

Beaver County Attorney

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PROSECUTORIAL POLICIES

I. Introduction

The herein policies and practices are governed and subject to UTAH CODE §§ 17-18a-101 to 17-18a-803, 63M-7-216, etc. These policies are not meant to restrain or restrict the performance of any of the prosecutorial staff or their goal of delivering justice, provide grounds for professional discipline, create procedural rights for the accused/convicted, or to serve as a predicate for a motion to suppress evidence, or dismiss a charge. The included policies are meant to give a loose guideline for prosecutors and staff to serve their community/constituents as well as provide justice.

All rules and procedures herein are subject to the laws and Constitutions of both the State of Utah and the United States of America.

II. Screening and Filing Criminal Charges

Beaver County prosecutors will screen and review a case when it is sent to the Beaver County Attorney's Office by a law enforcement agency. Referral of a case may be by formal submission and request for warrants/summons or by the filing of a probable cause statement after a warrantless arrest. The Beaver County Attorney's Office may drop charges against a defendant if the prosecutor has significant and credible doubt(s) about the guilt of the accused or the quality, truthfulness, or sufficiency of the evidence in any criminal case assigned to the prosecutor.

In the event that facts and evidence surrounding charges against an accused person are not likely to amount to a conviction by jury, but still constitute enough proof for reasonable concern, Beaver County prosecutors may issue a delayed prosecution statement, which may be used against the accused in future related charges. Beaver County prosecutors will never file or maintain charges if they believe the defendant is innocent.

III. Plea Bargains

Beaver County prosecutors have discretion to negotiate a plea bargain or not. In every instance, the purpose of a plea negotiation is to ensure justice is done in a fair and efficient manner. Prosecutors must consider a variety of factors when entering plea negotiations. These include, but are not limited to:

- a) alleged victim input;**
- b) community safety;**
- c) defendant's criminal/parole history (or lack thereof); and**
- d) strength of evidence against the accused.**

IV. Sentencing Recommendations

Prosecutors at the Beaver County Attorney's Office will recommend sentences that they believe hold defendant's accountable and that are in the interest of justice. Beaver County prosecutors consider a variety of factors when making sentencing recommendations. These include, but are not necessarily limited to:

- a) alleged victim input and restitution;**
- b) community safety;**
- c) a defendant's criminal/parole history (or lack thereof); and**
- d) any aggravating or mitigating facts or circumstances that exist.**

V. Discovery Practices

The Beaver County Attorney's Office will comply with Rule 16 of the Utah Rules of Criminal Procedure and will carry out discovery obligations in good faith and in a manner that furthers the goals of discovery, namely, to minimize surprise, afford the opportunity for effective cross-examination, expedite trials, and meet the requirements of due process for the accused (as provided by law, procedure, and/or regulation).

The Beaver County Attorney's Office cannot provide information that it does not possess as part of its discovery process. This includes records from other governmental agencies that are not directly members/part of the prosecution.

VI. Prosecution of Juveniles

The Beaver County Attorney's Office will work closely with the juvenile probation office to determine whether delinquent acts committed by juveniles should be resolved by non judicial adjustment or through formal adjudication. These determinations will take into account the standards for screening set forth in Section I above. In determining whether to prosecute a juvenile as an adult for a "qualifying offense" as defined by Utah Code § 78A-6-703.1, this office will consider factors that may include, but are not limited to:

- a) the best interest of the juvenile offender;**
- b) the safety of victims, witnesses, and the community;**
- c) the seriousness of the offense;**
- d) whether the offense was committed in an aggressive, violent, premeditated, or willful manner;**
- e) the history of the juvenile offender; and**
- f) the likelihood of rehabilitation and the availability**

VII. Collection of Fines and Fees

The prosecutor does not collect court fines or fees. The imposition and collection of fines and fees is the prerogative of the courts. When a probationer has been ordered to pay a fine and fails to comply, the prosecutor shall act to assist the courts in the collection of the fine. However, the prosecutor will not pursue an Order to Show Cause for the failure to pay a fine unless there are other material violations of probation. If a probationer or offender has entered into a please in abeyance agreement that includes a please in abeyance fee or other program fee, they will not be entitled to the benefit of the agreement until the fee is paid in full unless the offender establishes an extreme undue hardship.

Fines are collected by their respective courts, either the 5th District Court or each appropriate Justice Court.

VIII. Criminal and Civil Asset Forfeiture Practices

The Beaver County Attorney's Office will only seek the forfeiture of a property in criminal cases where the prosecutor is able to prove that the property was used to commit a crime or is the proceeds from the commission of a crime and will utilize the procedures set forth in Utah Code § 24-4-105.

IX. Services Available to Victims of Crime

The Beaver County Attorney's Office recognizes its responsibility to victims under Utah Code and the Utah Constitution.

At the time of writing, our office employs one full time victim's advocate and two part time assistants which serve as liaisons between the Utah Office for Victims of Crimes and assist crime victims with applications for reparations and counseling. The victim's advocate can also provide many other resources for victims.

X. Restorative Justice Programs

The Beaver County Attorney's Office utilizes drug treatment and mental health programs to work with defendants and offenders as part of its justice process. These programs allow defendants to get treatment while supervised by the court and treatment team with the goal of having their charges dismissed or reduced upon successful completion of the program.

Effective January 1, 2021