

Connecticut Prosecutors: Factors in Decision Making



Disclaimer!

- This presentation does not constitute legal advice regarding any case.
- The Rules of Professional conduct prohibit me from discussing any pending case.
- This presentation is intended to be a general discussion of our agency and our role and not an in-depth analysis of CT's statutes and case law.





Division of Criminal Justice



Branches of Government

- Legislative
- Executive
- Judicial



Division of Criminal Justice

- CT Const. Art. 23, 1984
 - In charge of investigation & prosecution of all criminal matters



Division of Criminal Justice

- Chief State's Attorney
 - Administrative head of agency
- Two Deputy Chief State's Attorneys
 - Operations
 - Administration



13 State's Attorneys

One for each Judicial District

Appointed, not elected

8 year terms

+ Assistant State's Attorneys
(approx. 250)

- Judicial Districts
- Geographical Areas
- Juvenile
- Housing
- Appellate
- Post Conviction
- Asset Forfeiture
- Special Units



Division of Criminal Justice

- State's Attorneys
 - Independent
 - charging decisions
 - sentencing recommendations
- One agency for budget/administrative purposes



The Public Prosecutor

- 1705 - Connecticut First by Statute
- Replaced Private Prosecutors
- Responsibility to Do Justice



Investigation and Prosecution

- Conn. Const. and General Statutes:
- Division of Criminal Justice
 - In charge of every investigation
 - In charge of every prosecution
- State's Attorney Chief Law Enforcement Officer in his/her jurisdiction



Prosecutor's Duty

Justice



Differences Between Prosecutors and Other Lawyers

- Prosecutors

- Represent “the people”, not the victim or any other individual
- Oath of Office in addition to attorney’s oath
- Special Rules of Professional Conduct

