

Baker County District Attorney's Office **Policies and Procedures Manual**

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Baker County District Attorney's Office – Mission Statement

It is the purpose of the Baker County District Attorney's Office to keep the community safe by seeking justice for victims, promoting good judgment and holding offender's accountable through ethical prosecution.

Introduction

This Policy Manual is designed to guide employees of the Baker County District Attorney's Office in understanding the overall policies and expectations of the Office. It is to be used in conjunction with the Baker County employees manual. This policy manual was created to add more defined policies as they relate to the specific functions of the District Attorney's Office as it is a part of the overall Baker County governmental system. This policy manual contains policies regarding employee professionalism as well as charging and disposition policies for specific cases. Violation of any of the Department's policies may result in disciplinary action up to and including termination.

Professionalism

All employees of the Baker County District Attorney's Office are expected to adhere to the highest level of professionalism and competence as they can achieve. Maintaining a courteous attitude with the public is required.

Confidentiality

This is one of the most important aspects of professionalism in the Baker County District Attorney's Office. Employees are prohibited from discussing cases with unapproved individuals. All media contacts are approved through the District Attorney in compliance with the guidelines regarding press relations contained in this manual.

Dress and Appearance

The Baker County District Attorney's Office is a professional law office representing the State of Oregon and the citizens of Baker County. There is an expectation that all staff with represent, not only in their behavior, but also in their dress, the high professional standards established for the organization.

Staff of the District Attorney's Office is expected to wear professional business attire during regular working hours. On occasions, including days where there is no court, or where parties are appearing by phone, jeans and other casual attire may be allowed with prior District Attorney approval.

Use of Certified Law Interns

Certified Law Interns and other individuals who are interest in a law career 0are encouraged to apply for positions at the District Attorney's Office.

General provision for contact with the Media

All law enforcement agencies should follow the bar press guidelines when dealing with the media. (See Attached). We have the responsibility to give the media truthful information on matters of public interest. At the same time, we have a responsibility to ensure that reputations are not improperly damaged and victims, as well as the accused, are afforded a fair trial free from improper pretrial publicity.

Major crimes: The District Attorney's Office is the designated spokesperson for the major crime team. These events will usually include major crimes or homicides.

All other crimes: With the exception of homicides and major crimes, involving the major crime team, the law enforcement agency handling a matter should release initial information to the press in accordance with the bar press guidelines.

General Considerations:

1. Try to respond to media call promptly. If the District Attorney is available consult with him or defer to him with media calls. If you cannot reach the DA or it is your case and you are the person handling the media, make sure to respond and do not say "no comment". Even commenting on how the ethical rules don't allow you to discuss certain matters and how important all parties receive a fair trial is better than "no comment".
2. In routine matters, the docket or procedural scheduling should frame our responses. E.g. today, jury selection began...NOT "We put on our case today. We got the defendant concerned, etc."
3. Refer to attached Bar Press guidelines and what is generally appropriate to comment on and what is generally not. Review this document especially page three (guidelines for disclosure and reporting information on criminal proceedings) before speaking with the media.

Guidelines for Disclosure and Reporting of Information to the Press

It is generally appropriate to disclose or report the following:

1. The arrested person's name, age, residence, employment, marital status and similar biographical information.
2. The charge.
3. The amount of bail.
4. The identity of and biographical information concerning both complaining party and victim.
5. The identity of the investigation and arresting agency and the length of the investigation.
6. The circumstances of arrest, including time, place, resistance, pursuit and weapon used.

It is rarely appropriate to disclose for publication or to report prior to the trial the following:

1. The contents of any admission or confession, or the fact that an admission or confession has been made.
2. Opinions about an arrested person's character, guilt or innocence.
3. Opinions concerning evidence or argument in the case.
4. Statements concerning evidence or argument in the case.
5. The results of fingerprints, polygraph examinations, ballistic tests or laboratory tests.
6. Precise descriptions of items seized or discovered during **investigation**.
7. Prior criminal charges and convictions.

Search Warrants

No Deputy District Attorney may prepare or authorize a felony search warrant of an attorney's office without the written approval of the District Attorney or Chief Deputy District Attorney.

Disqualification of a Judge

Only the District Attorney or the Chief Deputy District Attorney, at the direction of the District Attorney, may sign a motion to disqualify a judge from hearing a case.

