Collateral Consequences

The highest duty of the prosecutor is to ensure that both the charges and ensuing punishment fit the crime. Collateral consequences are the inevitable product of criminal behavior. It is not generally the duty of a prosecutor to mitigate the collateral consequences to a defendant of his or her crime. However, in those cases where the collateral consequences are significantly greater than the punishment for the crime itself, it is incumbent upon the prosecutor to consider and, if appropriate, take reasonable steps to mitigate those collateral consequences. If a defendant is charged with a serious or violent felony pursuant to Penal Code §667.5 or Penal Code Section 1192.7, any modification due to alleged collateral consequences is presumptively inappropriate. In those cases where a prosecutor mitigates either a charge or sentence in order to ensure a just resolution, the prosecutor should ensure that the totality of the resolution remains equitable with that offered to other similarly situated defendants. In other words, the facts of each case must be carefully evaluated to ensure equality and justice. If a significant change is contemplated, this should be discussed with the prosecutor’s SuDDa. It is important to note that there are legal restrictions on a prosecutor’s right to negotiate certain types of offenses. (Penal Code section 1192.7 or P.C. 667.5(c)....") We shall act within the bounds of those limitations.