the different types of digital evidence. What if we had asked about the time waiting for test results or the number of staff that had to review the test results – would that have been a better question? Why or why not?

D2. During the 12-month period ending on September 30, 2019, what percentage of the felony cases reported in question C11a, column 2 did your office prosecute that involved the collection, analysis, review, and/or admission of the following types of <u>forensic evidence</u>? *If you are uncertain, please provide your best estimate and check the 'estimate' box. If you choose to estimate this number, your estimate should be based on and should not exceed the number of felony cases reported in question C10, column 1.*

	Number of cases
h. Autopsy	_____ [ ] *Estimate*
i. Ballistics	_____ [ ] *Estimate*
j. Chemical/drug testing	_____ [ ] *Estimate*
k. DNA	_____ [ ] *Estimate*
l. Fingerprints	_____ [ ] *Estimate*
m. Sexual assault evidence kits	_____ [ ] *Estimate*
n. Toxicology	_____ [ ] *Estimate*

PROBE: Do you think it would be better to focus this question on the time waiting for test results or the number of people running/waiting for test results? IF NEEDED: Would this be more or less burdensome to provide responses?

D3. Does your office have an established policy on how digital evidence is provided to defense attorneys?

[ ] Yes
[ ] No – **[IF NO, SKIP TO QUESTION D4]**

D3a. If your office has an established policy on the sharing of digital evidence with defense attorneys, what is the usual method by which this information is shared? *Please select only the most frequently used method.*

[ ] Digital platform only (e.g., www.evidence.com)
[ ] Hard handoff only (e.g., CD or USB flash drive)
[ ] Both platform and hard handoff
[ ] Method of sharing depends on specifics of case

D4. During the fiscal year that included September 30, 2019, what were the total expenditures of your office for the storage of digital evidence (including licensing fees, maintenance fees, IT support, and storage costs)? *If you are uncertain, please provide your best estimate and check the estimate box.*

$ _____. 00 [EXPENDITURES]
[ ] *Estimate*

PROBE: Is this question the best measure of the burden incurred by your office related to how digital evidence is used? If NECESSSARY: e.g. time necessary, staff burden, number of dedicated position

D5. During the fiscal year that included September 30, 2019, what were the expenditures of your office for the physical storage of forensic evidence? *If you are uncertain, please provide your best estimate and check the estimate box.*

$ _____. 00 [EXPENDITURES]
[ ] *Estimate*

PROBE: Looking at questions D4 and D5, would it be better to place these questions in the budget section (Section B) since we are asking about expenditures, or do you feel it is better to keep them here in the evidence section, as the questions directly relate to evidence?

PROBE: Should we specifically ask about the individuals, positions, or wait time related to processing of forensic evidence? Why or why not?

> **PROBE: IF YES: Should this be a question directed towards laboratories, in another survey, or would you be able to answer it?**

Section E: Diversion Programs and Specialty Courts

E1. Within your jurisdiction, do individuals in the following positions refer offenders to <u>diversion programs?</u> *Select Yes or No for each option.*	**Yes**	**No**
c. Judge	[ ]	[ ]
d. Law enforcement	[ ]	[ ]
c. Prosecutor [IF NO, GO TO QUESTION E3]	[ ]	[ ]
d. Someone else. Please describe: _____	[ ]	[ ]
e. Referrals are mandated by statute	[ ]	[ ]

E2. During the 12-month period ending on September 30, 2019, did your jurisdiction divert the following types of offenses from prosecution prior to adjudication? *Select (X) all that apply.*	**Yes – Felony cases**	**Yes – Misdemeanor cases**	**No**
h. Child abuse	[ ]	[ ]	[ ]
i. Child neglect	[ ]	[ ]	[ ]
j. Drug manufacturing/dealing offenses	[ ]	[ ]	[ ]
k. Drug simple possession offenses	[ ]	[ ]	[ ]
l. Domestic violence offenses	[ ]	[ ]	[ ]
m. DUI/DWI offenses	[ ]	[ ]	[ ]
n. Simple assault (other than domestic violence offenses)	[ ]	[ ]	[ ]

PROBE: How difficult was it for you to distinguish between felony and misdemeanor cases?

