



# LEARNING YOUR RIGHTS



## THE ROLE DIRECTORATE OF PUBLIC PROSECUTION OF ADMINISTRATION OF CRIMINAL JUSTICE

Produced by: Street Law (Uganda)  
Plot 5, Princess Avenue, Nakasero  
P. O Box 16692 KAMPALA-UGANDA  
Tel: 256-414 347550  
Tel: 256 782 – 851111  
E-mail: [streetlaw@utlonline.co.ug](mailto:streetlaw@utlonline.co.ug)



Funded by:  
Open Society Initiative For East Africa  
P. O. Box 2193-00202 NAIROBI-KENYA  
ACS Plaza, Lenana Road

## FOREWORD

The National effort of creating awareness of our human rights and civic duties requires us to continuously educate ourselves and the general public on those aspects of the law touching the promotion, respect and protection of human rights. These series aim at exactly doing that.

Street Law (Uganda) is fully committed to the promotion and defence of human rights through civic education. That is the rationale behind the production of the materials in the “Learning your Rights Series”. The objectives are in accordance with the Organisation’s mission of working for the promotion of the rule of law, democracy and human rights in Uganda. It is a mission shared with the entire family of Street Law organizations in the individual countries in the continents of North America, South America, Europe and other countries in Africa.

We hope in the nearest future to translate these pamphlets into the major Ugandan languages so as to reach a vast number of the population who can not read and write the English language.

It is our hope that this effort will have a far reaching impact on the promotion, respect and protection of human rights in Uganda by both the State and non-state actors.

Street Law (U) is grateful to the Open Society Initiative For East Africa who funded this project. Street Law (U) values the partnership with OSIEA.

Solomon Webalearaali  
EXECUTIVE DIRECTOR

## INTRODUCTION

The Directorate of Public Prosecutions is a public office. It is established under Article 120 of the constitution of Uganda. The Directorate is responsible for the handling and prosecution of all criminal cases in the country. The directorate has power to direct the police to investigate any information of a criminal nature and report back to the Directorate. The head of the Directorate is the Director of Public Prosecutions (DPP).

The Director of public Prosecutions (DPP) is appointed by the president on the recommendation of the public service Commission with the approval of parliament. According to the provisions of the Constitution, the director of public prosecutions is completely independent and not subject to the control of any person in the exercise of his or her duties. Once appointed he or she is not subject to removal like any other civil servant. He or she enjoys security of tenure. Security of tenure in the office gives him or her confidence to act independently without fear of removal in case his or her decision is not popular with the appointing authority. Thus, in carrying out his or her duties, the Director of Public prosecutions is as independent as judges in their judicial functions.

The DPP is assisted by two Deputy DPPs and two Assistant DPPs. Other officers of the Directorate include Principal State Attorneys, Senior State Attorneys, Resident state Attorneys, State Attorneys and State Prosecutors. All State Attorneys are persons qualified to be Advocates of the High Court of Uganda while State Prosecutors are by men and women but who have undertaken a Diploma in Law and in prosecution from the Law Development Centre.

## Functions of the Directorate of Public Prosecutions.

The functions of the Directorate of Public Prosecutions are laid out in Article 120(3) of the Constitution of the Republic of Uganda and these are;

- (a) To direct the police to investigate any information of a criminal nature and report to him or her expeditiously;
- (b) To institute criminal proceedings against any person or authority in any Court with competent jurisdiction other than a Court martial;
- (c) To take over and continue any criminal proceedings instituted by any other person or authority;
- (d) To discontinue at any stage before judgment is delivered, any criminal proceedings to which this Article relates, instituted by himself or herself or any other person or authority; except that the Director of Public Prosecutions shall not discontinue any proceedings commenced by another person or authority except without the consent of the Court;

## The role of prosecutors in the Administration of justice.

Although the Director of Public Prosecutions (DPP) may appear in Court, he or she is not personally involved in the prosecution of every criminal case. Otherwise he would be overwhelmed by work. The Director of Public Prosecutions has officers under the Directorate of Public Prosecutions responsible for the day-to-day prosecution of criminal cases in all categories of Courts throughout the Country. These officers are called prosecutors. Their work is to prosecute criminal cases on behalf of the Director of Public Prosecutions.