Charging Policies

Employees of the Baker County District Attorney's office are charged with enforcing Oregon law in a manner which maximizes community safety, respects individual rights and serves justice. To that end, we will endeavor to charge and advocate for punishment in a manner which treats similarly situated defendants similarly. As a general rule, charging decisions should be made in a way which emphasizes protection of the community and offender accountability. Within that general context we must also consider such things as the strength of the state's case, the cost of prosecution, any mitigation in the defendant's background, input from the victim, input from the investigating agency, and any other appropriate information the assigned DDA considers relevant. This general policy is reflected in more specific guidelines on all offenses described below.

Screening and Charging Decision Guidelines/ Factors

- The nature of the offense.
- Probability of conviction.
- Possible deterrent value of prosecution.
- The characteristics of the offender.
- The interests of the victim.
- Recommendations of the law enforcement agency involved.
- Any provisions for restitution.
- The age of the offender.
- Doubt as to the guilt of the accused.
- A history of non-enforcement of the statute.
- Excessive costs of prosecution in relation to seriousness of the offense.
- The age of the case.
- Insufficiency of evidence to support the case.
- Aid to other prosecutorial goals through non-prosecution.
- An expressed wish by the victim not to prosecute.
- Possible improper motives of the victim or witness.
- Likelihood of prosecution by another criminal justice authority.
- Any mitigating evidence.
- The attitude and physical and mental state of the defendant.
- Whether aggregating property victims into the same charge is in the best interest of the victims.
- Undo hardship caused to the accused.

In making the charging decision, Deputy District Attorneys shall file only those charges which are reasonably substantiated by admissible evidence at trial. Deputy District Attorneys shall not attempt to use the charging decision as a leverage device (that is, overcharging) in an attempt to obtain a guilty plea to a lesser charge.

Deputy District Attorneys shall also avoid charging an excessive number of counts, Indictments, or Informations merely to provide sufficient leverage to persuade a defendant to enter a guilty plea to one or several charges.

Circuit Court vs. Justice Court

All charging decisions will be based on district attorney and deputy district attorney discretion. In determining whether a crime should be in justice court or circuit court, the handling district attorney may consider any of the following:

- any aggravation or mitigation of the facts of the case,
- the defendant's criminal history including whether there are other open cases involving the defendant,
- input from the investigating agency, and
- any other appropriate information the assigned DDA considers relevant.

B misdemeanor and C misdemeanor cases may all be charged in justice court. Violations may also be charged in justice court.

DUIIs will be filed in circuit court.

A misdemeanor crimes that may later be used for impeachment purposes or as predicates for higher punishment (property crimes, assaults, PCS, etc) may be charged in circuit court.

Misdemeanors may be treated as violations per ORS 161.566.

Felonies may be treated as misdemeanors per ORS 161.570.

Declining Prosecution

If a Deputy District Attorney elects to decline prosecution, she/he shall state the reasons in the notes section of Karpel. This information will be used to notify law enforcement agencies and victims of the disposition of the criminal incident and reasons for the decision.

Grand Jury and Preliminary Hearing

Amendment Article VII, Section 5, of the Oregon Constitution provides two separate procedures for charging defendants in Circuit Court. Amended Article VII provides that defendants may be charged either by:

- Indictment of the grand jury, or
- By information gathered by the state after a preliminary hearing.

In order to ensure that the choice between indictment and information is made according to consistent criteria and that the privilege of either a grand jury indictment or a preliminary hearing is equally available to all, the Baker County District Attorney's Office takes all cases to a grand jury unless there is a specific evidentiary need, such as eyewitness identification or preservation of testimony, in an individual case.

A decision to take a case by means of a preliminary hearing must be approved by the Chief Deputy.

Deputy District Attorneys are to be familiar with and follow the statutory provisions found in ORS 132.010-132.990.

All witnesses will be placed under oath before presenting testimony before the grand jury. The names of each witness will be listed on the indictment, if an indictment is returned.

Only evidence that is admissible at trial will be presented to the grand jury. The Deputy District Attorney will ensure witness testimony is limited to admissible evidence. Additionally, Deputy District Attorneys will limit grand juror questions which will produce answers that are inadmissible at trial.

Deputy District Attorneys will not present evidence which was clearly obtained in violation of a suspect's constitutional rights.

Unless clearly authorized by statute, witness testimony is not to be presented by written report.

