

# **The Office of the Attorney General - Criminal Department – Policies (Updated 1/15/2026)**

## **Investigative Case Intake Protocol**

To submit a criminal complaint to the Office of the Utah Attorney General (OAG), a complainant must contact the Criminal Investigations Division (CID). Contacting CID will allow for proper logging, review, and tracking of any criminal complaints.

To file a criminal complaint with the OAG CID, the complainant must file this directly with Special Investigations at (801)281-1200 or [aginvestcomplaints@agutah.gov](mailto:aginvestcomplaints@agutah.gov). Any criminal complaint must include the following:

1. The name, phone number, and email address of the requesting party.
2. A summary of the complaint.
3. Any supporting documentation the requesting party would like to be considered during the complaint review process.
4. If the complaint has been filed with another law enforcement agency, the complainant should indicate that when filing their complaint with the OAG CID. This ensures de-duplication of investigative and prosecutorial efforts.

Providing this information through this process allows for the criminal complaint to be adequately logged, reviewed, tracked, and responded to by the CID. Any criminal complaints provided to the Office in any other capacity will not be deemed a “complaint” and will not be investigated or reviewed for prosecution.

## **Complaint Submission from a State Agency or Law Enforcement Agency**

The purpose of this protocol is to address state agency or law enforcement agency (combined “state agency”) complaint submission to the OAG CID. This will allow for proper logging, review, and tracking of complaint disposition.

If a state agency would like to file a criminal complaint with the OAG CID, that complaint will be filed directly with the Special Investigations Captain at 801-281-1200 or [aginvestcomplaints@agutah.gov](mailto:aginvestcomplaints@agutah.gov). The complaint will include the following:

1. The name, phone number, and email address of the requesting party.
2. A summary of the complaint.
3. Any supporting documentation the requesting agency would like to be considered during the complaint review process.

This will allow for the complaint to be adequately logged, reviewed, tracked, and responded to by the OAG CID. Any complaints submitted by a state agency to OAG CID will be given priority in the review process.

Any criminal complaint provided to the OAG in any other capacity will not be deemed a “complaint.” Accordingly, referrals to Assistant Attorney Generals (AAGs) are not considered a “complaint” by the OAG (even if those AAGs are part of the Criminal Department). All criminal complaints, by any state agency, must be referred to the OAG CID.

### **Conflict Referral Submission from a County Attorney**

The purpose of this protocol is to address county attorney referral submission to the OAG CID. This will allow for proper logging, review, and tracking of complaint disposition.

If a county attorney has a conflict case that they would like to have reviewed, they may send the information directly to the Special Investigations Captain at 801-281-1200 or [aginestcomplaints@agutah.gov](mailto:aginestcomplaints@agutah.gov). They must also contact the Criminal Deputy Attorney General (every County Attorney has the CDAG’s cell phone and email) and the Chief of Investigations. Any referral review request should include the following:

1. The name, phone number, and email address of the County Attorney.
2. A summary of the referral for review.
3. Any supporting documentation the County Attorney would like to be considered during the referral review process.

This will allow for the referral to be adequately logged, reviewed, tracked, and responded to by the OAG CID. Any referral submitted by a County Attorney to OAG CID and the CDAG will be given priority in the referral review process.

### **First Degree Felony Review Submission Protocol**

#### *Overview*

In 2019 the Utah Legislature passed HB 281 (Utah Code Ann. § 67-5-1(2)(b)-(e)). The law authorizes the Office of the Utah Attorney General (OAG) the authority to conduct a *de novo* review and, if warranted, file criminal charges in any case involving a First-Degree Felony if the county or district attorney declines to file criminal charges or fails to timely screen a case for criminal charges after a request for a screening from a law enforcement agency. The law also mandates that the county or district attorney and any law enforcement agency involved in the investigation, within 14 days of a request from the OAG, provide to the OAG for their review all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation. County and district attorneys and any law enforcement agencies should, when a case is declined, notify first-degree felony victims of their right to request a review.