The prosecutors' primary function is to assist the Court in arriving at a fair and just decision and, in the event of a conviction, a fair sentence based upon the evidence presented. According to our legal system, prosecutors represent the Republic of Uganda in criminal trials. In this capacity, they are supposed to ensure that the interest of victims and witnesses are promoted, without negating their obligation to act in a balanced and honest manner.

The work of prosecutors includes:-

- The institution of criminal proceedings against accused persons;
- The withdrawal of charges (stopping the prosecution) where evidence is

insufficient or the case is not in public interest;

- Representing the state in hearing applications for bail by an accused who is in custody following arrest;
- Deciding which offence to charge an accused with and in which Court the trial should proceed;
- Appealing or defending appeals filed in a higher Court when the state loses a case.
- Advising the police and complainants including the general public on how to deal with certain aspects of criminal proceedings e.g how to deal with an exhibit, which witness is to be summoned etc.
- Being officers of Court, they also play a role in sensitizing the masses about criminal law and proceedings and the DPP's role therein.

It should be noted however that in as much as the prosecutors do more or less similar work as the D.P.P, under Article 120(4) b the function of discontinuing criminal proceedings must be exercised by the D.P.P exclusively i.e he / she cannot delegate.

### **Making a decision to prosecute or not to prosecute**

The process of arriving at a decision whether to prosecute or not starts with police receiving information or a complaint that an offence has been committed. The police then proceeds to investigate the offence. Once the police is through with their investigations and is convinced that an offence has been committed, they send the file to the office of the DPP or his or her representative for further professional advice. If the DPP forms the opinion that no offence has been committed, the file will be closed. However, if the DPP or his or her representative establishes that the file discloses an offence, he or she will direct police to produce the suspect in Court so that he or she is prosecuted. This is called sanctioning. In that case the suspect is produced in Court and asked to plead to the offence he or she is charged with. The procedure of the trial is discussed in detail in the booklet on the criminal trial and sentencing process of these series.

In some cases, the DPP takes the initiative to ask police to carry out investigations on receiving information that an offence has been committed. He may also direct the police in case he or she feels that certain information is lacking to

undertake further investigations in that respect.

The decision whether or not to prosecute is taken with care, because it may have serious consequences for victims, witnesses, suspects and their families and relatives. A wrong decision may undermine the public's confidence in the office of the D.P.P. A decision whether to prosecute or not should be taken expeditiously especially where the suspect has already been arrested.

In deciding whether or not to institute criminal proceedings, prosecutors first assess whether there is sufficient evidence to lead to sustain a conviction of the accused. In the absence of such evidence, a prudent prosecutor will not commence criminal proceedings against a suspect and this is the letter and spirit of their role to prosecute and not to persecute.

### **The relationship between the Judiciary and the Directorate of Public Prosecutions**

The office of the DPP is part of the Executive arm of government. It is charged with the duty of prosecution of criminal cases. In carrying out its mandate, the office of the DPP is independent of any authority. The DPP conducts prosecution in Courts of law on behalf of the public while defence lawyers defend persons charged with criminal offences in the same Courts of law. The Courts then make independent decisions after hearing evidence from both sides. As such the office of the Directorate of Public Prosecutions is not part of the Judiciary. The judiciary is itself of course the 3<sup>rd</sup> being parliament.

Though the Directorate is not part of the Judiciary, prosecutors are referred to as “officers of Court” and because they are officers of Court their role just as defence lawyers is to assist the Courts to arrive at just decisions. The judiciary is headed by the Chief Justice while the Directorate of Public Prosecutions is headed by the Director of Public Prosecutions.

