



# CRIMINAL PROSECUTION POLICIES AND PROCEDURES MANUAL

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## MISSION STATEMENT

The mission of the Cache County Attorney’s Office is protect the citizens of Cache County by vigorously prosecuting the guilty, seeking justice for the innocent, and upholding and defending the constitutions of the United States and the State of Utah. The Cache County Attorney’s Office is the chief law enforcement agency in Cache County and we work with our local, state, and federal partners to investigate and prosecute crime that occurs within Cache County. Our prosecutors ensure fair, impartial, and equal administration of justice, advocating for appropriate punishment and correction of dangerous and violent offenders, while protecting the rights and dignity of victims and their families.

## VISION

The Cache County Attorney's Office strives to be the best prosecuting agency in the State. Our Office is devoted to employing prosecutors of the utmost integrity and work ethic and providing them with the opportunities and training to become skilled advocates for justice. We are committed to public service and representing the people of Cache County and the State of Utah to ensure that our community remains a special place to live, work, and raise a family.

## PRIORITIES

### **Protecting the Vulnerable**

The number one priority of the Cache County Attorney's Office is to keep our citizens, especially our most vulnerable citizens, safe from violent and predatory criminals. We place special emphasis on the protection of children. We work tirelessly with our partners in law enforcement, victim services, and child protection to ensure children in our community are protected from harm and to hold those who prey on children accountable to the law. We support our local Internet Crimes Against Children Taskforce affiliates in proactive operations to identify and arrest those exploiting children via the internet. We aggressively prosecute these cases because of the danger these individuals pose to our community. In January of 2023, the Cache County Attorney's Office officially created a Special Victims Unit within our Office. Three full time prosecutors are assigned to this Unit, as well as fourth prosecutor who assists as needed. The Special Victims Unit is assigned to felony crimes against women and children, including felony domestic violence, felony child abuse, sex offenses, internet crimes against children, and homicides. The purpose of this unit is to ensure the prosecutors assigned to these very important cases receive specialized training and resources to ensure we are bringing the best cases possible against those who harm the most vulnerable in our community. These prosecutors work closely with law enforcement, child protective services, and community partners and are members of the Cache County Children's Justice Center Multidisciplinary Team, the Cache County Sexual Assault Response Team, and the Cache County Domestic Violence Response Team. Each prosecutor in this unit works closely in tandem with a Cache County Attorney's Office Victim Advocate. This team facilitates victim access to local resources, keeping victims informed of the court process, and preparing victims for court hearings and trial.

### **Preserving the Cache Valley Way of Life**

Cache County is regularly included on lists of the best places to live in both the State of Utah and the Nation. Cities and towns in Cache County have historically been regarded as some of the safest communities in the nation, which is just one of the reasons Cache County is a special place to live and raise a family. The Cache County Attorney's Office is committed protecting what makes Cache County special

by ensuring the safety of our citizens. This includes ensuring that laws that protect our quality of life in our community are diligently enforced. Our goal is to prevent the disastrous consequences that have repeatedly occurred in communities around the country where prosecutors have shirked their duty to enforce statutes passed by the legislature and acted as a law unto themselves by instituting policies of non-enforcement. This emboldens criminals by removing consequences for their actions at the expense of law-abiding citizens. This is bad public policy and is not the Cache County way. Our office will work with our partner law enforcement agencies to ensure those who commit crime in our community are held accountable and that Cache County has a reputation of being a great place to live, but a tough place to be a criminal.

## RELEASE OF INFORMATION

The Cache County Attorney's Office will only release reports, documents, statements, media files, or other such information consistent with the discovery policy stated in the section titled "Discovery" below. Any persons requests the above listed items will be directed towards the responsible agency for the filing of a GRAMA request.

Records that are considered protected records under Utah Code § 63G-2-305(10), (11), (18), (23)(b), (46), (51), and (70) will not be released.

Attorneys who are privately retained by the defendant, victim, or other involved party, who are not representing those parties in the criminal case, will be directed to the responsible agency for the filing of a GRAMA request. However, nothing in

this policy prohibits a victim or defendant from providing any properly obtained records to their privately retained attorney.

After a defendant has been sentenced and the case is closed, the Cache County Attorney's Office will not release any records related to a case. Any requests for such records will be directed to the responsible agency for the filing of a GRAMA request.