#### *Submission Process for County Attorneys or Law Enforcement*

Any victim of a First-Degree Felony offense may directly or through a representative request a review. Requests may be submitted to the First-Degree Felony Review Team (Team) by email to Felony Review Unit at [felonyreview@agutah.gov](mailto:felonyreview@agutah.gov). Victims may also contact OAG Victim Services Unit at [victimservices@agutah.gov](mailto:victimservices@agutah.gov) or OAG Constituent Services at [uag@agutah.gov](mailto:uag@agutah.gov). The request need not contain details of the allegations, and it is preferable that they do not. The

request for review should only contain the following information: 1) Name of the victim; 2) Name of the Suspect; 3) The charges that were declined (e.g. Rape, Murder, etc); 4) The law enforcement agency that conducted the initial investigation; and 5) The county or district attorney's office that declined to file charges, and any corresponding case numbers.

When a case is referred, the matter will be assigned to an attorney that is part of the Team. The OAG Investigations Division and Victim Services Unit is notified and assists in the review. Pursuant to Utah Code Ann. § 67-5-1(2)(c), the Team will gather any and all files and evidence related to the allegations. More specifically, the Team gathers all files and evidence from the law enforcement agencies involved in the initial investigation and the prosecutor's office which declined to file the case. Additionally, the Team: 1) utilizes court process, including subpoenas and search warrants, to obtain other evidence and information that may be needed in connection with our review; 2) conducts any additional/follow up investigation that may be necessary (including witnesses interviews); and 3) presents the results of the review at a formal screening before a panel of experienced prosecutors, investigators, support staff and supervisors. To the extent relevant, subject matter experts are involved in the review and screening process, commonly referred to as a Multidisciplinary Team or MDT. After a formal screening, if the OAG believes that charges are warranted, the OAG may file any appropriate criminal charges in the jurisdiction where the incident occurred, after consultation with the county or district attorney which declined prosecution (to reasonably ensure that the OAG prosecution would not interfere with any ongoing investigation or prosecution by that agency). *See*, Utah Code Ann. § 67-5-1(2)(b)(ii).

#### *Law Enforcement and County Attorney Records*

The OAG's request for the records from the law enforcement agencies involved in the initial investigation and the prosecutor's office which declined to file is **NOT** a GRAMA request. GRAMA refers to other provisions of state statutes that address access to government records. *See*, Utah Code Ann. § 63G-2-107(1)(a). Here, the disclosure of records to the OAG is governed by Utah Code Ann. § 67-5-1(2)(c)-(e). The law mandates that upon request, "the district attorney, county attorney, and law enforcement agency shall, within 14 days . . . provide the attorney general" with the requested records. Utah Code Ann. § 67-5-1(2)(c). The OAG may seek a court order if the district attorney, county attorney, or law enforcement agency fails to comply. *See* Utah Code Ann. § 67-5-1(2)(d).

#### *Submission Process Directly from Victims*

The felony review process is a victim-driven process. Any victim of a First-Degree Felony offense may request a review, either directly themselves or through a representative.

Requests should be submitted to the First-Degree Felony Review Team (Team) by email to Felony Review Unit at [felonyreview@agutah.gov](mailto:felonyreview@agutah.gov). Victims or their representative may also contact the AGO Victim Services Unit at [victimservices@agutah.gov](mailto:victimservices@agutah.gov) or the OAG Constituent Services at [uag@agutah.gov](mailto:uag@agutah.gov). The request need not contain details of the allegations, and it is preferable that they do not.

The request for review should only contain the following information:

1. Name of the victim;
2. Name of the Suspect;
3. The charges that were declined (e.g. Rape, Murder, etc);

4. The law enforcement agency that conducted the initial investigation; and,
5. The county or district attorney's office that declined to file charges, and any corresponding case numbers.

When a case is referred by a victim or their representative, the matter will be assigned to an attorney that is part of the Team. The OAG Investigations Division and Victim Services Unit will also be notified and assist in the review. The Team will gather any and all files and evidence related to the allegations. The Team may do further investigation, through court process (subpoenas and search warrants) and/or conduct additional/follow-up investigation (including witness interviews) that the Team deems necessary for its investigation and analysis of the case. The Team will present the results of its review at a formal screening before a panel of experienced prosecutors, investigators, support staff and supervisors. After a formal screening, if the OAG believes that charges are warranted, the OAG may file any appropriate criminal charges in the jurisdiction where the incident occurred, after consultation with the county or district attorney which declined prosecution. During this process, the victim(s) or their representatives will be reasonably informed as the investigation stages and the ultimate results of the formal screening.

### **Declination Protocol**

If a complaint has been referred to OAG CID, and the case investigation has been declined, the OAG CID will inform the complainant in a timely manner, either by email, letter, call, or an in-person meeting. If a complaint is accepted for investigation, the complainant will not be notified, as the OAG does not comment on pending investigations.

