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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 District Attorney's Office for review of charges. Prosecutors may ask for further investigation before making a charging decision or enter into pre-prosecution diversion agreements, when appropriate. 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 the 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 at trial. 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;
- Potential result of case when compared with resources required to prosecute; and
- The interest of justice.

2. Release Conditions and Bail

After a person has been arrested, where appropriate, prosecutors may ask the court to impose cash bail. The imposition of cash bail will only be requested where it is necessary to ensure the defendant's

appearance at future court proceedings or to protect the safety of the community. If cash bail is not necessary, prosecutors may ask the court to impose upon the defendant conditions of release.

The Nevada Constitution, Nevada Rules of Criminal Procedure, Nevada Revised Statutes, Hawthorne Justice Court's administrative orders, the Eleventh Judicial District Court Local Rules, and applicable case law control the imposition of bail, release conditions, timing of release, and other factors related thereto. These factors include, among others, employment, prior criminal history, nature of the alleged offense, and potential danger to victims.

3. Services for Victims of Crime

Victims of crime should be given the opportunity to be noticed, heard, understand, and participate in criminal proceedings. The Mineral County District Attorney's Office is committed to providing victim services to all victims who would like to participate, consistent with the Nevada Constitution, Nevada Rules of Criminal Procedure, Nevada Revised Statutes, and applicable case law.

The Mineral County District Attorney's Office has personnel who perform victim services, helping victims navigate the criminal justice system and coordinate victim services with prosecutors and other agencies that provide services to victims.

Prosecutors should ensure that victims are informed about the status of their cases. Victims should be given the opportunity to provide input on bail decisions, plea negotiations, restitution, and sentencing. While victims' input will always be considered, the ultimate determination in prosecuting their case lies with the prosecutor.

4. Plea Negotiation

Prosecutors have the responsibility and discretion to negotiate fair resolutions of criminal cases. This may be done through negotiating the severity and/or number of charges to which a defendant will enter no contest or guilty pleas, as well as negotiating the recommended 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:

- Continued safety of the victim and community;
- Accountability and rehabilitation of the defendant;
- Efforts to mitigate harm since the criminal act was committed;
- Defendants need and motivation for rehabilitation;
- Relative culpability of the defendant relative to other participants; and
- Equitable treatment of similarly situated defendants.

5. Sentencing Recommendations

A prosecutor may make any sentencing recommendations allowed under law, provided they are just and in compliance with any plea agreements, 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 protection of victims and the community and the defendant's accountability and rehabilitation.

Victims of crime have a voice in the sentencing process. They may meet with and discuss sentencing recommendations with prosecutors. 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.

6. Discovery Practices

The Mineral County District Attorney's Office has an open file policy. Prosecutors will make discovery disclosures as soon as practicable, consistent with the Nevada Rules of Criminal Procedures, Nevada Revised Statutes, and applicable case law. 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, 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.

7. Juvenile Justice

The primary goal to be achieved through the prosecution of juveniles is rehabilitation of the juvenile offender - eliminating the disposition toward further criminal conduct. A juvenile court prosecutor should apply the same screening factors set forth for screening other court cases as well as to 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 formally adjudicate a juvenile offender or the case may be handled non-judicially.

A juvenile may be prosecuted as an adult in limited circumstances and the determination to do so will be made by the District Attorney.

8. 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, while within any statutory minimums or maximums, a prosecutor should consider the reasonableness of the fine or fee and the equitable treatment of defendants similarly situated.

9. Asset Forfeiture

Civil and criminal asset forfeitures are subject to the procedures set for in Nevada Revised Statutes, and applicable case law. The Mineral County District Attorney's Office will evaluate the appropriateness of seeking a forfeiture on a case-by-case basis.

10. Diversions and Restorative Justice Programs

The Mineral County District 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.

The Mineral County District Attorney's Office is also an active party to Western Regional Drug Court and Mental Health Court through the Eleventh Judicial District Court. These specialized courts focus on participant's rehabilitative needs through tracking, monitoring, and accountability.

Further, the Mineral County District Attorney's Office works with community partners provide rehabilitative, supportive services, and resources to defendants.