

Decisions That Impact Lives

National Prosecution Standards Third Edition

I. GENERAL STANDARDS

1. THE PROSECUTOR'S RESPONSIBILITIES

1-1.1 Primary Responsibility

The prosecutor is an independent administrator of justice in the criminal justice system, which can only be accomplished through the representation and presentation of the truth. The primary responsibility of a prosecutor is to seek justice. This responsibility includes, but is not limited to, ensuring that the guilty are held accountable, that the innocent are protected from unwarranted harm, and that the rights of all participants, particularly victims of crime, are respected.

1-1.2 Societal and Individual Rights and Interests

A prosecutor should zealously protect the rights of individuals, but without representing any individual as a client and therefore should put the rights and interests of society in a paramount position in exercising prosecutorial discretion in individual cases. A prosecutor should seek to reform criminal laws whenever it is appropriate and necessary to do so societal interests rather than individual or group interests.

2-8.4 Disclosure of Exculpatory Evidence

The prosecutor shall make timely disclosure of exculpatory or mitigating evidence, as required by law and/or applicable rules of ethical conduct.

2-8.5 Suspicion of Criminal Conduct

When a prosecutor has reasonable suspicion of criminal conduct by defense counsel, the prosecutor has a responsibility to take such action necessary to substantiate or dispel such suspicion.

9. DISCOVERY

4-9.1 Prosecutorial Responsibility

A prosecutor should, at all times, carry out his or her 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. To further these objectives, the prosecutor should pursue the discovery of material information, and fully and promptly comply with lawful discovery requests from defense counsel.

4-9.2 Continuing Duty

If at any point in the pretrial or trial proceedings the prosecutor discovers additional witnesses, information, or other material previously requested or ordered which is subject to disclosure or inspection, the prosecutor should promptly notify defense counsel and provide the required information.

4-9.3 Access to Evidence Not To Be Impeded

Unless permitted by law or court order, a prosecutor should not impede opposing counsel's investigation or preparation of the case.

4-9.4 Deception as to Identity

Except as permitted by law or court order, a prosecutor should not deceive the defendant or a witness as to his or her identity or affiliation.

4-9.5 Redacting Evidence

When portions of certain materials are discoverable and other portions are not, a prosecutor should make good faith efforts to redact the non-discoverable portions in a way that does not cause confusion or prejudice the accused.

4-9.6 Reciprocal Discovery

A prosecutor should take steps to ensure that the defense complies with any obligation to provide discovery to the prosecution.

“Where the prosecutor knows that his witness has lied, he has a constitutional duty to correct the false impression of the facts.” (United States v. LaPage (2000) 231 F.3d 488, 492.) A prosecutor's known use of perjured testimony deprives the defendant of due process. (Id. at p.491.)”