The Cache County Attorney's Office will provide police reports and the victim's written statement to the victim at any time. To ensure the integrity of each case, we will not release any video, photos, audio, or similar evidence to the victim while a case is pending. After a case is adjudicated and the time for an appeal has expired, we will release any media files to the victim at their request.

## Redactions

The Cache County Attorney's Office may make redactions to records prior to their release, depending on the person or entity requesting the records. A copy of the redacted record will be uploaded and maintained in the case file.

The Cache County Attorney's Office will make all necessary redactions to ensure that the redacted information cannot be accessed or disclosed improperly. This redaction process may be made digitally or manually, depending on the nature of the record being redacted. In making redactions, the Cache County Attorney's Office follows the below stated policies.

## Defendants

The Cache County Attorney's Office will release records to a defendant in accordance with the office's "Discovery" policies. However, any identifying information of any victim or witness will not be provided. Specifically, all addresses, phone numbers, social security numbers, driver's license numbers, dates of birth, education and employment information will be redacted.

If the record contains the name of a minor, that name will be redacted, leaving only the minor's first and last initial. We will redact a minor's name even in cases where the minor is the defendant's child or relative in order to maintain consistency and compliance to this policy.

## Defense Counsel

The Cache County Attorney's Office will release all records to defense counsel with redactions consistent with the office's "Discovery" policies. However, the Cache County Attorney's Office will promptly provide to defense counsel, when requested, the contact information of all victims and witnesses. When we provide a victim's contact information to defense counsel, the assigned prosecutor or victim advocate

will inform the victim as soon as possible. In the case of minor victims, our office will provide defense counsel the contact information for minor's parent or legal guardian.

## Victims

The Cache County Attorney's will not provide any identifying information of a defendant or a witness, other than the defendant's or witnesses' name. All addresses, phone numbers, social security numbers, driver's license numbers, dates of birth, and education and employment information will be redacted.

If the record contains the name of a minor, that name will be redacted, leaving only the minor's first and last initial. We will redact a minor's name even in cases where the minor is the victim's child or relative.

If the victim is a minor, we will consider the minor's parent or legal guardian the victim for the purpose of this policy, however, if the parent or guardian is the defendant in the case or is complicit or implicated in the case, or is determined by this office to be non-protective of the minor victim or supportive of the defendant, we will not release records under this policy.

Notwithstanding this policy, we will not release information to a victim's parent or legal guardian if it is determined by this office that there is a reasonable basis to believe the release of those records will compromise the safety of the victim, the defendant, or any witness. No records will be released under this policy if it is determined that such release will compromise the integrity of the case.

## Victim Attorney

The Cache County Attorney's Office will release to a victim's attorney who has entered an appearance in the criminal case to represent the interests of the victim with redactions consistent with the office's "Discovery" policies. However, the Cache County Attorney's Office will promptly provide to a victim's attorney, when requested, the contact information of all victims and witnesses.

## Prosecuting Agencies, Law Enforcement Agencies, and Other Government Agencies

The Cache County Attorney's Office will provide any records, without redaction, to other prosecuting agencies (including out-of-state and federal agencies), other local and state law enforcement agencies (including out-of-state agencies), federal law enforcement agencies, the Utah Division of Child and Family Services, any Children's Justice Center, or any other government agency if sharing that information enhances public safety and is in the interest of justice. The Cache County Attorney's Office may refuse to share information under circumstances where the sharing of information will compromise the cooperation of any victim or

witness, the integrity of any prosecution, investigation, or law enforcement operation.

This policy does not include the dissemination criminal history records from the State Bureau of Criminal Identification or the Federal Bureau of Investigation.

For the purpose of this policy, a city or county prosecutor who is a private contractor will not be considered a prosecuting agency and records should only be shared if approved by the County Attorney.

## PROSECUTION OF CRIMINAL OFFENSES

The Cache County Attorney's Office is the chief law enforcement agency in Cache County, and as such, our prosecutors are the gatekeepers of the criminal justice system in our community. We make the decisions of whether or not to pursue a criminal case, which crimes to charge, and when to make plea offers. The powers to investigate crimes and enforce the law are some of the greatest powers held by the government and we take our authority to exercise that power very seriously. In order to effectively and responsibly exercise our prosecutorial authority, it is essential that a prosecutor have the discretion in prosecuting cases. It is the equally essential that prosecutorial decisions be made consistently, fairly, and ethically. The following policies are intended to ensure consistency and accountability in these decisions.

