2026; 2-5 | pp.197-203

Journal of International Law and Global Policy

ISSN: 3121-9462 (Online)
ISSN: 3121-9470 (Print)

Volume 2, Issue 5, October, 2026
(An Academians Publishers of Research & Academic Resources)

Original Research Article

Prosecutorial Direction and the Limits of Guided Investigation in Uganda

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Abstract: Article 120(3)(a) of Uganda's Constitution empowers the Director of Public Prosecutions (DPP) to direct the police to investigate information of a criminal nature and report expeditiously. The Prosecution-Guided Investigations Guidelines give that power an operational form, but their language of prosecutorial leadership and successful trials risks blurring the distinct functions of police investigator and independent prosecutor. Drawing on Kanaba Estates, Soon Yeon Kong Kim, Juma and Kituu, this article distinguishes the DPP's freedom to decide a case from the practical ability to obtain and test the facts on which that decision depends. It argues that Article 120(3)(a) offers a means to preserve the latter form of independence without transferring police coercive powers to the prosecutor or authorising executive control of investigative outcomes. The Guidelines' treatment of arrest, confessions and disclosure must also be reconciled with constitutional rights and later charging policy. A selective, recorded and reviewable model of direction would protect the completeness of the investigative record while preserving the prosecutor's freedom to decline a charge.

Keywords: *Prosecutorial independence; criminal investigation; Article 120; Uganda Police Force; disclosure; constitutional rights.*

1. Introduction

The Prosecution-Guided Investigations Guidelines (PGIG) address a genuine problem. A prosecutor who first sees a file after vital evidence has disappeared can identify the defect but cannot undo it. Early advice about the elements of an offence, preservation of electronic material and the testing of an alternative account can prevent that loss. The Guidelines therefore place prosecutors and police investigators in contact at the beginning of selected inquiries. Their legal foundation is expressly stated to be Article 120(3)(a) of the Constitution (Constitution of the Republic of Uganda, 1995, art. 120(3)(a); Office of the Director of Public Prosecutions [ODPP], 2023, ss. 1.1, 1).

The constitutional question is what the provision actually authorises. Its text permits the DPP to direct the police to investigate information of a criminal nature and report expeditiously. The PGIG, by contrast, describe the prosecutor as the leader of an investigating team, require involvement at every stage once PGIG is adopted and repeatedly orient the process towards a successful prosecution (ODPP, 2023, ss. 2.0, 2.2(ii)–(ix), 4–6; see also the Preface, ii). None of these statements is necessarily unlawful when read with care. Taken literally and together, however, they can obscure who collects and tests evidence, who may exercise coercive police powers, who judges the completed case and who answers when an inquiry violates a right. The danger is particularly acute when a person is in custody, police officers themselves are implicated, or the case attracts political attention.

This article reads the PGIG with Articles 2, 23, 24, 27, 28, 42, 44, 120 and 211 to 213 of the Constitution, the ODPP's later Guidelines on the Decision to Charge 2023 (ODPP, 2023), and decisions on fair trial and investigative independence (Constitution of the Republic of Uganda, 1995, arts. 2, 23, 24, 27, 28, 42, 44, 120, 211–213; ODPP, 2023, paras. 1.4.1, 2.1.3–2.1.6, 2.3.1). It advances a simple proposition. Prosecutorial involvement is constitutionally valuable when it keeps an investigation open to the truth and preserves the

Received: 25 August, 2026; Accepted: 28 September, 2026; Available Online: 16 October, 2026
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prosecutor's ability to reject the police theory, including in cases that draw the attention of a minister. The Guidelines should be interpreted and revised on that basis.