Oregon law only allows the audio recordation of grand jury testimony. All witness testimony must be recorded.

A represented defendant who requests to testify voluntarily before the Grand Jury shall be allowed to testify pursuant to ORS 132.320(12). A Deputy District Attorney is under no obligation to affirmatively offer an opportunity to testify to a defendant.

The compelled testimony before the grand jury of any witness who might objectively be considered a criminal suspect must be approved by the District Attorney or Chief Deputy District Attorney.

At the beginning of each grand jury term, the grand jurors will receive orientation from a Senior Deputy District Attorney, or their designee. The orientation will cover information about the legal procedures of the grand jury.

Crime Victim's Rights

The Baker County District Attorney's Office makes every effort to ensure crime victims play a meaningful role in the criminal and juvenile justice system. We treat them with dignity and respect. We make every effort to provide victims with as large a part as possible in each phase of a criminal case. The interests of the victim should be kept in mind when setting the hearing date and during plea negotiations in any felony involving a person.

Victim Considerations in Negotiations

Deputy District Attorneys should consider the circumstances and attitude of the victim and witnesses in deciding whether to negotiate with a defendant. Deputy District Attorneys should weigh the following factors:

- Extent of injury to the victim,
- Economic loss incurred by the victim,
- Victim and witnesses availability for trial, and
- The victim's and witnesses' physical or mental impairment that would affect testimony.

Deputy District Attorneys shall attempt to contact the victim prior to making a formal offer. The victim's opinions should be given significant weight in developing the terms of the negotiations.

Victim's Rights Under Oregon Law

Oregon law gives crime victim's rights that protect their interests in criminal investigations and judicial proceedings. This office is familiar with those rights and makes every effort to see that victims benefit from them. Among these rights are:

- The right to be informed of these rights as soon as practicable.
- The right, if requested, to keep the victim's address and phone number from the person charged [ORS135.970(1)];
- The right, if a defense attorney or representative contacts the victim, to be told who they are, that the victim does not have to talk to them, and that the victim may have a Deputy District Attorney present if they do decide to speak with a defense attorney [ORS135.970(2)];
- The right to a court hearing if harassed or intimidated by the person charged [ORS135.970(3)];
- The right to be considered when court dates and hearings are scheduled or rescheduled [ORS136.145];
- The right to be inside the courtroom during the trial [ORS40.385]; and

The right to appear personally or with their own attorney, in addition to a Deputy District Attorney, and express their views at the time of the disposition [ORS137.013].

The Oregon constitution also explains victim's rights. Among these are:

- The right to be reasonably protected from the defendant throughout the criminal justice process;
- The right to be consulted, upon request, regarding plea negotiations involving any violent felony;
- The right, if requested, to be informed in advance when the defendant will be present at a particular stage of the judicial process and to be allowed to speak at each stage;
- The right, if requested, to information about the conviction, sentence, imprisonment, criminal history, and future release of the defendant;
- The right, if requested, to be consulted about plea negotiations on any violent felony charge;
- The right to be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant will be present;
- The right to be heard at the pretrial release hearing and sentencing or the juvenile court delinquency disposition;
- The right to refuse an interview, deposition or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant; and
- The right to receive prompt restitution from the convicted criminal who caused the victim's loss or injury.

Victim's Participate in Proceedings

Deputy District Attorneys should make every effort to see that victims are active participants in criminal proceedings. This office is committed to providing victims with all assistance or referral information available.

Bail Recommendations

When a domestic violence defendant is in custody, the Deputy District Attorney should attempt to contact the victim to determine the victim's position on release. Factors to be considered in a bail recommendation are:

- The nature of the charge;
- Whether the defendant poses a continuing threat of harm to the victim or community;
- Defendant's criminal history; and
- The flight risk posed by the defendant.

No Contact Orders

In domestic violence cases, a no contact order is routinely requested by the Deputy District Attorney at arraignment.

DUIIs

First Offense (prior DUII Diversion but not conviction or not Diversion eligible for another reason): One year bench probation, mandatory minimum 48-hours jail, mandatory minimum fine of \$1,000 (unless changed by a high blow), alcohol and drug package, Victim Impact Panel attendance, and one year license suspension.