### Assigning Cases

All justice court cases will be assigned to the prosecutor assigned to the Justice Court. Juvenile court cases will all be assigned to the Juvenile Court prosecutor. Any cases involving Class A misdemeanor or felony child abuse, Class A misdemeanor or felony domestic violence against a woman or committed in the presence of children, sexual offenses against women or children, and internet crimes against children will be assigned to Special Victims Unit prosecutor for screening and then, depending on the District Court judge the case is assigned to, transferred to the Special Victims Unit prosecutor in that courtroom or retained by the screening attorney if it is assigned to their courtroom. A prosecutor assigned to the Special Victims Unit has the discretion to determine if a case meets the criteria to be handled by the Special Victims Unit or if it should be assigned to or be assigned to the District Court prosecutor. All other district court cases will be randomly assigned for screening and then reassigned if they are sent to a courtroom other than the courtroom of the screening prosecutor.

If a prosecutor is already assigned a case for a particular defendant or a codefendant in the same case, any other submitted cases should be assigned to that prosecutor. If the subsequently submitted case is of the nature that it is assigned to the Special Victim's Unit, any pending cases should be either assigned to the



Special Victim's Unit prosecutor or only resolved after consulting with the assigned Special Victims Unit prosecutor.

Any case that requires advanced knowledge, skill, or experience may be assigned to any prosecutor, regardless of their current assignment, at the discretion of the County Attorney, the Chief Deputy, the Chief Criminal Deputy, and/or the Special Victims Unit Chief.

A case should be reassigned to a different prosecutor if the originally assigned prosecutor becomes aware of an actual or potential conflict of interest.

A conflict of interest includes, but is not limited to, any of the following:

- (1) The originally assigned prosecutor is related to the defendant;
- (2) The originally assigned prosecutor has an association with the defendant that makes it particularly uncomfortable or would be difficult to maintain objectivity, fairness, and consistency with other similar cases;
- (3) The defendant is a victim in another case in which the originally assigned prosecutor is currently prosecuting; or
- (4) Any other conflict that would be a violation of the Utah Rules of Professional Conduct, that would cast doubt on the efficacy of any resolution or outcome, or would create the appearance of impropriety.

If a conflict arises of a nature that casts doubt on all the ability of all the prosecutors from the Cache County Attorney's Office to maintain objectivity, fairness, or consistency, the County Attorney or his designee will request another prosecuting agency take over the prosecution of that case.

If requested, the Cache County Attorney's Office will assist other prosecuting agencies if a request is made for our agency to prosecute a case that is conflicted out of their office. If the case can reasonably be expected to require substantial financial resources to competently prosecute, the Cache County Attorney's Office may decline to provide assistance unless the requesting agency guarantees in writing to provide the required resources to competently prosecute the case.

## Screening Cases

When reviewing a case submitted by law enforcement for screening, the assigned prosecutor will review all submitted reports, media, witness statements, and evidence prior to the filing of charges or declination. The assigned prosecutor has discretion to file charges or decline prosecution. In exercising prosecutorial discretion, the prosecutor should consider the following non-exclusive factors when examining the facts of the case and accord the appropriate weight to each factor when making their decision:

- (1) The strength of the case;



- (2) The prosecutor's doubt that the accused is, in fact, guilty;
- (3) The extent or absence of harm caused by the offense;
- (4) The impact of prosecution or non-prosecution on public safety;
- (5) The background and characteristics of the offender, including any voluntary restitution or efforts at rehabilitation;
- (6) Whether the authorized or likely punishment or collateral consequences are disproportionate in relation to the particular offense or the offender;
- (7) The views and motives of the victim or complainant;
- (8) The improper conduct by law enforcement, if any;
- (9) Unwarranted, disparate treatment of similarly situated persons;
- (10) Potential collateral impact on third-parties, including witnesses or victims;
- (11) Cooperation of the offender in the apprehension or conviction of others;
- (12) The possible influence of any cultural, ethnic, socioeconomic or other improper biases;
- (13) Changes in law or policy;
- (14) The fair and efficient distribution of limited prosecutorial resources;
- (15) The likelihood of prosecution by another jurisdiction; and
- (16) Whether the State's interest in the matter might be appropriately vindicated by available civil, regulatory, administrative, or private remedies.

