

Washington County Prosecution Policies

1. Screening and Filing Criminal Charges.

Criminal charges may be filed after a person has been arrested, cited or after an investigation has been submitted to the County Attorney's Office for review of charges. Prosecutors may ask for further investigation before making a charging decision. Prosecutors may also make changes to charges filed, based on changes in evidence or other factors listed below.

Criminal charges should only be filed and prosecuted if it is in interest of justice. The prosecutor should reasonably believe that the charges are supported by probable cause, that admissible evidence will be sufficient to support a conviction and there is a reasonable likelihood of conviction beyond a reasonable doubt. This standard applies throughout the pendency of the case.

Upon screening a case for charges, the prosecutor may consider the following factors or combination of factors that include, but are not necessarily limited to:

- Strength of the evidence presented;
- Nature of the case;
- Extent or absence of harm caused;
- Possible victims and their interest in the prosecution;
- Restitution;
- Criminal history of the subject;
- Mitigating and/or aggravating circumstances;
- Deterrent effect of prosecution;
- Likelihood of other state or federal jurisdictions prosecuting;
- Age of the case;
- Relative investment in the prosecution to likely result; and
- The interest of justice.

2. Plea Negotiation.

Prosecutors have the responsibility and discretion to negotiate fair resolutions of criminal cases. This may be done through negotiating the severity and number of charges to which a defendant will enter guilty pleas, as well as negotiating the terms of a sentence. Cases may also be resolved through a plea in abeyance or a pretrial diversion, when appropriate.

While negotiating a fair resolution of a criminal case, a prosecutor should consider the factors in the screening process stated above, in addition to the following:

- Safety of the victim and community;
- Cooperation of the defendant;
- Efforts to mitigate harm since the criminal act was committed;
- Defendant's need and motivation for rehabilitation;

- Relative culpability of the defendant relative to other participants; and
- Equitable treatment of defendants similarly situated.

3. Sentencing Recommendations.

A prosecutor may make any sentencing recommendations allowed under law, provided they are just, given the facts of the case. Evaluating what recommendations are appropriate begins from the screening of a case and continues to the time of sentencing. Factors considered throughout screening and plea negotiations are applicable here as well. Primary consideration should be given to accountability, protection of victims and the community, and rehabilitation of the defendant.

Victims of crime have a voice in the sentencing process. They may provide victim impact statements and recommendations to the court. They may seek restitution for losses suffered as a result of criminal conduct. Prosecutors should keep victims informed and involved, to the extent desired by victims, throughout the process.

4. Discovery Practices.

The Washington County Attorney's Office has an open file policy. Prosecutors will make discovery disclosures as soon as practicable, consistent with Rule 16 of the Utah Rules of Criminal Procedure. Prosecutors should be committed to the search for truth and obtaining just results, regardless of whether or not the evidence is favorable to the prosecution.

In the event that a prosecutor finds evidence or information that may negate the guilt of the accused, impeach witnesses or evidence, or that may reduce the sentence of the accused, the prosecutor should make timely disclosure of such to the defense. Prosecutors will follow the Supreme Court mandates set forth in *Brady v Maryland* and *Giglio v. United States* and their progeny.

At times, a prosecutor may seek a non-dissemination order or otherwise request that the court restrict access to information that is sensitive, private or privileged. In doing so, the prosecutor should seek to balance the rights of the defense to the information with the privacy interests and rights of victims and witnesses.

5. Prosecution of Juveniles

The primary goals to be achieved through the prosecution of juveniles is to obtain justice for victims and the community while seek appropriate rehabilitation of the juvenile offender. A juvenile court prosecutor should apply the same screening factors set forth for screening district court cases as well as determine what is in the best interest of the juvenile offender. A juvenile court prosecutor works with Juvenile Probation and other involved agencies in making charging

decisions. When a juvenile is considered delinquent, a petition may be filed with the court to formerly adjudicate a juvenile offender or the case may be handled non-judicially. Either way, accountability and rehabilitation are primary considerations.

A juvenile may be prosecuted as an adult in limited circumstances. A juvenile court prosecutor will consult with the Washington County Attorney regarding whether to seek a transfer of jurisdiction to district court under Utah Code 78A-6-703.2 or 703.3.

6. Collection of Fines and Fees

Fines and Fees are collected by the courts. When asking for a fine or fee amount in plea negotiations or at sentencing, a prosecutor should consider the reasonableness of the fine or fee and the equitable treatment of defendants similarly situated.

7. Asset Forfeiture

Civil and criminal asset forfeitures are subject to the procedures set for in Title 24 of the Utah State Code. The Washington County Attorney's Office will evaluate the appropriateness of seeking a forfeiture on a case-by-case basis.

8. Services for Victims of Crime

Victims of crime should be given the opportunity to be heard, understand and participate in criminal proceedings. The Washington County Attorney's Office is committed to providing victim services to all victims who would like to participate, consistent with Article I Section 28 of the Utah Constitution and Chapters 36, 37 and 39 of the Utah Code of Criminal Procedure.

The Washington County Attorney's Office has trained Victim Service Coordinators who help victims navigate the criminal justice system and coordinate victim services with prosecutors and other agencies that provide services to victims. Washington County Attorney's Office also oversees the great work performed on behalf of child victims at the Washington County Children's Justice Center. In addition, the office has an established Adult Forensic Interviewer to provide victims of services to adult victims of serious physical and sexual crimes.

Prosecutors should ensure that victims are informed about the status of cases in which they a victim. Victims should be given the opportunity to provide input on bail decisions, plea negotiations, restitution and sentencing.

9. Diversions and Restorative Justice Programs

The Washington County Attorney's Office may consider pre and post filing diversions on a case-by-case basis when reviewing screening and plea negotiation factors on a case.

Washington County is on the forefront of restorative justice in the State of Utah. Court Support Services (CSS) was created to address defendant rehabilitation, consistent with the goals of Utah's Justice Reinvestment Initiative. CSS provides three key services: (1) pretrial monitoring, (2) risk and need assessments and treatment recommendations for plea offers and sentencing, and low-level probation supervision.

The Washington County Attorney's Office is also an active party to Recovery Court (aka drug court) and Mental Health Court through the Utah's Fifth District Court. These specialized courts focus on participant's rehabilitative needs through tracking, monitoring and accountability.