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Metrics for Success

The unfortunate reality is that no matter how hard we try, we cannot eliminate crime. We cannot prevent those who have no sense of right and wrong from committing crimes and we cannot rehabilitate every offender to prevent recidivism. What we can do is the best we can to reach those goals. Measuring the effectiveness of my office is quite difficult. I have never kept numbers on conviction rates as I do not believe a prosecutor should be concerned with the number of convictions they achieve. Justice sometimes requires a significantly high prison sentence, but justice sometimes also requires dismissal of the case altogether. I view success on an individual basis. One person rehabilitated is a success. One person who reoffends is a work in progress. To truly measure success, I believe it has to be done on an individual case basis.

The Prosecuting Attorney has little control over the appropriation of funds. This is especially true in rural counties like Okanogan where almost every department operates on a shoestring budget. My office receives grants for our victim/witness program and receives state reimbursement for the prosecution of certain types of crimes. If I had more control over such things, I would appropriate more money to mental health and chemical dependency services. I would allocate additional funds to law enforcement for more personnel as the expansive area of our county, coupled with the limited number of officers, creates more opportunity for crime to be committed or go unreported. I would allocate more funds to the court for the creation of a mental health court. The reality is that in rural counties, we do the best we can with the limited resources we have.

Bias

The first step in avoiding explicit and implicit bias in prosecution is to simply hire the right people. A bias person will be bias, regardless of the policies and procedures in place. I take care in trying to find employees who I believe are fair and reasonable people who truly want to protect victims and the public, regardless of who the offender is. Our office is small enough that we can provide supervision of case filings and case resolutions to ensure consistency between cases. I have also been forthcoming with defense counsel and told them that if they feel they receive an offer that is not in line with other cases and they do not believe it is reasonable, that they should bring it to me directly so I can look into the case and speak with the assigned prosecutor regarding their basis for the offer. I have always had an "I don't care who you are or who you know" type of mentality with prosecution. Everyone is treated equally regardless of who they are. Race, ethnicity, gender, sexual orientation, etc. simply do not matter. I have said before that we do not prosecute people, we prosecute actions. While this is not meant to say we don't consider people's individual circumstances, it is meant to mean that we look to people's actions when charging, not who they are. Everyone needs to be treated equally, both on how we charge cases and how we resolve cases.

Bail

Bail is a necessary part of the criminal justice system in many cases. In some, it is not. I believe a prosecutor has an obligation and duty to protect victims and the public. To this end, I believe significant bail should be requested in violent cases where the offender poses a risk to the public if they are out on bail. The reality is that a significant number of offenders will commit new law violations while they are out on bail. However, not every case requires bail and I have never been one to request bail on low level offenses or first time non-violent offenders. My philosophy on bail is that unless we have some basis to believe the offender will not appear for court or is a significant danger to the public, they should not be held pre-trial. Unfortunately, at least in Okanogan County, most of our offenders are repeat offenders who have significant warrant history or significant criminal history. Some bail is often appropriate. I am not opposed to releasing more offenders pre-trial if I could be assured that there would be adequate supervision of conditions of release. However, I am aware of pilot programs in both Yakima and Spokane County that have attempted this type of pre-trial supervision, and the last report I received, there is an inability to truly supervise these offenders. So far, they have not had a significant impact on reducing inmate populations. I intend on looking into supervision options in Okanogan County in an attempt to find alternatives to pre-trial confinement on offenders who have some warrant history or criminal history (those who we currently ask for nominal bail on). This would require the resources to ensure that those who we would begin releasing on enhanced conditions could be properly supervised to ensure compliance.

Disabilities

I would, and do, support cross-training of multiple agencies to promote a comprehensive community-based response to situations involving people with mental illness or developmental disabilities. I currently handle the majority of felony cases that involve offenders with mental illness as I believe they require considerations outside the typical case. I receive calls from law enforcement in the field regularly who ask for guidance on how to handle people they encounter with mental illness. For many of these offenders, prosecution is not the appropriate response. Many of the crimes committed require law enforcement to arrest if they do not qualify for an Involuntary Treatment Act hold. When those cases come in, I try to work out individual resolutions that promote mental health treatment, rather than incarceration. I would love to start a mental health court so we can provide comprehensive services to these individuals.