If the complaint has been accepted for investigation, it may still not ultimately be accepted for prosecution. If the complaint is accepted for prosecution, the complainant will be notified prior to filing of an Information and Probable Cause Statement, absent exceptional circumstances. Exceptional circumstances includes not wanting to notify the defendant beforehand for officer safety, evidence destruction concerns, obstruction concerns, or other considerations. If the complaint is declined for prosecution, the prosecutors will inform the complainant via email, letter, call, or in-person meeting.

**Standards for Prosecution:** The OAG prosecutor should commence or recommend prosecution if they believe that the defendant's conduct constitutes a state offense, and that the admissible evidence will probably be sufficient to obtain and sustain a conviction, unless (1) the prosecution would serve no substantial state interest; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate non-criminal alternative to prosecution. They must believe that the defendant will more likely than not be found guilty beyond a reasonable doubt by an unbiased trier of fact and that the conviction will be upheld on appeal. The OAG prosecutor and investigators need not have in hand, at that time of determination, all of the evidence upon which they intend to rely at trial, if they have a reasonable and good faith belief that such evidence will be available and admissible at the time of trial.

## **Screening Protocol**

The OAG Criminal Department will generally screen cases for prosecution in a timely manner. It is important to ensure justice to victims of crime by seeking a screening for a case as soon as the evidence has been sufficiently developed to demonstrate a likelihood of success on the merits of the case.

All cases that have live and identifiable victims should be screened in a screening meeting with the Section Director, Division Director, Chief of Investigations, and the Criminal Deputy Attorney General (“Division Leadership), if available. Any cases that do not have live and identifiable victims may not require an in-person screening with Division Leadership (an in-person screening is optional), but must still adhere to the principles discuss above, including the “standards for prosecution.”

## **Discovery Policy**

Criminal discovery should be provided to defense counsel in a timely manner. Generally, as soon as discovery is ordered by the Court, the prosecutor should make arrangements to provide that discovery. Good practice is to have the discovery ready to be provided to defense counsel prior to the filing of an Information and Probable Cause Statement in the case, if this is practicable.

Discovery should generally be provided to defense counsel in a reasonable manner. Most of the time, that will mean that the discovery should be provided to the defense counsel in the manner that it has been received at the OAG. Voluminous discovery is now becoming the norm in many cases, especially in white collar and fraud cases. Thus, the prosecutor and paralegal/legal assistant shall endeavor to structure the discovery in a manner that provides access to the electronic discovery for the defense counsel in a reasonable and helpful manner. Prosecutors or paralegals/legal assistants are not required to provide discovery in an exact manner as requested by defense counsel; they are only required to provide discovery in a manner that is appropriate and reasonable.

The use of Everlaw and FileVine for discovery production and organization is encouraged. Reasonable organization of discovery is expected and encouraged as well. Making reasonable efforts to structure and organize discovery in an understandable manner should be the norm to the extent both practicable and sensible.

## **Brady/Giglio Policy**

Utah Rule of Criminal Procedure 16(a)(4) requires prosecutors to disclose “evidence known to the prosecutor that tends to negate the guilty of the accused, mitigate the guilt of the defendant, or mitigate the degree of the offense for reduced punishment.”

Government disclosure of material exculpatory and impeachment evidence is part of the constitutional guarantee to a fair trial. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Giglio v. United States*, 405 U.S. 150, 154 (1972). The law requires the disclosure of exculpatory and

impeachment evidence when such evidence is material to guilt or punishment. *Brady*, 373 U.S. at 87; *Giglio*, 405 U.S. at 154.

Because these are Constitutional obligations, *Brady* and *Giglio* evidence should be disclosed regardless of whether the defendant makes a request for exculpatory or impeachment evidence. *Kyles v. Whitley*, 514 U.S. 419, 432-33 (1995).

**Materiality and Admissibility.** Exculpatory and impeachment evidence is material to a finding of guilt—and thus the Constitution requires disclosure—when there is a reasonable probability that effective use of the evidence will result in an acquittal. *United States v. Bagley*, 475 U.S. 667, 676 (1985). OAG prosecutors should generally take a broad view of materiality and err on the side of disclosing exculpatory and impeaching evidence. *Kyles*, 514 U.S. at 439. This policy encourages prosecutors to err on the side of disclosure if admissibility is a close question. Due process requires that disclosure of exculpatory and impeachment evidence material to guilt or innocence be made in sufficient time to permit the defendant to make effective use of that information at trial. *See, e.g. Weatherford v. Bursey*, 429 U.S. 545, 559 (1997). In most cases, the disclosures required by the Constitution and this policy will be made in advance of trial.