2. The Constitutional Power and Its Institutional Boundaries

Article 120(3)(a) uses four significant elements. The DPP may direct; the addressee is the police; the object is investigation of any information of a criminal nature; and the police must report expeditiously (Constitution of the Republic of Uganda, 1995, art. 120(3)(a), (5)). The object is information, not an already proved offence or a completed police file. A complaint that a detainee has disappeared, that a police officer has coerced a confession, or that evidence points to an official previously treated as a witness can therefore call for direction before any prosecution is contemplated. The provision gives the DPP an avenue to seek facts which the office needs in order to exercise its constitutional judgment. It does not confine the DPP to waiting for whatever file the police choose to send.

Equally, the constitutional verb is direct, not investigate. Article 212 entrusts the police with preventing and detecting crime; Article 213 places the force under the Inspector General's command, subject to law (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a), 211–213; ODPP, 2023, ss. 2.2–2.3, 5–7). Article 120(3)(a) is part of that law and cannot be defeated by an internal police chain of command. But it does not itself confer on a prosecutor police powers to arrest, search, seize, interrogate or manage officers as their operational commander. A lawful direction can identify the allegation, specify material lines of inquiry, require the preservation of evidence and demand a timely report. The police remain responsible for executing investigative measures under the powers and limits supplied by applicable law. This allocation follows the constitutional text and structure; it does not diminish the DPP's authority to insist upon a proper investigation.

Article 120(4)(a) allows the DPP's function under paragraph (3)(a) to be exercised by authorised officers in accordance with general or specified instructions (Constitution of the Republic of Uganda, 1995, art. 120(4)(a); ODPP, 2023, ss. 1.2, 2). The PGIG cannot, merely by naming a person a "prosecutor", cure the absence of such authorisation. Nor does the definition of a prosecutor as a person appearing for the State in court identify which officer may exercise a delegated constitutional power. A revised protocol should identify authorised officers, the form of their instructions and the route by which disputes over scope or urgency are escalated to the DPP.

The provision protects both initiative and restraint. The word "any" prevents a subject matter veto, including one based on the status of a proposed suspect. It does not require a prosecutor to personally direct every ordinary police inquiry. The decision to intervene calls for an intelligible assessment of complexity, urgency, vulnerability, conflict of interest, apparent inactivity and the likelihood that early legal direction will improve the search for truth. Article 120(5) makes public interest, the administration of justice and prevention of abuse relevant to that assessment (Constitution of the Republic of Uganda, 1995, art. 120(3)(a), (5)–(6); Bakaleeke v Attorney General, 2019). Article 120(6) protects the DPP from external direction; it does not exempt the DPP's own directions from those constitutional standards.

These provisions yield an analytical distinction between decisional independence, the freedom to decide whether proceedings should be instituted, taken over or discontinued, and epistemic independence, the practical ability to obtain, question and test the facts before deciding. The terms are this article's analytical framework, not judicial categories. A DPP who may formally reject a charge but receives a police file stripped of a contrary account is independent on paper yet poorly placed to exercise judgment. Article 120(3)(a) addresses that problem by allowing direction while relevant lines of inquiry remain open and requiring a prompt report back. Article 120(5) supplies its public purpose; Article 120(6) protects the resulting judgment against external control (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(b), (5)–(6), 212(c); ODPP, 2023, s. 2.3(vi); see Wanyoto v Sgt Ouma and Another, 2022). Neither provision guarantees a complete file by itself. The institutional task is to make the direction, the contrary material and any investigative omissions visible.

3. The Guidelines Turn a Selective Power into a Seemingly Universal Method

The PGIG contain an important internal tension. Section 1.4 states that they apply to investigations of all criminal cases, with particular emphasis on complex and high profile matters. Section 2.2(i) tells a prosecutor to identify the cases that need PGI. Section 2.0 then says that, in a PGI case, the prosecutor must be involved at all stages immediately after the report, while section 2.3(i) instructs the investigator to brief the prosecutor as soon as a case is reported (ODPP, 2023, ss. 1.4, 2.0, 2.2(i), 2.3(i), 3–6). A workable reading is that all criminal cases are eligible for PGI but only cases selected on defensible grounds require the intensive model. Yet the document does not say that clearly or explain who selects, records or revisits the choice.

