

**SONOMA COUNTY DISTRICT ATTORNEY
POLICY AND PROCEDURE MANUAL**

ARTICLE 7	PROSECUTORS' PERFORMANCE STANDARDS
SECTION 7.18	CONDUCT WITH THE COURT AND JUSTICE SYSTEM

In our profession, the reputation and integrity of an attorney is often critical in interacting positively with the courts and other members of the justice system. As public prosecutors, we must be ever vigilant in making certain that our conduct is above reproach and brings credit to the office. Therefore, a prosecutor's conduct toward the court and the court's staff should be characterized by courtesy, respect and professional integrity. The dignity and respect due the judicial officer requires that when speaking directly to the court, you address him or her as "Your Honor."

1. As an officer of the court, honesty is essential in your interaction with the court and others. The credibility of a prosecutor should never be called into question.
2. Your demeanor inside and outside of the courtroom should always be professional.
3. Deputies should be careful to avoid even the appearance of impropriety.
4. If you are aware of a conflict of interest, or the appearance of one, report it to a supervisor.

As Section 5.2 of the American Bar Association, Standards for Criminal Justice, Prosecution Function (1974), states:

"The prosecutor should support the authority of the court and the dignity of the trial courtroom by strict adherence to the rules of decorum and by manifesting an attitude of professional respect toward the judge, opposing counsel, witnesses, defendants, jurors and others in the courtroom."

"When court is in session the prosecutor should address the court, not opposing counsel, on all matters relating to the case. It is unprofessional conduct for a prosecutor to engage in behavior or tactics purposefully calculated to irritate or annoy the court or opposing counsel. A prosecutor should comply promptly with all orders and directives of the court, but he has a duty to have the record reflect adverse rulings or judicial conduct

that he considers prejudicial. He has a right to make respectful requests for reconsideration of adverse rulings.”

Upon being “sworn in” after passing the bar examination and again, as a prosecutor, each attorney took an oath to obey the Constitution and the laws of the United States and California. As prosecutors, we are required to know the law and apply it in a just and honest fashion. (California Rules of Professional Conduct, Rule 3-110.) We respect the authority of the courts and seek to maintain the dignity of the courtroom. While these rules are applicable to all attorneys, prosecutors are required to set the standard for excellence, fairness, and justice in the practice of law. In court, we address the court, not opposing counsel. The prosecutor does not engage in disparaging conduct merely because the defense attorney has done so. The prosecutor is candid and truthful in all dealings with the legal community and the court. (Business and Professions Code sections 6068(b) and (d).)

Prosecutors cite controlling legal authority with precise accuracy. A prosecutor does not mislead the court or counsel, or knowingly allow a witness to testify to a falsehood. (California Rules of Professional Conduct, Rule 5-200.) The prosecutor discloses all material, exculpatory evidence in possession of the prosecution team. (*Brady v. Maryland* (1963) 373 U.S. 83, 87.)

The prosecutor’s charging decision is based upon established facts following a thorough investigation; a review of evidence that is legally admissible; being assured that evidence establishing the identify of the accused is legally sufficient; and that the probability of conviction is appreciable. The prosecutor does not “overcharge” simply to exact a guilty plea to a lesser charge. A prosecutor maintains his or her objectivity in exercising the charging decision. (California Rules of Professional Conduct, Rule 5-110.)

The prosecutor uses peremptory challenges to select jurors who will decide the case in a fair and impartial manner. The prosecutor does not use challenges to exclude members of a legally protected group. Bias and discriminatory conduct on the part of the representative of the people is unconstitutional and erodes respect for the criminal justice system. (See *People v Wheeler* (1978) 22 Cal. 3d 258.)

The prosecutor treats all members of the public, victims and witnesses of crime with respect, courtesy, honesty, compassion, and dignity. The prosecutor does not try his or her case in the media, nor attempt to take any unlawful or unethical advantage in the trial of an accused.

An attorney representing this office should “not directly or indirectly give or lend anything of value to a judge, official or employee of a tribunal unless the personal or family relationship between the member and the judge, official, or employee is such that

the gifts are customarily given and exchanged.” (California Rules of Professional Conduct, Rule 5-300(A).)

Attorneys must be punctual and prepared for all court appearances. The court and counsel should be notified if an attorney anticipates being detained on another matter. If an attorney has multiple appearances scheduled for the same time, he or she should make arrangements to have those appearances covered in his absence, which can be satisfied by placing a note on the calendar for another Prosecutor appearing in that courtroom. However, if there are not going to be other Prosecutors in that court room he/she should make sure that the court gives him/her permission to go to another appearance before leaving. Leaving a note with the clerk or the bailiff or some other form of the message for the court is not sufficient.

Sonoma County Prosecutors and staff members will not engage in conduct that brings disorder, disrespect, or disruption to the courtroom, or allow prosecution witnesses to engage in such conduct. The decorum of the courtroom should be explained to all witnesses before calling them to testify. Courtesy toward the court includes refraining from the use of court telephones, computers, and other resources in a manner inconsistent with court rules (inaudible electronics) or without permission of the court or staff.

Failure to adhere to court rulings, showing disrespect and generally engaging in rude, contemptuous behavior can result in contempt, admonishment in front of the jury and money sanctions pursuant to Code of Civil Procedure section 177.5, in addition to disciplinary action by this office. (See *People v. Chong* (1999) 76 Cal.App.4th 232; *Williams v. Superior Court* (1996) 46 Cal.App.4th 320, 330.)

This is merely a summary of the duties and responsibilities of the prosecutor. All Prosecutors are expected to adhere to a standard of practice that affords both the attorney and the office the highest reputation for ethical conduct.