Second Offense (prior DUII at any time following the Defendant's 18th birthday): One year bench probation, 30-days jail, mandatory minimum \$1,500 fine (unless changed by a high blow), alcohol and drug package, Victim Impact Panel attendance, and one year license suspension (unless conviction was five years ago or less, then it is a 3-year license suspension).

Third Offense (two prior DUIIs at any time following the Defendant's 18th birthday): One year bench probation, 90-days jail, mandatory minimum \$2,000 fine, alcohol and drug package, Victim Impact Panel attendance, and lifetime driver's license revocation.

Subsequent Offenses and Felony DUII: File as a felony if have at least three convictions in the 10 years prior to date of present offense. At minimum, give third offense treatment. Always give more jail time than last DUII defendant had.

DUII Diversion Eligibility

It is the DA's policy to object to petitions for DUII diversions of defendants that have more than two prior DUII convictions and/or diversions in their lifetimes.

From a legal standpoint it is the DA's position that, under Oregon statutory scheme, diversion is not a "right", but a privilege. A defendant who meets the initial eligibility criteria of ORS 813.215 is not guaranteed a diversion. It is the court's duty to "determine whether to allow or deny a petition" for diversion. ORS 813.220. The court has two options it may allow the petition or it shall deny the petition. It is the DA's positions that if the legislature had intended the diversion to be a "right" rather than a privilege it would not have enacted ORS 813.220.

From a practical standpoint it is the DA's position that defendants with multiple DUII arrests and convictions, or even arrests and diversions, are arrested and convicted or diverted only a fraction of the time that they will drive while under the influence, thereby a great risk of harm to society.

Defendants who continue to violate the DUII law after having been previously convicted or diverted, placed on probation, required to complete A/D classes, etc., three or more times are not likely to benefit from a diversion and do not deserve another “break”.

It is also the DA’s policy to object to motions to extend the 30-day filing period if the implicit or explicit basis of the motion is to allow the defendant time to prepare and file a demurrer or motion to suppress. The State will generally not object to an extension if the defendant has not received police reports and other similar (usually documentary) evidence that is readily within the State’s control. But the State will object to an extension if the defendant is simply waiting for a videotape of the stop, videotape of the intoxilyzer room, a lab report from urinalysis or blood testing, and the like, since such requests generally stem from a defendant’s desire to analyze the availability of defenses, and, thus, possible motions to suppress.

For example, because a defendant knows whether he had consumed a particular controlled substance prior to his arrest for DUII, he does not need to see what the State will be able to prove, for purposes of making his determination whether to apply for a diversion, before he applies. In creating the 30-day rule, ORS 813.200 (1)(a), the legislature intended for defendants to take advantage of an opportunity, including recognizing and getting help with a drug use/abuse problem, rather than strategically looking for a way to avoid a DUII conviction.

Negotiations

When making an offer, the District Attorney may consider the following (non-exclusive list):

1. The age, background, maturity and criminal history of the offender;
2. The attitude, physical and mental state of the offender;
3. The use of past use of threats or violence by the offender;
4. The age or vulnerability of the victim;
5. The physical and mental state of the victim;
6. The victim impact of the offenses;
7. The interest and desires of the victim;
8. The relationship between the victim and offender;
9. Early acceptance of guilt or responsibility by the offender;
10. The degree of remorse shown by the offender;
11. The likelihood that the defendant will reoffend;
12. Early payment of restitution or return of the stolen property;
13. The costs or resources involved in prosecution;
14. The recommendation of law enforcement agencies;
15. The sufficiency of evidence;
16. Orderly and readily understandable presentation of charges and evidence;
17. The incentive early resolution of charges;
18. The age of the case;
19. Availability of witnesses;
20. The involvement of multiple police agencies;
21. Any other circumstances or factors unique to the case.

Civil Compromise Agreements

Civil compromises are available under Oregon law (ORS 135.703 and ORS 135.705) in instances in which a defendant is charged with a crime punishable as a misdemeanor. The injured party may seek to handle the matter as a civil proceeding. The Court, on payment of costs and expenses incurred, may order the complaint dismissed.

The Oregon State Bar has ruled that it is unethical under certain circumstances for a prosecuting attorney to advise an injured party against opting for a civil compromise of a criminal case. However, in the interest of justice and in the interest of protecting community safety, Deputy District Attorneys are given wide discretion on whether to object to a civil compromise.