If "all" becomes a universal referral rule, the prosecutor becomes a second intake desk for the police. Files with serious rights issues can then compete for the same attention as routine reports. Conversely, if "high profile" becomes the real entry test, allegations against influential actors can be either privileged for special treatment or avoided because they are uncomfortable. Neither consequence follows from Article 120(3)(a). The constitutional priority is not publicity or the perceived importance of the complainant. It is the need for an

independent direction to obtain relevant facts lawfully and promptly. The PGIG should require a short written triage decision, including reasons for selecting an inquiry, an urgent route for custody and abuse complaints, and periodic review when its risk changes.

The description of the PGIG as a "regulatory framework" is also too ambitious if understood to bind police officers directly as though the document were legislation. An ODPP policy can standardise how authorised prosecutors exercise a constitutional power. A direction validly given under Article 120(3)(a) has a distinct constitutional basis. A joint operational protocol can assist interagency cooperation. These are different sources of authority. Neither a policy nor a meeting minute can authorise a search without the law's warrant requirement or confer an investigative power on a participant who otherwise lacks one. The constitutional supremacy rule makes this distinction practical, not merely semantic (Constitution of the Republic of Uganda, 1995, arts. 2(1)–(2), 27, 120(3)(a), 213; ODPP, 2023, ss. 1.0–1.1, 1).

The limit is especially important where a political office holder communicates an allegation. In *Kanaba Estates and Agencies Ltd v Dr Sam Mayanja and Another*, the High Court quashed a minister's directives to have suspects charged and denied police bond (Kanaba Estates and Agencies Ltd v Dr Sam Mayanja and Another, 2025; Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(d), (4)(a)–(b), (6), 212(c), 213(3)–(4)). Its observation that the minister could at most direct police to investigate should be read narrowly, as recognising the ability to report or request an inquiry, rather than as conferring a free-standing constitutional power on a minister to command a specific investigative outcome. Article 120(3)(a) assigns the specific function of prosecutorial direction to the DPP or an officer authorised under Article 120(4)(a); Article 212(c) allows the police to initiate detection themselves. A minister claiming a further power to direct police would need an independent legal basis and must respect Article 120(6), the police's lawful command structure and the rights of affected persons. This reading preserves the useful distinction in *Kanaba* between alerting investigators and dictating charges, while questioning its loose use of "direct".

Nor should the shorthand that the DPP alone may institute charges be made absolute. Article 120(3)(b) gives the DPP power to institute proceedings; paragraph (c) expressly contemplates proceedings instituted by another person or authority, which the DPP may take over. Article 120(4)(b) reserves the personal exercise of the discontinuance power to the DPP, subject to the court-consent limit in Article 120(3)(d) (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(d), (4)–(6), 212(c), 213(3)–(4); Kanaba Estates and Agencies Ltd v Dr Sam Mayanja and Another, 2025). *Kanaba* is therefore strongest on its facts as a restraint on a minister purporting to predetermine charges and bond, not as a complete account of who may commence proceedings under Ugandan law. Precisely because influencing the police's evidence can preselect the charge without openly ordering it, the Article 120(6) safeguard has practical force at the investigative stage.

4. Guidance Without Capture of the Investigation

Section 2.2 of the PGIG directs the prosecutor to "lead the investigating team", chair meetings, identify clues and suspects, guide interviews and assign roles (ODPP, 2023, ss. 2.2(ii)–(ix), 2.3(ii)–(vi), 5–7). In its most defensible sense, leadership here means legal leadership: frame issues, test the ingredients of possible offences, request both inculpatory and exculpatory inquiries, identify rights risks and set reporting dates. It should not mean assuming operational command of searches, determining what witnesses must say or instructing a police officer to obtain a confession. Section 2.3 correctly leaves collection of statements and material evidence with the investigator and requires recording evidence that points either towards or away from a suspect. Those provisions ought to control the meaning of "lead".

