

What is a Prosecutor?

The California District Attorney's Association (CDAА) description of a Prosecutor

The prosecutors of California work at the state (Attorney General), county (District Attorney), or local (City Attorney) level. The following paragraphs describe the general duties of California's prosecutors, the educational requirements for prosecutors, and some suggestions about finding a position as a prosecutor.

I. The Role and Duties of a District Attorney

Article 11 § 1(b) of the California State Constitution provides that the Legislature must provide each county, currently 58 in all, with an elected district attorney. Elections for the office of district attorney are held every four years at the same time as elections for the Governor, with the exception of Los Angeles and San Francisco counties. Candidates for the office must fulfill the educational requirements to practice law in California before running for election. Previous experience as a prosecutor is not required. Elected district attorneys serve four-year terms and are eligible for reelection.

By law, the district attorney is the chief law enforcement officer in the county. While a district attorney's duties are not limited to criminal prosecution, California Government Code § 26500 provides that the district attorney's most essential duty is investigating and prosecuting criminal offenses on behalf of the People. Although jurisdictions may differ somewhat, the following is a compilation of general duties of most district attorneys:

- **Investigation** - Works closely with police agencies toward investigation and trial preparation of civil and criminal prosecutions.
- **Grand Jury** - Presents evidence to the grand jury seeking indictments of criminal suspects. Additionally, the district attorney serves as legal advisor to the grand jury on criminal and civil matters.
- **Court Operations** - Prosecutes all misdemeanors and felonies before the state's trial courts. Generally, duties include deciding which cases to prosecute, presenting preliminary hearings, conducting court and jury trials, responding to motions, and organizing and executing extraditions.
- **Parental Child Abduction** - Investigates and prosecutes cases involving parental abductions of children.
- **Consumer and Environmental Protection** - Investigates and prosecutes both civil and criminal cases of consumer fraud and environmental harm. Consumer protection duties involve, among other things, false advertising and unlawful business practices. Environmental violations include, but are not limited to, hazardous waste issues, water pollution, fish and game violations, and oil and gas spills.
- **Official Misconduct** - Investigates and prosecutes public officials in violation of the law. May also, when necessary, investigate and prosecute cases of police misconduct within county and city police agencies.
- **Welfare Fraud** - Investigates and prosecutes individuals who fraudulently obtain public assistance.
- **Administrative Services** - Hires staff to provide budget, personnel, and data services to the office of the district attorney and keep records of criminal cases tried and other completed work.

II. The Role and Duties of the California Attorney General

The California Constitution requires the State to employ one Attorney General to be elected by the People. Elections for the office of Attorney General coincide with the state's gubernatorial election. The Attorney General serves a four-year term and is eligible for reelection for one additional term. In the event of an absence in the Office, the Governor may appoint a replacement to act as Attorney General for the remaining term of office. Candidates for office must be licensed to practice law in California five years prior to being elected or appointed.

The Attorney General is the chief law enforcement officer in the state. Pursuant to California State Constitution Article 5 § 13, the Attorney General has supervisory powers over the district attorneys of California's 58 counties. Additionally, the Attorney

General has the authority to assist district attorneys in the investigation, detection, and prosecution of criminal offenders. Overall, however, the primary responsibility of the Attorney General is to ensure that the laws of the state are uniformly and adequately enforced.

Besides supervising the criminal justice system, the Attorney General has important functions in civil law. The Attorney General is responsible for representing the state before the Supreme Court in any action brought against it. The Attorney General may also elect to represent the state in litigation brought by citizens involving boundary disputes and rights to possession of state land. The Attorney General is also responsible for the redemption of property subject to judgments, liens, or encumbrances.

III. The Role and Duties of a City Attorney/City Prosecutor

California's Government Code § 36505 authorizes a city council to appoint a city attorney if it feels the office is necessary. The city attorney is a city employee paid from public tax money at a rate allotted by the city.