Deputy District Attorneys should point out to crime victims who are considering a civil compromise that if the obligations undertaken by the defendant in the compromise are not met, the criminal case cannot be revived. Deputy District Attorneys may also answer any questions that victims may have when entertaining whether to accept a civil compromise. However, deputy district attorneys are not supposed to encourage or discourage (in any way) a victim from accepting or declining a civil compromise. Providing this information to the injured party, in the view of the District Attorney's Office, does not violate the Oregon State Bar rule.

Reporting Status of Non U.S. Citizens Charged with a Crime

During the course of our responsibilities as an office, we receive criminal cases in which the potential defendant is not a U.S. citizen and not legally in the United States.

State law (ORS 181A.820) prohibits state law enforcement officials from notifying federal immigration officials of the suspected immigration status of individuals whose only potential criminal offense(s) involves their immigration status. This state prohibition does not apply to defendants who are under criminal investigation or have been arrested or charged with a non-immigration related crime. In many cases, federal law requires notification to federal immigration authorities in such circumstances.

It is the policy of this office to notify the Federal Immigration and Customs Enforcement Office (ICE) in writing when we have charged a defendant whom we know or have reason to believe is in the United States illegally. In addition, it is the policy of this office to notify ICE in writing when a defendant is convicted of a crime, and we know or have reason to believe he/she is not a U.S. citizen. This office will not notify ICE of the status of a victim or witness. The office will use a standard form of written notification in those cases where this policy is applicable. If notification has already occurred in a case after charges are filed, it is not necessary to send a second notification upon conviction.

Federal immigration authorities shall be notified as soon as practicable. In addition, the deputy district attorney may request federal immigration authorities to refrain from or delay placing an immigration hold if that action would further the interests of state prosecution.

Discovery Policy

The discovery obligations of the Baker County District Attorney's Office are generally established by ORS 135.805 – 135.825; ORS 135.845 – 135.855; *Brady v. Maryland*, 373 US 83 (1963); *Giglio v. United States*, 405 US 150 (1972) and Rule 3.8 of the Oregon Rules of Professional Conduct. In order to meet discovery obligations in a given case, prosecutors must be familiar with these authorities and with the judicial interpretations that discuss or address the application of these authorities to particular facts. In addition, it is important for prosecutors to thoroughly consider how to meet their discovery obligations in each case and consult with their supervisors for guidance whenever appropriate.

Except as otherwise provided in ORS 135.855 (Material and information not subject to discovery) and 135.873 (Protective orders), the District Attorney's Office shall provide the defendant the following material and information within the possession or control of the district attorney:

- A. The names and addresses of persons whom the district attorney intends to call as witnesses at any stage of the trial, together with their relevant written or recorded statements or memoranda of any oral statements of such persons.
- B. Any written or recorded statements or memoranda of any oral statements made by the defendant, or made by a codefendant if the trial is to be a joint one.
- C. Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which the district attorney intends to offer in evidence at the trial.
- D. Any books, papers, documents, photographs or tangible objects:
 - a. Which the district attorney intends to offer in evidence at the trial; or
 - b. Which were obtained from or belong to the defendant.
- E. If actually known to the district attorney, any record of prior criminal convictions of persons whom the district attorney intends to call as witnesses at the trial; and the district attorney shall make a good faith effort to determine if such convictions have occurred.
- F. All prior convictions of the defendant known to the state that would affect the determination of the defendant's criminal history for sentencing under rules of the Oregon Criminal Justice Commission.
- G. Any material or information that tends to:
 - a. Exculpate the defendant; (b) Negate or mitigate the defendant's guilt or punishment; or (c) Impeach a person the district attorney intends to call as a witness at the trial.

Each deputy district attorney has a duty to review their files and disclose any material that is clearly exculpatory or favorable, and material to the defendant. Furthermore, the deputy district

attorney “has a duty to learn of any favorable evidence known to others acting on the government’s behalf in the case, including the police.” *Strickler v. Greene*, 527 US 263, 281 (1999).

Discovery should not be released to the defendant’s attorney until after arraignment. Discovery can be released to defendant’s attorney prior to arraignment only if authorized by a prosecutor and the release is in the best interests of justice, or aids in the efficient resolution of the criminal case. Discovery will be released to defendants without lawyers only after the defendant has been arraigned, has waived his/her right to counsel in court and only after the cost incurred in supplying the discovery has been paid.