E3. Within your jurisdiction, do individuals in the following positions refer offenders to problem-solving courts? *Select Yes or No for each option.*	**Yes**	**No**
a. Judge	[ ]	[ ]
b. Law enforcement	[ ]	[ ]
c. Prosecutor	[ ]	[ ]
d. Someone else. Please describe: _____	[ ]	[ ]
e. Referrals are mandated by statute	[ ]	[ ]

E4. To what types of problem-solving courts do you refer offenders? *Select Yes or No for each option.*	**Yes**	**No**
a. Adult drug court	[ ]	[ ]
b. Juvenile court	[ ]	[ ]
c. Mental health court	[ ]	[ ]
d. Family court	[ ]	[ ]
e. Hybrid DWI/Drug court	[ ]	[ ]
f. DWI court	[ ]	[ ]
g. Domestic violence court	[ ]	[ ]
h. Veterans court	[ ]	[ ]
i. Tribal wellness court	[ ]	[ ]
j. Environmental court (e.g. refineries)	[ ]	[ ]

PROBE: Does your jurisdiction have an "Environmental court"? Should we just include an "other, please specify" for more specific types of courts?

E5. Is the prosecutor expected to monitor cases that are referred to problem-solving courts?

[ ] Yes – A member of the prosecutor's office is present and is responsible for monitoring PSC cases
[ ] Yes – Prosecutors are not required to be present, but do receive reports from PSC teams and are expected to provide some feedback
[ ] No – Prosecutor only knows if the defendant completes the court or is terminated from the court **[IF SELECTED, YOU HAVE COMPLETED THIS SURVEY. THANK YOU FOR YOUR TIME.]**

E6. How are prosecutors assigned to the problem-solving courts?

[ ] Original prosecutor assigned to case is responsible for handling case while in problem-solving court
[ ] Dedicated prosecutor(s) are assigned to all cases in one specific problem-solving court (e.g., one prosecutor for drug, one prosecutor for veterans, one prosecutor for DWI)
[ ] Dedicated prosecutor(s) are assigned to all cases in multiple problem-solving courts (e.g. one prosecutor for drug, veterans and DWI courts)

PROBE: Looking back to questions E1 through E6, do these questions aqeduately cover the topic of diversion and problem-solving courts? Why or why not?

Probe: Do questions E1 through E6, which cover the topics of diversion and problem-solving courts, cover all individuals who move through your justice system, but exit WITHOUT any kind of criminal consequence?

> **IF NO: What questions do we need to ask to cover other individuals who are involved with the criminal justice system but exit it without a criminal consequences?**
>
> > **IF NEEDED: e.g., "no criminal history," "no adverse effects regarding employment, housing, or other functions"**

Debrief:

PROBE: What types of cases not seen five years ago are becoming more time-intensive now?

PROBE: Now think about the survey overall. Did you have difficulty with any aspect of the survey that we have not already discussed?

PROBE: How much of the information needed to answer these questions do you have available?

PROBE: What information did you need to get from other people at your agency?

PROBE: How do you feel about the length and time needed to complete the questionnaire. Did you feel that it was reasonable or overly burdensome? Please explain.

PROBE: Was there anything in this survey that you think we could drop or which you feel is less critical information to collect?

PROBE: Which one question would you most like to receive the answers to from other offices?

Your feedback on these questions has been very helpful. Before we conclude, do you have any other feedback or suggestions to improve the questionnaire?

Thank you very much for taking the time to provide feedback. We will combine your comments with feedback from other participants into an overall report. That report will help BJS evaluate the questionnaire and determine whether to make any changes.

Thanks again!

END TIME: _____