The most common duties of a city attorney are: advising city officials on legal issues regarding city business, framing ordinances and resolutions required by legislation, prosecuting violations and arbitrating disputes of zoning ordinances, prosecuting city misdemeanors, and issuing subpoenas. The city council is also free to request other legal services of the city attorney as they become necessary. In certain jurisdictions, the city attorney or city prosecutor is responsible for prosecuting all misdemeanor crimes committed within the city.

IV. The Ethical Duties of Prosecutors

In administering justice, a prosecutor must abide by a strict code of ethics. A prosecutor must always strive to discover the truth while carrying out all official duties. Furthermore, a prosecutor must "keep abreast of the law and strive to improve the legal profession." (Professionalism Manual, CDAA, 1999). Additionally, the prosecutor must exercise the utmost professionalism as he or she is in the position of demonstrating ideal social behavior for others to follow.

At any level, the primary role of the prosecutor is to "investigate and prosecute impartially" criminal suspects on behalf of the People. Prosecutors should prosecute with "earnestness and vigor" while employing only "legitimate investigative techniques" to ensure that "guilt shall not escape or innocence suffer." (Berger v. United States (1935) 295 U.S. 78, 88.)

In carrying out their duties, prosecutors are required to follow statutory regulations imposed on them by California's Business and Professions Code § 6068 (a)-(d). These duties include upholding the federal and state constitutions and laws; respecting courts of justice and judicial officers; maintaining only such actions as appear to be legal or just; and employing only such means as are consistent with the truth and never seeking to mislead a judge or judicial officer.

V. Becoming a Prosecutor

The schooling required to become a prosecutor reflects the difficult challenges that prosecutors face during the course of their careers. Individuals seeking a position as a prosecutor must know the law, be able to apply the law, and effectively communicate to a jury.

The hiring process for prosecutors is highly selective and involves thorough screening. Prosecutors are charged with upholding the law and, as such, the positions must be filled with only the most qualified candidates.

A. Educational Requirements for Prosecutors

Individuals interested in becoming prosecutors must achieve a four-year bachelor's degree in any discipline from any four-year college. Good grades are essential to law school admittance. Next, the individual must graduate from law school. This process takes either three years of full-time study or four years of part-time study.

During both college and law school, individuals interested in becoming a prosecutor may wish to specialize in areas that prepare them for tasks performed by prosecutors in order to improve communication skills and gain familiarity with the criminal justice system. Possible areas of specialization in college include criminal justice, criminology, English, political science, or speech communications. Choosing a law school that offers a criminal law concentration is also extremely advantageous. During law school, individuals may consider taking Advanced Criminal Procedure and participate in trial advocacy and/or moot court.

B. Becoming an Active Member of the Bar

After completing law school, a candidate must pass the California Bar Exam, which spans three days and tests analytical reasoning and writing skills. Law school graduates often spend two to three months preparing for the Bar Exam. Individuals are also subject to a character evaluation before being admitted to practice law.

C. Application Process

Eligible candidates apply for a desired position as a prosecutor through a civil service system or directly through a district attorney's office, depending on the jurisdiction. A candidate should research the position he or she seeks and begin the application process by submitting an application or cover letter and resume.

After an application or a resume has been filed, a district attorney's office or the Attorney General's Office may administer tests to evaluate the potential of a prospective candidate. Such tests may include, but are not limited to, written examinations, medical examinations, oral interviews, and practical skills testing. Candidates are also subject to a thorough background check. Candidates successfully completing the hiring process may be hired immediately or placed on a waiting list if a position is not immediately available.

Individuals interested in becoming a city attorney must also fulfill the educational requirements to become an attorney in California. After law school, one should work in the private or public sector to gain experience and knowledge before seeking appointment by a city council.

The websites of district attorneys' offices, county administration offices, the California Attorney General's Office, and the California District Attorneys Association are good places to learn of job openings. In addition to information about available positions, these websites may also contain application forms.

With a high number of eligible candidates and a limited number of positions, securing a job as a prosecutor can be very difficult. Hard work and experience are crucial; diverse personal, educational, and professional backgrounds may also be sought in the hiring process.