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## My Word-Plea Negotiations

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By giving community members the responsibility to evaluate evidence and apply the law, jury trials provide the foundation of our criminal justice system. Effective prosecutors recognize the fundamental importance of trials. Also, prosecutors seek trial experience because it increases their effectiveness in all aspects of their job. For example, trial experience improves a prosecutor's ability to evaluate cases. Therefore, for multiple reasons, good prosecutors have no general hesitancy to go to trial. On the other hand, in their mission to achieve justice, prosecutors must remain open to the possibility of negotiating pleas with the defense. Effective prosecutors consider a variety of factors when considering plea negotiations, including: the likely difference in the outcome of a negotiated plea versus the sentencing decision of the judge following a guilty verdict at trial; any new information provided by the defense or law enforcement; and the possibility of a not guilty verdict, due, for example, to the judge finding evidence or witnesses inadmissible.

The availability of key witnesses to testify also influences prosecutors' consideration of plea negotiations. Often, this issue includes considering the wishes and well-being of victims, who often face challenges well beyond the proximate consequences of one specific crime. Victims may prefer the certainty of a guilty plea - and hearing the defendant admit guilt - to the emotional toll of a trial likely to include them being accused of lying. As they give victims the respect and consideration they deserve, prosecutors must also pursue their mission to achieve justice and promote public safety. In some cases this means weighing possible negative effects on victims of testifying versus the potential for a trial result that further advances justice and the safety of the community than would a plea deal. But prosecutors must also consider the possibility that victims encouraged to testify may be empowered by doing so and contributing to an outcome that achieves justice. Determining the best approach to supporting victims and achieving justice is often not straightforward.

Under extreme conditions - such as the ongoing pandemic - the capacity of the court system to complete trials may also require consideration in plea negotiations. However, under routine conditions, the District Attorney's Office will not negotiate cases to limit the number of trials at the request of judges, defense attorneys, court staff, or anyone else. Before the pandemic, Humboldt County averaged about 35 criminal trials per year. Surely that number does not represent a limit on capacity given the County's seven Superior Court judges.

Unfortunately, the factors above cannot be easily evaluated by the public, which means the reasonableness of specific plea negotiations can be difficult or impossible to determine. In the press, a plea negotiation that maximizes justice can look just like a weak one. However, I can assure the community that the plea negotiations of the Humboldt County District Attorney's Office adhere to the principles I established

when running for District Attorney: 1) Negotiation of cases by our Office is founded on knowledge of the facts, knowledge of the law, and knowledge of sentencing options; 2) Negotiation of cases is conducted to serve justice; and 3) Negotiated charges will reflect the conduct of the defendant. Our mission to achieve justice and enhance public safety demands case outcomes that are as fair and reasonable as possible to victims and the community. Achieving our mission means in part that we do not make plea agreements that don't serve justice as well or better than a trial. But in the real world, when issues arise such as the unavailability of key witnesses or recognition that asking a victim to testify may be asking too much of them, a plea agreement may be the best we can do.