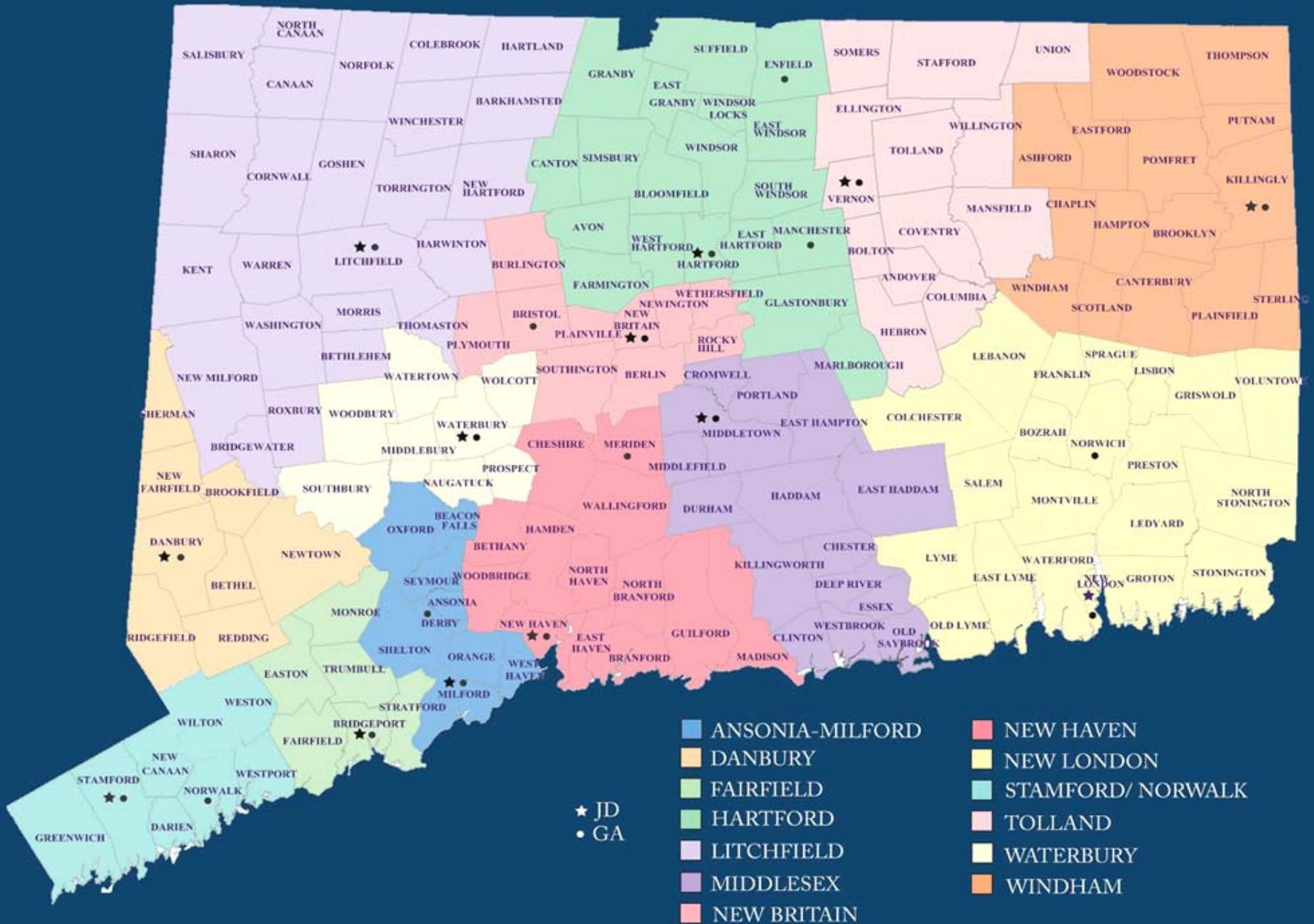
- Other Lawyers

- Represent one client at a time to best of abilities and for that client’s best interests