Release of potential impeachment materials to defense counsel does not constitute a stipulation by the OAG that the information is admissible at any hearing or at trial. Some, or all of the, material that is disclosed may be found inadmissible at any pre-trial hearing or a trial. The OAG specifically does not indicate that such material produced is either relevant or admissible, and may seek to not have it introduced in any form at trial.

### **“Queen for a Day” (Investigative Proffer) Protocol**

There may be times where a defendant is willing and able to provide useful information to OAG investigators or prosecutors and has an interest in debriefing. The OAG follows the “Queen for a Day” model and will provide a standard debriefing form. This form will not be altered in any way. The form will outline the parameters of the debrief and will be signed by both the defendant and their defense counsel. The form will be copied, scanned, and kept in the prosecutor’s files (usually FileVine), and a copy will also be provided to the defendant’s counsel. No other dissemination of this form is appropriate unless ordered by the Court.

The parameters for a “Queen for a Day” proffer will include the following:

(1) During the proffer, Defendant agrees to provide accurate, truthful, and complete information, and not to withhold any information concerning the matters about which the OAG inquires. If Defendant declines to answer any question posed during the course of the proffer, the OAG may terminate the proffer at that time.

(2) Should any prosecutions be brought against Defendant by the OAG, the OAG will not offer as evidence in its case-in-chief any statement made by Defendant at the meeting, except in a prosecution for false statements or perjury.

(3) Notwithstanding paragraph (2), (a) the OAG may use information derived directly or indirectly from Defendant's statements at the proffer meeting for the purpose of obtaining leads to

other evidence, and if any such evidence is developed, it may be used in any prosecution of Defendant; and (b) should any prosecution of Defendant be undertaken, the OAG may use statements made by Defendant at the meeting and all evidence obtained directly or indirectly therefrom for the purpose of cross-examination should Defendant testify, or to rebut any evidence offered by or on behalf of Defendant in connection with the prosecution.

(4) This agreement is limited to the statements made by the Defendant at the meeting held on this date of the proffer meeting, and does not apply to any oral, written or recorded statements made by Defendant at any other time. No understandings, promises, agreements, or conditions have been entered into with respect to the proffer meeting other than those set forth in this agreement, and none will be entered into unless in writing and signed by all parties.

Specifically, for Internet Crimes Against Children (ICAC) investigations and prosecutions, the following parameters will be applied for “Queen for a Day” proffers:

(1) During the proffer, Defendant agrees to provide accurate, truthful, and complete information, and not to withhold any information concerning the matters about which the OAG inquires. If Defendant declines to answer any question posed during the course of the proffer, the OAG may terminate the proffer at that time.

(2) In any prosecutions be brought against Defendant by the OAG, the OAG will not offer as evidence in its case-in-chief any statement made by Defendant at the meeting, except in a prosecution for false statements or perjury. Further, admissions made by Defendant during this meeting will not be used to institute a new criminal case by the OAG, nor will any information or evidence derivatively obtained from this meeting be used in prosecution by the OAG.

(3) Notwithstanding paragraph (1), no restrictions for use of statements or evidence shall exist for:

(a) any information disclosed by Defendant regarding previously undisclosed production of child pornography or child sex abuse material (CSAM) or any derivative information obtained therefrom;

(b) any information disclosed by Defendant regarding previously undisclosed criminal actions set forth in Utah Code Title 76, Chapter 5, Part 4 or any derivative information obtained therefrom;

(c) any statements made by Defendant which are unsolicited by the investigator or any derivative information obtained therefrom.

(4) Should any prosecution of Defendant be undertaken, the OAG may use statements made by Defendant at the meeting and all evidence obtained directly or indirectly therefrom for the purpose of cross-examination should Defendant testify, or to rebut any evidence offered by or on behalf of Defendant in connection with the prosecution.

(5) This agreement is limited to the statements made by Defendant at the meeting held on this date, and does not apply to any oral, written or recorded statements made by Defendant at any other time. No understandings, promises, agreements, or conditions have been entered into with

respect to the meeting other than those set forth in this agreement, and none will be entered into unless in writing and signed by all parties.