

SPENCER COUNTY PROSECUTING ATTORNEY'S OFFICE
POLICY CONCERNING LAW ENFORCEMENT OFFICERS
WITH CRIMINAL CONVICTIONS

EFFECTIVE 11/16/2015

WHEREAS Prosecuting Attorneys possess broad discretionary powers concerning all aspects of the criminal process, including the filing of particular charges, the prosecution of a particular person, or commencement of a criminal investigation. Courts have no authority to order a prosecuting attorney to file charges if he or she refrains from doing so. The Indiana Court of Appeals has stated, "whether to prosecute at all and what charges to bring are generally decisions within the prosecutor's discretion."

WHEREAS it has been and shall continue to be the policy of the Spencer County Prosecutor's Office to make charging decisions in a fair, just and consistent manner based upon evidence, in accordance with the law and without regard to any individual's race, color, gender, political affiliation, national origin, age, religion, disability or sexual orientation.

WHEREAS the State of Indiana may be required to produce "[a]ny record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at [a] hearing or trial." *State ex rel. Keller v. Criminal Court of Marion Co.*, 317 N.E.2d 433, 434 (Ind. 1974).

WHEREAS having to produce such records with respect to a law enforcement witness could seriously jeopardize a criminal prosecution and subject the law enforcement officer to cross-examination with respect to records of prior criminal convictions.

WHEREAS the Spencer County Prosecutor's Office seeks to uphold the integrity of the criminal justice system in Spencer County and maintain public trust in the judicial process and those responsible for implementing it.

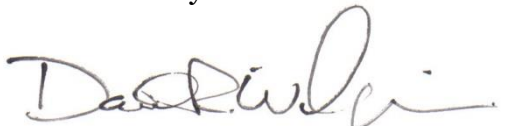
THE SPENCER COUNTY PROSECUTOR'S OFFICE THEREFORE ADOPTS THE FOLLOWING POLICY:

The Spencer County Prosecutor's Office will not prosecute any criminal charge or violation of probation/community corrections conditions in which an officer meeting any of the following criteria made an arrest, investigated the matter, or had other direct involvement in the investigation of the matter:

1. Has any felony conviction;
2. Has one (1) or more convictions for any crime of domestic or family violence in the past ten (10) years;

3. Has one (1) or more convictions for any offense in which force, threat of force, or communication of any threat is an element in the past (10) years;
4. Has one (1) or more convictions of any offense involving firearms;
5. Has one (1) or more convictions for any crime of dishonesty in the past ten (10) years (e.g., theft, conversion, forgery);
6. Has one (1) or more convictions for offenses in which violation of a court or administrative order is an element in the past 10 years (i.e., invasion of privacy, driving while suspended);
7. Has one (1) or more conviction for any offense committed while on duty as a law enforcement officer or in any way directly connected to the individual's capacity as a law enforcement officer (i.e., official misconduct, theft of evidence, abuse of authority, misappropriation of funds, false informing, perjury, etc.);
8. Has used any illegal drug within the past two (2) years;
9. Has ever engaged in the sale, dealing or manufacture of any controlled substance;
10. Has more than five (5) traffic violations in the past five (5) years;
11. Has a conviction for driving under the influence of alcohol or drugs in the past two (2) years or more than one (1) such conviction in a lifetime regardless of whether the conviction was reduced as the result of a "first offender" or deferral program;
12. Has three (3) or more criminal convictions of any kind during an individual's lifetime; or
13. Was dishonorably discharged from any branch of the military service.

This policy shall apply with respect to all law enforcement officers and agencies operating within Spencer County and shall apply regardless of the expungement status of any conviction.



Daniel R. Wilkinson
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84th Judicial Circuit, Spencer County

11.16.15

Date