- Offices Open Monday through Friday
- Investigation and Response 24/7





Compare and Contrast Different GAs and JDs

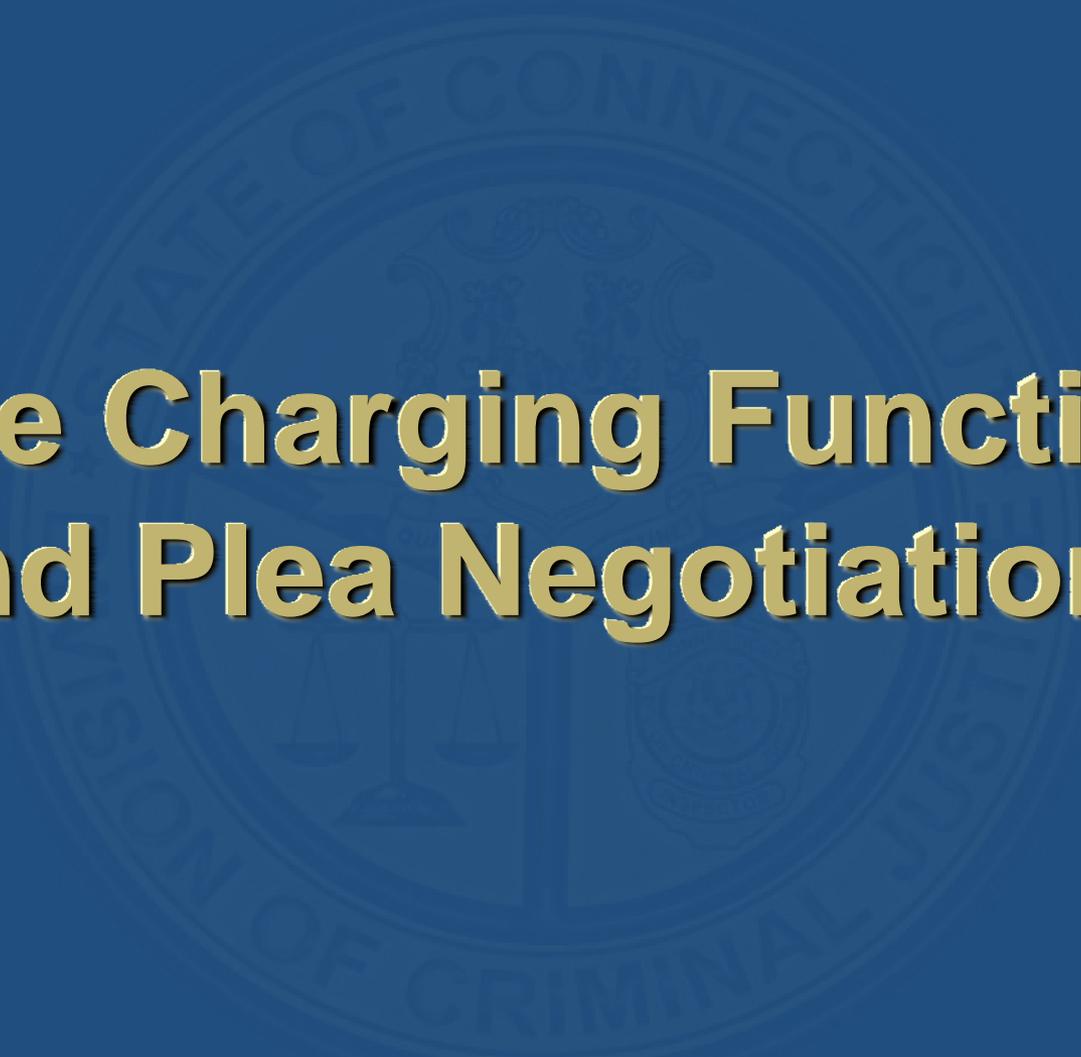
- **SIMILARITIES**

- Constitutions
- Statutes
- Rules of Professional Conduct

- **DIFFERENCES**

- Geographical
- Population
- Priorities based on Need





The Charging Function and Plea Negotiations

Prosecutor has discretion
who and what to charge

Decision is not unrestrained



The Charging Function

- Difficult and Complicated
- Requires Legal Experience and Training
- Impacts: Victims, Convictions, Sentencing, Release *and the people we serve*



3.8 Special Responsibilities Of the Prosecutor

No probable cause = no prosecution



NDAA Prosecution Standards



Some of the Factors to Consider:

- Nature of the offense
- Characteristics of Offender
- Possible Deterrent Value of Prosecution
 - To offender
 - To society in general



Some of the Factors to Consider:

- Probability of conviction
 - can we prove every element of every crime beyond a reasonable doubt?”
 - Do we have admissible evidence?
 - Are the witnesses able to testify?
 - Are the witnesses credible?



Some of the Factors to Consider:

- Interests of the victim
- Possible improper motives of victim or witness
- Age of the offense
- Mitigating Circumstances



In Other Words...

- Exercise discretion
- to bring only those charges
- Consistent with
- ***The interests of justice***



The Process

- Crime
- Investigation
- Arrest
- Arraignment
- Appointment of Counsel
- Not Guilty Plea
- Discussions
- Examinations
- Evaluations
- Continuances!!!
- Defendant's Options
- Trial



Defendant's Rights

- U. S. Constitution
- Connecticut Constitution
- Connecticut General Statutes
- Connecticut Appellate and Supreme Court Opinions
- Connecticut Rules of Professional Conduct



Rule 3.8

- **Assure accused's rights to counsel & pretrial proceedings**
- **Disclose to defense: exculpatory or mitigating information (and everything else we know!)**
- **Prevent non-lawyer staff from violating rules re publicity**



Crime and Punishment

- Misdemeanor
 - Not > one year/\$2,000
- Felony
 - > one year/Not >\$20,000 depending on class
- Capital Felony
 - Life Without Possibility of Release
 - Or
 - Death



Sentencing Possibilities

- Community service
- Fine
- Restitution
- Suspended sentence
- Jail
- death



Plea Bargaining

- Why?
- Same Factors



Victim's rights

- Right to communicate with Prosecution
- Right to be heard re: plea bargain and to make statement prior to acceptance of plea
- Right to make a statement at sentencing



Prosecutor's Role v. Judge's Role

- Charging decisions
- Advocate
- Sentencing Recommendations
- Can be Factfinder
- Neutral
- Sentencing Authority



And then there are The Juveniles...



What is a Juvenile?

- Currently less than 17 years old
- As of some date in the future, less than 18 years old



Juveniles Treated As Adults

- Connecticut General Statutes:
 - Automatic Transfer to Superior Court
 - Discretionary Transfer to Superior Court



Juveniles Treated As Adults

- Automatic Transfer
 - Capital Felony (murder +)
 - A Felony
 - B Felony
 - Or Arson Murder



Juveniles Treated As Adults

- Transfer Upon Motion of Juvenile Prosecutor & Order of Court
 - C Felony
 - D Felony
 - Unclassified Felony
 - AND...



Juveniles Treated As Adults

- A finding of probable cause to believe child committed act charged



Juveniles Treated As Adults

- Automatic or Discretionary ~
- Arraigned in courtroom closed to public
- File sealed from public for 10 days
- May be returned to Juvenile Court



"[The prosecutor] is in a peculiar and very definite sense the servant of the law. . . It is as much his duty to refrain from improper methods. . . as to use every legitimate means to bring about a just [conviction]."

Berger v. United States, 295 U.S. 78 (1935)