## **The relationship between the Directorate of Public Prosecutions and the Police**

Under the Constitution of Uganda, the DPP may direct the police to investigate any information of a criminal nature and report to him or her the results expeditiously. The DPP also has power to direct the police to institute criminal proceedings against any person “or authority”. However, powers of the DPP do not mean that the police is under the DPP. The DPP and the Police are different organs of the Executive arm of government e.g the police is established under Article 211 of the Constitution and is headed by the Inspector General of Police who is also an appointee of the President just like the D.P.P. In simple terms the two organs are connected by the mere fact that both are engaged in enforcement of Law and Order. .

## **Whether the DPP can be of any help to the relatives or friends of a person arrested by police.**

The relatives, friends or any other concerned members of the public can lodge a written complaint to the DPP regarding any case of arrest by police. The office of the DPP can then call for the police file for perusal. If they find no evidence, then they advise police to release such a person or persons who may be subjects of wrongful arrest. In that regard the D.P.P plays an important role to the relatives or friends of a suspect.

## **The role of a complainant or victim during investigation and prosecution of a criminal case in a Court of law.**

During investigation, the complainant or victim of a criminal offence is expected, at the earliest opportunity to report the case to a Police Station in their area of commission of the offence. It is very helpful if in the report, the complainant or victim includes important details such as the identity (if available) of the suspect or description of the offender, scene of crime, other witnesses etc. Such information will help police to apprehend the offender or recover stolen property that may be used as exhibits during the trial.

During the trial, the complainant or victim is expected to respond to Court

summons by attending Court and to give evidence. The complainant is also expected to assist the police where he or she is in a position to do so. The assistance may include tracing the whereabouts of witnesses so that police can serve them with summons to enable them give evidence in Court. In most cases the victim or complainant is the prosecution's principle witness who must cooperate, otherwise the case may be frustrated.

### **Reconciliation of offenders and victims of criminal offences.**

In the Magistrates' Courts, a complainant or victim of a crime is allowed to reconcile with the offender in petty offences such as assault, affray, theft, receiving money by false pretence etc. However, in respect of cases triable by the High Court, the victim is not allowed to reconcile with the offender this is because those offences are of a grave nature. However, if for any reason the complainant or victim does not wish to continue with a case in the High Court or in lower Courts, he /she can notify the DPP who will study the notice and advise the complainant accordingly.

### **Complaints system within the Directorate of Public Prosecution.**

The Directorate of Public Prosecutions is a service provider in the administration of justice. Like any service providing institution, its clients may not always be satisfied with the system. For such cases, the system provides for a procedure of lodging complaints.

### **Who may lodge a complaint?**

Any member of the public may lodge a complaint with the Directorate of Public Prosecutions. The nature of the complaint may arise from dissatisfaction with the prosecution of a particular case, professional misconduct by the staff of the Directorate, bribery, extortion etc. Complaints may be made against any of the officials below.

- State Attorneys.
- State Prosecutors.
- Police officers (on matters related to investigation of criminal cases).
- Any staff member of the Directorate.



## The nature of complaints

Complaints against staff of the directorate or the police may be categorized as follows;

- Failure to prosecute a criminal case
- Poor prosecution e.g lack of interest in prosecuting a case, harassment of prosecution witnesses etc.
- Professional misconduct;
- Corruption.

### (a) failure to prosecute a criminal case

It has already been mentioned that in the prosecution of criminal cases, the Directorate of Public Prosecutions is not subject to the direction or control of anybody or authority. The DPP has officers under him/her who assist him/her in the prosecution of criminal cases. Among other duties, they make decisions on whether to prosecute or not after receiving case files from the police. State Attorneys or Prosecutors make decisions on whether to prosecute or not after reading case files. They will decline to prosecute where they are of the opinion that there is no evidence to sustain a case in Court. They may also decide not to prosecute a case where they think that it is not in public interest to do so. This power is called prosecutorial discretion.

However, this power can easily be abused. An offender may influence the State Attorney or Prosecutor not to prosecute the case. The offender may also be a close friend or relative of the officer charged with making the decision regarding prosecution. Such cases are good grounds for making a complaint against the Prosecutor.

### (b) poor handling of prosecution cases

An example of poor handling of prosecution cases may occur due to professional negligence or as a result of undue influence.

