



1 SENTENCING RECOMMENDATIONS

3 1) Fair and Just Sentences

5 Sentencing a criminal defendant is a complex process involving the consideration of
6 many different factors. While it is the courts' role to sentence criminal defendants, the AGO is
7 responsible for providing sentencing recommendations to the court in all cases prosecuted by the
8 AGO.

10 The AGO is committed to recommending fair and just sentences in all cases. The
11 following factors should be considered in determining a fair and just sentence:

- 13 • The nature and circumstances of the offense, including any mitigating
14 circumstances;
- 15 • The history and characteristics of the defendant, including any mitigating
16 characteristics;
- 17 • The need for the sentence imposed to:
 - 18 ○ Reflect the seriousness of the offense;
 - 19 ○ Promote respect for the rule of law;
 - 20 ○ Provide just punishment for the offense;
 - 21 ○ Afford adequate deterrence to criminal conduct;
 - 22 ○ Protect the public from further crimes of the defendant; and
 - 23 ○ Provide the defendant with needed rehabilitative services, or other
24 correctional treatment in the most effective manner;
- 25 • The kinds of sentences available for the crime(s) of conviction;
- 26 • The recommendations of Adult Probation and Parole in any presentence report,
27 and/or the recommendation suggested by an accurate matrix calculation based on
28 the Utah Sentencing Commission Guidelines;



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- The impact of the offense on victims and the community;
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- The need for restitution to victims of the offense;
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- Any other aggravating or mitigating factors specific to the offense.

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33 2) Fair and Honest Sentencing Arguments

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35 AGO prosecutors should be fair, circumspect, and fully truthful in their arguments at
36 sentencing. AGO prosecutors shall never deliberately mischaracterize evidence in support of a
37 sentencing recommendation. AGO prosecutors should reasonably disclose to the court all
38 relevant facts supporting their sentencing recommendation. AGO prosecutors should also
39 acknowledge mitigating facts and circumstances known to them.

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41 3) Plea Agreements and Sentencing

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43 Sentencing recommendations are often discussed as part of pre-trial plea
44 negotiations. An AGO prosecutor may make concessions or decisions relative to sentencing
45 recommendations as part of their agreement to a negotiated plea with the defendant and his or
46 her counsel. Prosecutors should consider input from AGO supervisors, the position of the
47 victim(s), and other factors to determine whether such concessions can be part of a fair and just
48 sentence. Having carefully considered these factors, an AGO prosecutor may agree to stipulate to
49 a defense recommendation remain silent at sentencing, defer to the recommendations of the pre-
50 sentence investigation conducted by Adult Probation and Parole, or make other negotiated
51 recommendations as appropriate to the case.

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53 4) Sentencing Alternatives

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55 AGO prosecutors shall consider available alternatives to incarceration in cases where
56 such alternatives would constitute a fair and just sentence for the offense. AGO prosecutors



57 should stay informed of new developments in sentencing alternatives and fully inform the court
58 of such alternatives in appropriate cases. In cases where a sentence including incarceration and a
59 sentence to an alternative to incarceration would equally satisfy the factors constituting a fair and
60 just sentence, AGO prosecutors shall recommend the alternative to incarceration.