



PROSECUTOR'S OFFICE

PLATFORM FOR PROSECUTORIAL CHANGE

*Protecting community,
saving taxpayers money,
and reducing incarceration*

**WHATCOM COUNTY
PROSECUTOR**

Eric Richey

March 12, 2019

PROTECTING COMMUNITY, SAVING TAXPAYERS MONEY, AND REDUCING INCARCERATION

Whatcom County is ready for a new approach to criminal justice in the Prosecutor's office.

Under my leadership, the Whatcom County Prosecutor's office will continue to prosecute serious crime and hold offenders accountable, while also seeking to reduce reliance on incarceration by pursuing a variety of alternative approaches to prosecuting less serious crimes.

My goal for the Whatcom County Prosecutor's Office is to keep our community safe while also addressing the underlying causes of crime where possible. It is time to consider public safety and public health together in understanding the drivers of our jail population. Innovative approaches such as working with social services and community health and treatment programs in addressing low-level drug crimes and crimes of poverty will save valuable taxpayer money. I believe Whatcom County and the prosecutor's office have an opportunity to demonstrate leadership in the national conversation on incarceration and criminal justice reform.

As your Whatcom County Prosecutor, these are the areas of initial focus for my administration:

Community Safety and Support for Victims of Crime

Under my leadership, the Whatcom County Prosecutor's office continues to be committed to all victims of crime. I will in all cases seek to provide support and guidance to victims throughout the course of criminal prosecutions in which they are involved; I will ensure their rights are guarded pursuant to RCW 7.69.030; and we will remain sensitive to the impact crimes have on their lives and our community. As an office, we will continue to seek out best practices in supporting victims of crime including ensuring our protocols are trauma-informed, supportive, and responsive.

Drug use as a health concern

I believe that drug use should often be treated as a health concern, rather than a criminal justice issue. For that reason, my office will expedite low level drug offenses by focusing on cost-effective treatment-based solutions, such as diversion and other alternatives to incarceration. I will qualify more criminal cases to drug court that were previously excluded from this valuable program. The expansion of this program will increase opportunities for individuals struggling with substance abuse by addressing the underlying problem giving rise to criminal behavior while still protecting our community and preventing recidivism.

Mental Health Court

Currently, Mental Health Court generally applies only to individuals charged with misdemeanor and gross misdemeanor offenses. It is my intent to expand Mental Health Court to permit deputy prosecutors to include felonies when appropriate, whenever it appears that a mental health condition caused the crime and community safety would not be at risk.

Bail and Pre-trial Incarceration

My goal is to reduce the pretrial jail population and save significant tax dollars without compromising community safety. Having people in custody, away from their community, their families, and unable to work creates collateral consequences for our community and worsens situations for many. I would like to see people being held in custody only when truly necessary. My intention is to reduce the pre-trial population in jail by seeking bail only in cases where the individual charged is a danger to the community, interferes with the administration of justice, or is a flight risk. Each individual's case will be reviewed to ensure bail is appropriate under the applicable standard.

When a person does not appear for a required court hearing, they may face an additional bail jump charge. I recognize there may be many reasons someone may not show up for court and that adding another charge may not be the appropriate solution. As such, my office will continue to work with the public defenders and other relevant stakeholders to refine bail jump policies that are flexible and that reduce the need to file bail jump charges when appropriate. My office will also work with our judiciary and legal community to hold a Warrant Quash Day on a regular basis to help get criminal court cases back on track so they can be timely resolved.

Sentencing Alternatives

Serious crimes will result in my office recommending serious sentences. The protection of the community requires this. However, for less serious crimes such as non-violent property offenses, up to and including some Class C felonies, Whatcom County deputy prosecutors when appropriate, shall recommend electronic home monitoring, work-release, community service, work crew and applicable program options as sentencing alternatives to incarceration. Some non-serious property crimes that were once prosecuted as felony offenses may be handled as misdemeanors. In some instances, cases are best handled as less serious charges in both municipal and district courts, thus allowing a defendant to avoid a felony conviction.

Qualified first-time felony offenders will be given the opportunity to resolve or waive their offenses through the First Time Offender Waiver, RCW 9.94A.650. This sentencing option holds a defendant accountable but also offers benefits that assist the individual in getting their lives on track.

District court deputy prosecutors will continue to support compromising misdemeanors for eligible crimes pursuant to RCW 10.22.010. As an example, a first-time defendant who committed a minor theft may be given the opportunity to make restitution to the victim without a resulting conviction on their record.

Whatcom County deputy prosecutors under my leadership will liberally support the Drug Offender Sentencing Alternative (DOSA) sentencing option. This sentencing alternative allows defendants battling substance abuse to receive treatment in lieu of incarceration. These individuals also receive supervision upon their release back into the community to assist in their continued rehabilitation.

Diversion and Alternatives

In cooperation with the Whatcom County Sheriff's office and other law enforcement agencies in our community, I will support bringing the Law Enforcement Assisted Diversion program to Whatcom County. This program, known as the 'LEAD' program will enable law enforcement officers to divert low-level drug users from arrest and directly into treatment in lieu of arrest and incarceration.