A prosecutor may not consider:

- (1) Partisan or other improper political considerations;
- (2) Hostility or personal animus towards a potential subject or defense counsel;
- (3) Bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status;
- (4) The public's opinion on whether or not an individual should be charged with a crime.

If after a review of the available evidence, the prosecutor determines that there is a reasonable likelihood of success at trial on a charge, then the prosecutor is justified in filing that charge.

Prosecutors should screen cases as soon as possible after they are submitted by law enforcement. Once a case is completely received by our office, it should be screened within 60 days. If a prosecutor requires longer than 60 days to make a screening decision, they should inform the investigating officer and any victim of that delay. Cases involving felony domestic violence, felony sexual assault, or death will be given priority in screening.

## Declining Cases

If after reviewing a case, the assigned prosecutor is unsure of whether or not to file charges, they should review the case with at least one other prosecutor in the office to seek a second opinion. If after a review with a second prosecutor, the prosecutor determines that charges are not justified, the case will be declined. However, if after review with another attorney the prosecutor is still unsure if charges should be filed, the prosecutor should review the case with a supervisor in order to make a filing decision.

If a case involves felony child abuse, domestic violence, or a sexual offense, the screening attorney must have the case reviewed by another prosecutor assigned to the Special Victims Unit. If after review, the prosecutors disagree on whether charges should be filed, the case should be brought to the attention of the County Attorney who will review the case to assist in making a charging determination. If it is determined that charges should not be pursued, the screening attorney should ensure the victim is notified of the case being declined and a meeting should be offered with the prosecutor to explain in detail why charges were not filed.

When a case is declined, the investigating officer should promptly be notified by the screening attorney. This notification should be in writing and include a clear explanation as to why the charges were not pursued. The investigating officer should be given the opportunity to discuss the case further and to provide any information they believe may have been overlooked or not considered by the prosecutor. If after the reviewing the case with the investigating officer, that officer still disagrees with the decision, the case should be reviewed by at least one other prosecutor before making a final decision.

The County Attorney has the final say in any charging decisions made by the Cache County Attorney's Office.

## Follow-up Investigation

If after reviewing a case submitted by law enforcement, the prosecutor believes that additional investigation is needed before making a charging decision, the prosecutor should inform the investigating officer of the need for follow-up and request they submit that information in order for the case to be screened. If the requested follow-up is not submitted within 90 days of the prosecutor's request, the prosecutor should decline the case consistent with the office's declination policies, unless the officer has communicated with the prosecutor the reason for the delay.

Alternatively, the prosecutor may request a special investigator employed by the Cache County Attorney's Office conduct follow-up investigation. This should be done after consulting with the special investigator to ensure the follow-up investigation will not create animosity or distrust with the investigating officer or agency.

### Dismissing Cases

Prosecutors should continually review their cases to ensure they believe they have a reasonable likelihood of success at trial. If information becomes available after a case has been filed that casts a legitimate doubt on whether the State would have a reasonable likelihood of success at trial for a particular charge, that charge should be dismissed as soon as possible. If reasonable, the prosecutor or victim advocate should inform any victims of the decision to dismiss the charge prior to doing so and should offer a meeting to discuss the reasons for that decision.

## PROSECUTION OF JUVENILE OFFENSES

Prosecutors assigned to the Juvenile Court works with juvenile probation to determine whether delinquent acts should be handled through non-judicial means or through judicial adjudication. These determinations should be made consistent with the Cache County Attorney's Office screening policies, however, may take in to account additional facts that are unique to the juvenile court. In determining whether to prosecute a juvenile in the District Court, the juvenile prosecutor must comply with the statutory requirements contained in Title 80, Chapter 6, Part 5 of the Utah Code.

In determining whether to prosecute a juvenile in the District Court, the juvenile prosecutor will consider the following non-exclusive factors:

- (1) the best interests of the juvenile offender;
- (2) the age of the offender;
- (3) the safety of victims, witnesses, and the community;
- (4) the seriousness of the offense;
- (5) whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- (6) the history of the juvenile offender; and
- (7) the likelihood of rehabilitation and the availability of rehabilitative resources.