The law allows the officers to withdraw criminal cases from Court at any stage of the prosecution. The withdrawal must be based either on professional, technical or lawful grounds. However, because of undue influence, the prosecutor may withdraw the case.

Withdrawal due to undue influence is a good ground for a complaint.

**(c) professional misconduct**

This is conduct unbecoming or not compatible with the status of the officer of the Directorate. This may range from going on duty drunk or professional negligence. Where such conduct has an impact on the prosecution of a case, then it is a good ground for lodging a complaint.

**(d) Corruption**

This includes;

- (a) extortion of money from offenders or their advocates or even from the complainants.
- (b) obstruction of investigations because of monetary gains;
- (c) loss of police files;

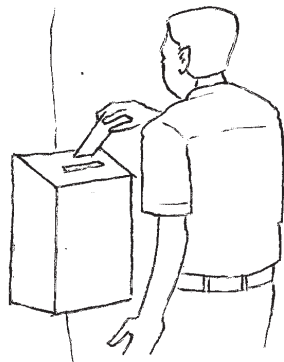
**Procedure for receiving complaints**

There are four ways in which complaints may be lodged with the Directorate. These are;

- (a) through suggestion boxes.
- (b) through their website.
- (c) personal appearance.
- (d) Writing to the Directorate of Public Prosecution.

### Suggestion boxes

All upcountry offices of the Directorate have suggestion boxes. A complaint may be written and dropped in these boxes. The officers upcountry cannot have access to the boxes. The keys of the boxes are kept by a senior officer of the Directorate at headquarters in Kampala. He/she often travels upcountry and opens the boxes and brings the complaints with him to Kampala for scrutiny.



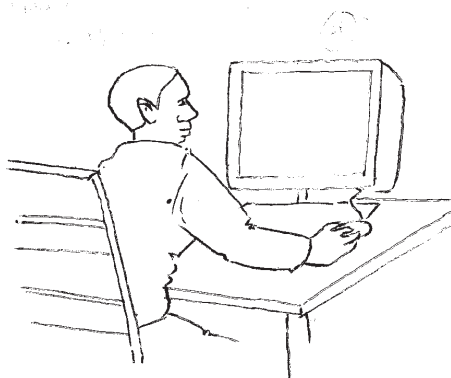
It is advisable that complainants give their names and addresses in case more information is required from them or even for replies. However, even complaints without names or addresses will be attended to.

### Written complaints:

A person may also lodge a complaint by writing to the Director of Public Prosecution.

#### Through the website

The Directorate has a website which is [www.dpp.gov.ug](http://www.dpp.gov.ug). The website has a page for lodging complaints. People who are computer literate may use this method to lodge their complaints. Those who are not computer literate can ask a computer literate person to help them send their complaint.



#### Personal appearance

A person may also lodge a complaint against an officer of the Directorate by personally appearing at the office of the Directorate of Public Prosecutions and making an oral complaint which may or may not be reduced into writing by the officers receiving the complaint.

In upcountry offices where the complaint is against a junior officer, a complaint may be made before a Resident State Attorney. However, where the person complained of is the Resident State Attorney himself/herself, then it is advisable that the complaint be taken to Headquarters in Kampala. There is a principle State Attorney in Kampala responsible for complaints from the public.

A person making a complaint orally may be asked to reduce it in writing and in case the complainant cannot write, then he or she will be helped by an officer of the Directorate to reduce the complaint into writing.

### **How to contact the Directorate of Public Prosecutions.**

The Directorate of Public Prosecutions has officers in most of the Districts of Uganda. The offices of the DPP in other places are referred to as Offices of the Resident State Attorney. You can always find out the location of offices of the Resident State Attorneys from the Court, Police, District Administration offices or any other Government office or from private lawyers since they may be conversant.

Street Law (Uganda)  
Plot 5, Princess Avenue, Nakasero  
P. O Box 16692 KAMPALA-UGANDA  
Tel: 256-414 347550  
Tel: 256 782 – 851111  
E-mail: [streetlaw@utlonline.co.ug](mailto:streetlaw@utlonline.co.ug)