Discovery is to billed to defense attorneys in a consistent manner.

Juvenile Defendants in Measure 11 Statutory Sex Cases

Cases involving a 15- to 17-year-old perpetrator accused of a Measure 11 statutory sex crime will be issued in juvenile court, if the perpetrator would otherwise be sentenced under ORS 137.712. Any case involving a Measure 11 perpetrator who was 15 to 17 at the time of the criminal act, but because of a delayed report, is now 18 or older and could otherwise be sentenced under ORS 137.712, must be reviewed by the team leader before grand jury presentation. Appropriate aggravating and mitigating factors will be considered when deciding on the case. Any exceptions to this policy must be approved by the team leader who will make community safety the primary consideration.

Juvenile Waiver to Adult Court

As a result of the passage of HB 1008 in the 2019 legislative session, automatic waiver into adult court for Measure 11 crimes is no longer possible. This policy is written to address how juvenile cases, mostly Measure 11 crimes, will be handled in the future.

In general, the factors to consider when seeking to prosecute a juvenile offender in adult court are:

1. The seriousness of the offense;
2. The wishes and position of the victims(s);
3. Protection of the community;
4. Whether, in the interests of justice, the potential punishments are proportional to the offense;
5. The criminal history of the juvenile offender, including whether or not the juvenile offender has consistently demonstrated that the unique jurisdiction of the juvenile court and programs can ameliorate their criminal behavior;

6. Whether or not the juvenile justice system, due to possible alternative and less punitive alternatives being available, is more or less likely to achieve rehabilitation of the offender than the adult system.

The process for making these determinations is as follows:

When a case referral is received from law enforcement for crimes enumerated in ORS 137.707 (Measure 11), the Chief Deputy will work with the Senior Deputy in the Juvenile Team and the Senior Deputy of the Person Crimes Team to review the case and determine the appropriate charging decision, including whether or not to initially seek waiver into adult court. Given juvenile statutes set stringent time limits for these cases, initial decisions about charging and waiver must be made expeditiously. Any initial decision to not seek waiver can be reconsidered at a later date if further facts or circumstances develop.

Under HB 1008 and ORS 419C.349, there are two categories of cases that may be waived into adult court by the juvenile court. Category 1 crimes fall under ORS 419C.349(1)(a) and include crimes enumerated under ORS 137.707 (Juvenile Measure 11 crimes) and aggravated murder. Category 2 crimes fall under ORS 419C.349(1)(b) and are the lesser included offenses of Juvenile Measure 11 crimes not specifically enumerated in ORS 137.707(4). Crimes under ORS 137.712 (Ballot Measure 11 Lite), including Class A and Class B felonies and certain Class C felonies are included.

Category 2 crimes will generally remain in juvenile court. In certain exceptional cases it may be necessary for the protection of the public or in the interest of justice (proportional punishment) or if the juvenile offender has consistently demonstrated that the unique jurisdiction of juvenile court and its programs will not ameliorate their criminal conduct.

Case referrals under ORS 419C.352 allegedly committed by juveniles under 15 years of age shall be subject to review by the Chief Deputy, Senior Deputy of Juvenile Team and Senior Deputy of the Person Crime Team.

All referrals of juvenile offenders into adult court must be approved by the District Attorney.

DUIIs shall be cited and charged into Circuit Court.

Weapons Destruction

Except in the case of stolen firearms or certain hunting crimes, the District Attorney's Office will normally request that all firearms and dangerous weapons illegally possessed, carried, or used in the commission of a crime be forfeited to the appropriate law enforcement agency.

Forfeiture

It is the policy of the Baker County District Attorney Office that any profits from criminal activity shall be forfeited as shall all conveyances used to conceal or transport illegal drugs and narcotics.

If the illegal profits were stolen from innocent third parties, it shall be the policy of this office to return those sums in restitution.

Sexually Explicit Evidence

Frequently, the prosecution of sex abuse cases involves sexually explicit (pornographic) material as evidence. The following procedures detail the requirements of how such material shall be handled in the District Attorney's Office.