In the case where transfer to the District Court is being considered, the juvenile prosecutor will consult with the County Attorney and any prosecutors who will be assigned to the case if it were transferred to the District Court in making that decision.

## DISCOVERY

The Cache County Attorney's Office strives to ensure defendants are provided with complete discovery in their cases as soon as possible by strictly complying with the requirements of Rule 16 of the Utah Rules of Criminal Procedure and with the disclosure of exculpatory evidence established by the United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny.

Discovery will not be provided to an attorney until a notice of appearance and a discovery request are filed with the court and payment made for discovery is received. Public defenders appointed by the court are not expected to file a notice of appearance and will not be charged for discovery. Pro se defendants are required to file a discovery request, either with the Court or directly with the Cache County Attorney's Office. Discovery forms will be made available from the prosecutor at court or at the Cache County Attorney's Office.

The Cache County Attorney's Office recognizes our obligation to ensure all discovery is collected from involved law enforcement officers and other government agencies. Prosecutors are responsible for ensuring that all required evidence is provided to the defense. In the event that a prosecutor becomes aware of the existence of evidence that has not been disclosed, the prosecutor will make the defense aware of the existence of such evidence and facilitate making it available to them as soon as possible.

The Cache County Attorney's Office has an "open file" policy. Defendants and their counsel are entitled to review all reports, evidence, and statements available to and in the possession of our office. Cache County Attorney's Office staff will make reasonable accommodations for scheduling and reviewing evidence and discovery by appointment. There is no charge to defendants or their counsel who come to the Cache County Attorney's Office to review discovery.

Any contraband or other physical evidence will remain in the custody of the responsible law enforcement agency. If a defendant or their counsel would like to review these types of evidence, the Cache County Attorney's Office will facilitate this through the responsible law enforcement agency. The County Attorney's Office will not violate any state or federal law in the dissemination of discovery.

Due to the high costs of storing and maintaining electronic discovery files, the Cache County Attorney's Office must reduce and recuperate these costs to the extent possible. Prior to disseminating discovery, the Cache County Attorney's Office will notify the defendant and/or a defendant's counsel of the total cost of the requested discovery. Discovery fees will be assessed as follows:

Item Type	Cost
Electronic Delivery of Media	\$25.00
25 Pages or Less - Printed	\$10.00
More than 25 Pages - Printed	\$25.00
CD or DVD	\$5.00 /disc
USB Flash Drive	\$25.00/ drive
Portable Hard Drive	\$75.00 per TB

For cyber security reasons, the Cache County Attorney's Office will not transfer files to any storage device that was not purchased by Cache County Attorney's Office for the purpose of dissemination of discovery.

## PLEA AGREEMENTS

No defendant is entitled to a plea offer. However, it is the policy of the Cache County Attorney's Office to make a reasonable plea offer when making an offer is in the interest of justice and for the sake of judicial economy and efficient allocation of resources. Each prosecutor employed by the Cache County Attorney's Office is authorized to exercise their discretion when making a plea offer as they see appropriate, taking into account the individual facts and circumstances of each case, ensuring that such plea offers are in the interest of justice. When determining the terms of a plea agreement, the prosecutor should specifically consider the following non-exclusive list:

- (1)The desires of any victim(s) in the case;
- (2)The safety of victims, witnesses, and the community;
- (3)Restitution for victims;
- (4)The opportunity and amenability for rehabilitation of the defendant;
- (5)The defendant's prior opportunity for and engagement in rehabilitation programs;
- (6)The defendant's prior probation or parole history;
- (7)The criminal history of the defendant;
- (8)Cooperation by the defendant in resolving other criminal cases against the defendant;
- (9)The defendant's willingness to assist in criminal cases against other defendants; and
- (10)Any other applicable and appropriate aggravating or mitigating factors.

The prosecutor may not consider any of the following:

- (1) Partisan or other improper political considerations;
- (2) Hostility or personal animus towards a potential subject or defense counsel;
- (3) Bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status.

If the responsible law enforcement officer has requested to be informed before a case is resolved, the prosecutor should, if possible, inform the officer of the proposed offer and consider their input.

If a case involves a victim, the prosecutor should ensure the victim is informed of the proposed offer and has an opportunity to provide input prior to the offer being extended to a defendant.

A prosecutor may use their discretion and at any time revoke or alter a plea offer that has not been accepted by a defendant.

