



Rice County Attorney's Office

Plea Negotiations Guidelines and Policy

Purpose

In the interest of the effective administration of criminal justice, and public safety, the County Attorney's Office engages in discussions to reach an appropriate resolution of criminal cases.

Procedure

1. Overview.

- a. Plea negotiation is the process by which the Rice County Attorney's Office, defense counsel, and the defendant attempt to conclude a criminal case by entry of a plea of guilty or other appropriate disposition without the necessity of a trial. Plea negotiation is a legitimate means to resolve a criminal case.

2. Application.

- a. All Assistant County Attorneys shall comply with the following guidelines when making plea negotiations.

3. Dispositions.

The County Attorney's Office, in resolving a criminal case, may agree to one or more of the following dispositions, depending on the circumstances of the case:

- a. To make, or not oppose, recommendations concerning the sentence or conditions of probation which may be imposed if the accused enters a plea of guilty; or
- b. To dismiss the offense charged if the accused enters a plea of guilty to a different offense, reasonably related to the accused's conduct; or
- c. To dismiss other charges, or refrain from issuing other potential charges against the accused, if the accused enters a plea of guilty; or
- d. Other dispositions whenever the interests, safety, and well-being of the public and the effective administration of criminal justice will be served

A plea agreement should encourage finality in the case, plea agreements should not allow a defendant to later withdraw a plea unless otherwise authorized by law or required by the interests of justice.

4. Factors for Consideration.

Factors that the Rice County Attorney's Office will examine and consider in resolving cases include, but are not limited to:

- a. Factors relating to the offense:
 - (1) The nature and circumstances of the offense;
 - (2) Mitigating or aggravating factors;
 - (3) The deterrent value of the proposed disposition;
 - (4) Recommendations of involved law enforcement, investigative, or assessment agencies;
 - (5) Excessive cost of prosecution in relation to the seriousness of the offense.

- b. Factors relating to the victim:
 - (1) The feelings and attitude of the victim;
 - (2) The impact of the offense or trial on the victim (physical, psychological, and economic);
 - (3) The relationship of the victim to the defendant or the witnesses;
 - (4) The availability of the victim as a witness.

- c. Factors relating to the offender:
 - (1) The deterrent value of the disposition;
 - (2) The willingness of the defendant to acknowledge guilt and assume responsibility for his or her conduct;
 - (3) The assurance of prompt and certain application of correctional consequences to the defendant;
 - (4) The availability of alternative correctional measures which are more appropriate to achieving correctional goals;
 - (5) The defendant's giving or offering cooperation which has or may result in the successful prosecution of others engaged in serious criminal conduct;
 - (6) The characteristics of the offender.
 - (7) Attorneys should bear in mind the direction of the U.S. Supreme Court that "the punishment should fit the offender and not merely the crime." *Williams v. New York*, 337 U.S. 241, 247 (1949).

- d. Factors relating to the strength of the case:
 - (1) The unavailability of a material witness;
 - (2) A possible deficiency in the proof required to convict;
 - (3) A possible issue as to admissibility of the State's evidence;
 - (4) The possible challenge to the credibility of certainty of the State's evidence.

5. Factors not to be considered.

Factors that the Rice County Attorney's Office shall not consider in resolving cases include, but are not limited to:

- a. Any personal or political advantage;
- b. Race, gender, social status or economic status of the accused, victim, and/or witness;
- c. Reasons solely related to economy of time or expense.

6. Specific Plea Negotiation Guidelines.

- a. Plea negotiations related to drug offenses shall comply with Minnesota Statute Chapter 152.

- b. Restitution: When authorized by law, restitution shall always be recommended as a part of a defendant's sentence. Restitution should always be joint and several between all parties responsible for the harm and attempt to make the victim whole.

- c. Forfeitures: A prosecutor handling the criminal prosecution shall not negotiate any pending forfeiture action related to a criminal case. Such negotiations shall be conducted by the attorney assigned to handle the civil or administrative forfeiture case.

- d. Incarceration: A period of incarceration in the local jail or prison shall be recommended for all felony level offenses.
 - e. Career/Violent Offender Sentencing: When an enhanced sentence is available under Minn. Stat. §609.1095, the prosecutor may choose to waive the enhanced sentence to avoid the significant expense of trial, however, if the defendant has a significant criminal record, and has previously avoided career offender sentencing, the prosecutor may choose to argue for a sentence up to the statutory maximum or beyond the guidelines range based on the criminal history of the defendant.
 - f. When the defendant meets the criteria for the Rice County Treatment Court, The County Attorney's Office will generally not oppose, and may encourage, non-violent offenders with chemical health issues to be considered for drug court. This office will not support the entry of offenders with violent or gun-related offenses into Rice County Treatment Court.
 - g. On the day of trial, the prosecutor handling a case shall not make a new offer or dismiss a case without the express permission of the County Attorney or the Chief Assistant.
6. Victims' Rights.
The Rice County Attorney's Office, with the assistance of the Victim/Witness Advocate, shall in good faith, attempt to comply with Minnesota Statute Chapter 611A

Approved by: John L. Fossum, Rice County Attorney, January 20, 2015;
Revised: February, 2016; November, 2019.

Subject to revision and amendment as appropriate.