- Pornography is evidence and should be treated as evidence. This means that it should be stored in the police evidence locker with other evidence. It ordinarily does not belong in the District Attorney's file. The assigned prosecutor and the defense attorney can visit the police department prior to trial to view the material, just as they would other evidence. The investigating police officer can bring the pornographic evidence to court. It is especially important to follow this procedure when the sexually explicit material involves children.
- Sexually explicit material involving children should not be given out as discovery, absent an explicit order of the court. If the defendant seeks such an order, the assigned prosecutor shall seek a protective order prohibiting copying by the defendant or his/her attorney and requiring return of the copies when the case is completed.
- If it is necessary to have the material in the District Attorney's file, it shall be placed in an envelope clearly marked "Sexually Explicit Material." If the evidence is in electronic format, it should be in the file on a compact disk, not as printed material.
- Once the file is closed, any sexually explicit material should be returned to the investigating agency or destroyed. The material should not be kept in closed files.
- When files which are already closed are scanned or microfilmed, the Records Management personnel will return any files containing sexually explicit material to the assigned prosecutor so the material can be returned to the police agency or destroyed.

Compliance with Sentencing Conditions

One hundred and twenty days after entry into the deferred sentencing program, the defendant shall appear before the Court to show that he/she is in compliance with the conditions of the deferred sentencing program. The batterer's intervention program shall provide the Court with a report regarding the defendant's compliance.

At any point during the deferred sentencing program, the batterer's intervention program may notify the Court and District Attorney regarding the defendant's compliance status.

If the Deputy District Attorney determines the defendant is not in compliance, the Deputy District Attorney may file a motion to show cause when the defendant's participation in the deferred sentencing program should not be revoked.

If, at any point during the program, the Court determines that the defendant has not complied with the deferred sentencing conditions, and that participation in the program is serving no useful purpose, the deferred sentence shall be revoked and a sentence entered by the Court.

If the defendant complies with the conditions of the batterer's intervention program, the case shall be dismissed with prejudice.

Guilty Except for Insanity (GEI)

District Attorneys shall be familiar with ORS 161.295 et seq. and the applicability of GEI will be analyzed on a case-by-case basis in accordance with the remainder of these policies.

Criminal Case Records

The Baker County District Attorney's Office has adopted a schedule for retaining and destroying case records, based on the nature of the crime and the document(s) involved.

Records Retention / Destruction Schedule

<u>Case Type</u>	<u>Retention</u>	<u>Scan</u>
Homicide, guilty	60 years	All
Homicide, not guilty	3 years	All
Class A, guilty	60 years	All
Class A, not guilty	3 years	All
Class B, guilty	3 years after sentence expires	2012-present
Class B, not guilty	3 years	2017-present
Class C, guilty	3 years after sentence expires	2012-present
Class C, not guilty	3 years	2017-present
Misdemeanor	3 years after closed	2015-present
Violations	1 year after closed	2019-present
Support Enforcement	scan and keep all	All
Juvenile cases	scan and keep all	All
Mental Commitments	5 years	2015-present
Grand jury logs	10 years	2010-present
MDT records	5 years	2015-present

Life of a Case

Front office

- Case supervisor
 - Office Manager
 - Felony cases
 - Legal Secretary
 - Misdemeanor cases
 - Initial inputs:
 - Witnesses
 - Victims – trigger victim’s advocate on victim cases (caseworker)
 - Defense attorney – trigger investigator to do technology discovery
 - Attorneys can also do this at arraignment
 - Documents
 - Scan all documents that come through office, stamp “Scanned”
 - Don’t stamp official court documents (certified judgments)
 - Discovery of paper documents
 - Track the billing for defense attorneys
 - Close case in Karpel
 - Upload judgment information on non-victim cases – DA will mark “sentenced” at time of sentencing to trigger reminder that the case supervisor will need to close out case on Karpel
 - DA will receive email and upload judgment to Karpel

Victim Assistance

- Attempt telephonic contact prior to noon
- Set up Vine/other services
- Notify attorney about victim requests
- Offer to attend all hearings with victim
- Participate in all in-office and court contact with victim
- Attempt to contact all victims with closure notice
 - Upload judgment information on victim cases – DA will mark “sentenced” at time of sentencing to trigger reminder that the case supervisor will need to close out case on Karpel
 - DA will receive email and upload judgment to Karpel

Investigator

- Discovery of CDs, technology, etc
- Maintain hard, complete file on major cases
- Serve subpoena duces tecums
- Follow up for attorneys
- Dispose of discovery – need a trigger for investigator 30 days from sentencing