## Sentencing Recommendations

Prosecutors should avoid making sentencing recommendations as part of a plea agreement, unless there is good cause or such a recommendation is necessary to facilitate an agreement. Prosecutors should seek the input of any victim and the responsible law enforcement officer prior to agreeing to any sentencing recommendation.

## Pleas in Abeyance

A prosecutor may offer a plea in abeyance agreement at their discretion, when such offer is in the interest of justice. When offering a plea in abeyance, a prosecutor should consider the plea agreement factors discussed above, as well as consider the effect a plea in abeyance may have for the enhancement of future offenses if the case is ultimately dismissed. If a prosecutor offers a plea in abeyance, they must ensure that it complies with Title 77, Chapter 2a of the Utah Code.

If a case involves a victim, the prosecutor will work with the assigned victim advocate to contact and receive input from the victim prior to offering a plea in abeyance. The prosecutor and/or victim advocate should explain to a victim what a plea in abeyance is, how it works, and the outcomes for the defendant if they are successful or unsuccessful in completing the terms of the plea in abeyance.

A plea in abeyance should not typically be offered on a drug offense before the District Court because of the availability of the Drug Court program. A plea in abeyance may be used for a first-time misdemeanor drug offense in a justice court or



a similar charge in the District Court that occurred in a jurisdiction without a justice court. Pleas in abeyance should not be offered to defendants who have previously received a plea in abeyance or have prior criminal history. However, the ultimate decision to give a plea in abeyance is left to the discretion of each prosecutor based upon the specific facts of a particular case.

### **Diversion Agreements**

The Cache County Attorney's Office does not use pretrial diversion agreements, except under rare and extraordinary circumstances. If a diversion agreement is used, it must comply with Utah Code §§ 77-2-5 through 77-2-9.

## **RESTORATIVE JUSTICE PROGRAMS**

The Cache County Attorney's Office participates in the First District Court's Drug Court and Mental Health Court programs. If a defendant is charged with a drug offense or an offense that occurred due to their drug use, the defendant, their counsel, or the prosecutor may refer them to the Drug Court program to be screened for a determination as to whether they meet the program requirements. In cases where the criminal conduct appears to be primarily caused by the defendant's mental illness, the defendant, their counsel, or the prosecutor may refer them to the Mental Health Court program to be screened for a determination as to whether they meet the program requirements.

Entry into Drug Court or Mental Health Court is typically accomplished through a plea in abeyance agreement, however, prosecutors may, at their discretion, offer entry into these programs only as a condition of probation. If after considering the seriousness of the defendant's crime(s), the defendant's criminal history, and victim input (including restitution owed), the prosecutor believes that it is in the interests of justice not to offer a plea in abeyance, the prosecutor may decline to do so. Prior to signing off on any Drug Court or Mental Health Court agreement, the prosecutor should require the payment of restitution as a condition of participation and successful completion of the program. In cases with significant amounts of restitution, a prosecutor may require upfront payment of all or a portion of the restitution prior to entering into the Drug Court or Mental Health Court Agreement.

Prosecutors in the Cache County Attorney's Office should be familiar with the local service providers for mental health, drug, and domestic violence treatment and should be willing to make referrals to these programs as part of their plea agreements when appropriate.



## SENTENCING AND JUVENILE ADJUDICATION

Incarceration serves an important purpose in the criminal justice system. It is a way to remove from society those who pose a threat to others, it deters future crimes, it serves as a punitive consequence for harm caused by criminal conduct, and it can help defendants detoxify from substances and alcohol. The Cache County Attorney's Office recognizes that incarceration can have substantial impacts on a defendant's life and the life of their family members. When determining whether to advocate for incarceration, the prosecutor should consider the harm caused by the defendant, the danger the defendant poses to any victim and to the community, the defendant's prior criminal history and performance while on supervision, and the potential disruption of the defendant's work, family, and life. A prosecutor should never advocate for any sentence for the purposes of retaliation, including because the defendant exercised their right to trial, filing a motion, or requesting a preliminary hearing.

Prosecutors should be familiar with relevant sentencing laws, rules, and options for sentencing and adjudicating juvenile cases. The prosecutor should seek to ensure that sentences imposed are legal and fair. The prosecutor should not advocate to any unfair or disparate sentence.