As the Whatcom County Prosecutor, I recognize that relapse is part of recovery. Deputy Prosecutors in my office shall exercise restraint in recommending sanctions for relapse and instead, recommend alternatives to incarceration whenever prosecutors determine that the community is not at risk, and that the alternatives may facilitate continued recovery for the person in treatment. For instance, prosecutors will be encouraged to not seek to incarcerate people for a first drug relapse while they are on probation. Consequences may follow for later relapses to encourage people to engage in and continue with treatment.

School to Prison Pipeline / Juveniles

In Juvenile court, deputy prosecutors shall embrace the two mandatory diversions and consider additional reasonable diversion opportunities as appropriate. Diversion permits juveniles to be held accountable for their crimes in a manner that seeks to address underlying causal issues as an alternative to traditional prosecution. Successful participation in a diversion program permit juveniles to avoid conviction. Our office will also work with schools and law enforcement to promote interventions and programs to address adolescent behavior that will keep students in school, instead of expelled.

Re-Entry

I believe that after incarceration people should be allowed to meaningfully participate in society by returning to work and becoming productive community members. For that reason, deputy prosecutors will support vacating and sealing of records when people meet the qualifications to do so. Additionally, I will support re-entry and appropriate programming legislation.

When people don't have the ability to pay for their license to be reinstated but still need to drive to get to work, go to school, or take care of kids, they are at risk of being pulled over and charged with driving with a suspended license in the third degree (DWLS 3). I intend to work with law enforcement on alternatives to prosecution for persons charged with DWLS 3 and I will promote legislation that addresses this important issue.

Data and Transparency

Accountability to the community is a priority for my office. I plan to collect and provide data on the Whatcom County Prosecutor web page to increase transparency and to show the community how we are progressing in making effective changes in our criminal justice system. I believe it is time to bring the Prosecutor's office to the people through open communication. Continued community engagement with stakeholders, community members, and impacted individuals remains a priority for me and will be reflected in the policies of my office.

Diversity, Equity, Inclusion

My office will examine relevant data as available to evaluate if any of our office practices and policies compound racial and socioeconomic disparity and make any necessary changes to reduce those inequalities. I am committed to making the Whatcom County Prosecutor's office more diverse so as to best represent and serve the people of Whatcom County. I will strive to make sure the manner in which we hire, retain and promote is fair.

Culture of Learning

I will promote a culture of learning in my office. Ongoing training and education for implicit bias, diversity and equity training, trauma informed practices, effective response to crime, and leadership development opportunities will be sought by my office. Continuous learning in these areas will be an expectation for all staff. Supporting these training opportunities for my team will ensure we are continually providing excellent, research-informed services to our community.

A Foundation for Change

These recommendations are not meant to be an exhaustive list but rather to provide an outline of my vision for the Whatcom County Prosecutor's Office and criminal justice system. The cases, circumstances, and laws that we deal with are complicated and there may be times when these generalities will not apply. When we can support diversion and alternative programs that reduce recidivism through rehabilitation, we will create a safer community, achieve meaningful change in our criminal justice system, and save money. Our commitment to community safety and accountability for victims of crime will never falter, and we are committed to seeking justice through our actions and initiatives. This is a starting point – an invitation for further dialogue and engagement; a vision for thoughtful change; and a foundation built on diverse community input, values, and hopes for what our criminal justice system can and should aspire to.



After elected as Whatcom County's new Prosecuting Attorney, Eric Richey appointed a team of leaders from the Public Defender's and Prosecutor's offices, law enforcement, criminal justice stakeholders, Whatcom County Council, Bellingham City Council, and the legal community to work together on key policy changes and to write the platform for prosecutorial change. The team meets to assist with ongoing reforms and program development. As the platform is turned into on-the-ground policy and rule changes, additional community members and criminal justice stakeholders will be involved. The team's overarching goal is to protect the community, save taxpayers money, and reduce incarceration.

April Barker, Bellingham City Council
Kirsten Barron, Attorney
Barry Buchanan, Whatcom County Council
Heather Flaherty, Chair, Community Member
Karen Frakes, Chief Civil Deputy Prosecuting Attorney
David Graham, Senior Deputy Prosecuting Attorney
Darrin Hall, Senior Deputy Public Defender

Transition Team Members

Stephen Jackson, Deputy Public Defender
Lisa McShane, Communications Chair, Community Member
Kevin Mede, Sergeant of Detectives, Whatcom County Sheriff's Office
Claudia Murphy, Lieutenant, Bellingham Police Department
Erik Sigmar, Chief Criminal Deputy Prosecuting Attorney
Kimberly Thulin, Senior Deputy Prosecuting Attorney

A special thank you to everyone who contributed to this platform through sharing your ideas, your visions, your hopes, and your support. To our law enforcement, elected officials, community leaders, criminal justice experts, and concerned citizens, a sincere thank you for sharing your insights and expertise through this transition process. Most importantly, thank you to the people of Whatcom County for electing me to serve as your Prosecutor. I look forward to engaging with you in the path ahead.

Eric Richey