Drug Policy

The interplay between addiction and criminal penalties is complex. On one end of the spectrum, the use of controlled substances is illegal and a prosecutor has an obligation to follow the law. However, at the other end of the spectrum is the way addiction affects the brain and the inability of many addicts to stop using, even if they wanted to. My focus on drug dealers, other than those who deal minor amounts to support their own habit, is punishment based. I believe that drug dealers feed on, and exploit, the weakness of addicts and they deserve punishment. However, I believe addicts need treatment. This is, of course, presuming they want treatment. Unfortunately, many addicts are not ready for treatment and treatment will never work on someone who is not ready. In those cases, the only alternative is criminal penalties. However, for those who want treatment, we have programs such as Drug Court and DUI Court. Since

taking office, I have broadened our eligibility criteria for both of these programs in an attempt to open the programs to more individuals. For people who have entered treatment while their cases are pending, we often use that as a mitigating factor and craft resolutions that recognize the accomplishment and promote continued treatment over incarceration.

Mental Health

The Prosecuting Attorney has little authority over civil commitment and mental health services through DSHS. For offenders with mental health illness, I craft individual resolutions that favor treatment over incarceration. They receive reduced charges, or sometimes dismissal, if they enter and comply with mental health treatment. When offenders are put on ITAs or LRAs, we will often dismiss the case on condition they comply with their LRAs. This must all be weighed against public safety, of course. An offender with mental illness who has committed a murder or a sexual assault presents a great risk to the public and we must weigh that against the effects of treatment. As I have said before, I would support a mental health court, should our county ever obtain the resources for such a program.

Prostitution

Okanogan does not have a high prevalence of prostitution. In the years I have been at the prosecutor's office, I do not believe we have ever had a prostitution case. However, in theory, I support a program such as LEAD for individuals who qualify. These offenders would need to be screened on an individual basis. When we begin dealing with actual trafficking, we enter a realm that does not favor prosecution of the offender at all, rather it favors services. Someone who is trafficked and forced into the sex trade is not willingly committing prostitution. To prosecute someone in this situation is only going to continue to victimize them.

Automated Decision Making

I do not believe these tools should be utilized. Prosecutors in their case resolution decisions and judges in their bail, sentencing, and supervision decisions have to take into account a number of factors that are individual to the offender. No risk-assessment tool can ever contemplate all of these factors and will not be able to account for unique circumstances individual to each offender. These tools may not recognize factors that present high public safety risks and could result in too lenient of conditions or sentences. On the other side, sometimes people just need an opportunity. Sometimes we have to put faith in people, and these programs cannot account for that either. I believe these decisions need to be handled by people, not programs, who can make individual determinations based on the totality of the circumstances.

Juvenile Justice

The passage of SB 6550 opens a broader discretion to prosecutors to divert juvenile offenders. Our office currently makes use of the established diversion statute and we divert a significant number of offenders. On cases that are eligible for diversion but are not required, so-called "may divert" cases, I believe decisions must be made on an individual basis. Prosecutors should consider the charge, the offender's criminal history, the wishes of the victim, and the seriousness of the facts themselves. This new, broader discretion allows us to divert some cases that we may

have felt should be diverted previously, but were not eligible under the statute. I believe we should use this discretion reasonably by balancing the individual case and offender's history against public safety. We should also consider factors such as their age, whether they have previously completed a diversion, and how willing they were to participate in their juvenile probation requirements. It is important to balance accountability with guidance. If guidance presents a better opportunity to rehabilitate the juvenile offender and prevent recidivism, diversion is appropriate.

Reentry

The Prosecuting Attorney has little authority over the area of reentry. This is generally the area of Department of Corrections. I have personally gone to meetings with DOC that pertained to reentry to provide input. However, I believe the issues of reentry generally have to be addressed outside the authority of the Prosecuting Attorney. Generally speaking, the prosecutor loses almost all of their authority at sentencing. In those cases where the court retains supervision authority, I believe it is incumbent on the prosecutor and the court to impose conditions on offenders that favor reintegration into the community, rather than just having the person serve their time and be left on their own.

Hate Crimes

The charge of Malicious Harassment is our state's "hate crime" statute. It is an additional crime that the prosecutor can charge in cases where the underlying offense is a hate crime. I have personally charged this before and will in any case in which it applies. The only way to discourage hate crimes is to prosecute them aggressively.

Immigration

The area of immigration creates ethical issues for prosecutors. I believe that Equal Protection requires that a prosecutor, generally, not consider immigration consequences in how they resolve cases. When we do so, we effectively treat immigrants "better" than we treat citizens. Put another way, we treat citizens "worse" than we treat immigrants. I believe this is a violation of Equal Protection. An offender's immigration status is not relevant to the crime they committed. It is never my intention that an offender be deported. It is simply out of my control. I feel that ethically, and constitutionally, I am generally precluded from considering immigration consequences in how cases are resolved.