The prosecutor should assist the court in obtaining complete and accurate information to use at sentencing and should fully cooperate with any presentence investigation. The prosecutor should provide any information that is relevant to sentencing to the court and to defense counsel. If incomplete or inaccurate information is included in a presentence report, the prosecutor should take steps ensure the complete and correct information is provided the court and to defense counsel. The prosecutor should disclose to the defense at or before sentencing all know information that tends to mitigate the sentence.

When making sentencing recommendations to the Court, the prosecutor should comply with any terms agreed to as part of the plea agreement. The prosecutor should not withdraw any promises without the Court first making a finding that the defendant has materially violated the agreement.

A prosecutor's effectiveness or job performance will never be measured by the severity of sentences imposed or by their rate of conviction at trial.

## COLLECTION OF FINES AND FEES

The Cache County Attorney's Office does not collect court fines, fees, or restitution. The imposition and collection of fines and fees is the prerogative of the courts. When a defendant has been ordered to pay a fine, fee, or restitution and fails to comply, the prosecutor will act to assist the courts in the collection of the fine or restitution.

If a defendant has failed to pay full restitution, the prosecutor should not agree to successfully terminate probation, even if the probation agency makes a recommendation to terminate probation.

If a defendant entered into a plea in abeyance which requires the payment of a fee, a defendant is not entitled to the benefit of the agreement until that agreement is completed and any ordered fee is paid in full. A prosecutor may agree to change the terms of the plea in abeyance to allow more time for a fee to be paid.

The imposition of fines and fees are tools to begin to repay society for the costs of crime and the criminal justice system and to deter future offenses. A prosecutor should give no consideration to securing revenue for the court or the county from the collection of fines or fees as part of any prosecution, plea negotiation, or resolution in any case.

## EARLY/SUCCESSFUL TERMINATION OF PROBATION

The Cache County Attorney's Office will promptly consider and respond to requests for early termination of probation. Upon receiving a request for early termination of probation, the Cache County Attorney's Office will make reasonable efforts to notify victims and seek their input on the request. In reviewing these requests, the following non-exclusive factors will be considered:

- (1) The facts and circumstances of the crime which result in the defendant's probation, including aggravating and mitigating facts.
- (2) Any input from the victim.
- (3) The length of time the defendant was ordered by the court to be on supervised probation and the time the defendant has actually been on supervised probation, taking into account any revocations and restarts.
- (4) The probation history of the defendant, including both violations committed and incentives received during the current supervision.
- (5) If the crime or conduct leading up to the crime involved substance abuse, the number of random tests which the defendant received and/or the amount of time that the defendant has remained clean. In most cases involving drugs, the defendant should have at least one year of clean time before probation should be terminated early.
- (6) Any conditions of probation which have not been satisfied, including the payment of restitution, fines and fees. As a general rule, all restitution and fines must be paid in full in order for a defendant to obtain a successful termination of probation. With respect to unpaid supervision fees, if the supervising agency is willing to waive or turn those unpaid fees over to collection, this should not be the sole basis for denying a request.

## EXPUNGMENTS AND 402 MOTIONS

The Cache County Attorney's Office will promptly respond to any motion for expungement or a reduction of charge pursuant to Utah Code Ann. §76-3-402.

However, if the case involved a victim, we will wait 30 days before responding to allow the victim an opportunity to respond. We will immediately provide notice to the victim about any request for expungement or reduction of charges. Included with the notice, we will provide clear instructions for the victim about how to object and contest the defendant's motion. If the victim has not contacted the Cache County Attorney's Office within 30 days of sending notice, if otherwise appropriate, the responsible prosecutor should not delay in waiving a hearing and consenting to the defendant's motion. For all two-step reductions pursuant to §76-3-402(3), the defendant must demonstrate that extraordinary and unusual circumstances exist that justify such a reduction.

## CRIMINAL AND CIVIL FORFEITURE

Criminal and civil forfeiture are effective tools in preventing further criminal conduct and ensuring that criminal actors do not benefit from the proceeds of their crimes. When a police agency submits a request to forfeit property, the attorney assigned to handle forfeitures will only seek a forfeiture of property if the prosecutor has sufficient evidence to prove that the property was used to commit a crime or is the proceeds from the commission of a crime, as set forth in Utah Code Ann. §24-4101.