There is a second, quieter danger. A prosecutor who devises the theory, chooses the suspect and monitors every step can become invested in vindicating the plan (ODPP, 2023, ss. 2.1.1, 2.1.3, 2.2(ii)–(viii), 4–6; Constitution of the Republic of Uganda, 1995, art. 120(5)–(6)). Repeated meetings with investigators and complainants may make contrary evidence appear to be a setback rather than an answer. If the same prosecutor then "sanctions" the charge under section 2.1.3, an apparently independent assessment can amount to approval of the prosecutor's earlier work. The constitutional concern is not that early advice always produces bias. It is that an institution claiming independent judgment must design for the possibility of bias, including its own.

The opposite risk is equally real. If prosecutors see a case only after its theory has hardened, a missing witness, deleted recording or untested defence account may be irrecoverable. They may still refuse the charge, but cannot always reconstruct the evidence needed to judge it fairly. *Wanyoto* illustrates the danger of investigative misuse and concealed evidence; it does not establish that every police inquiry needs advance prosecutorial control (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(b), (5)–(6), 212(c); ODPP, 2023, s. 2.3(vi); see Wanyoto v Sgt Ouma and Another, 2022). The preferable division is early, selective direction of disputed lines of inquiry, followed by a report of what the police did, did not do and found both for and against a proposed suspect. Pressure can reach the DPP through the resulting record without anyone issuing an overt order under Article 120(6). That is the practical case for epistemic independence and for preserving a charging reviewer's willingness to disagree with the original PGI prosecutor.

The ODPP's Guidelines on the Decision to Charge 2023 provide a useful counterweight. They expressly say that prosecutors are independent of police investigators, must assess each file objectively, act in the interests of justice rather than seek conviction alone, record reasons and apply an evidential test followed by a public interest test (ODPP, 2023, paras. 1.4.1–1.4.4, 2.1.3–2.1.6, 2.2.1, 2.3.1, 2.4.1–2.4.9, 2.6.1–2.6.2, 2.7.1). They also provide an exceptional threshold route for urgent serious cases where evidence is incomplete, subject to stated conditions and review. PGI should end in a fresh decision under those rules, not in a presumption that a case planned jointly must be charged. For a contested or sensitive investigation, an officer who did not lead the PGI should review the evidence and written advice before charge. If separate review is impracticable, a supervisor should record the reason and test the material which undermines the proposed charge.

The DPP's preface to the PGI reports "up to 100% convictions in prosecution-guided cases" (ODPP, 2023, Preface, ii; Constitution of the Republic of Uganda, 1995, art. 120(5); ODPP, 2023, para. 2.1.5). The claim may describe a subset of successful cases, but the document supplies no denominator, period, comparison group or account of cases correctly declined. It cannot establish that PGI causes more accurate investigation. More seriously, conviction as the defining measure invites selection of easy cases and suppression of doubt. A direction to obtain evidence capable of disproving a reported allegation may produce no prosecution at all; that can be the strongest demonstration that PGI worked. Reviews should therefore measure timeliness, preservation of evidence, documented exculpatory inquiries, lawful treatment of suspects, justified no-charge decisions and disclosure compliance alongside case outcomes.

5. Arrest and Confession Are Rights Questions Before They Are Case Tactics

Section 2.3(xv) instructs investigators to arrest after investigations are completed or substantially done, except where earlier arrest serves the suspect's safety or the suspect is a flight risk (ODPP, 2023, s. 2.3(xv), 7; Constitution of the Republic of Uganda, 1995, art. 23(1)(c), (2)–(5)). Its presumption against premature arrest is sensible. But its two listed exceptions cannot be treated as an exhaustive statement of Ugandan arrest law. Article 23(1)(c) permits deprivation of liberty upon reasonable suspicion for the constitutionally specified purpose, subject to governing legislation and the safeguards in Article 23. A fear for someone's safety does not, by itself, establish a legal basis to arrest that person. Equally, a lawful and necessary early arrest may arise in circumstances the PGIG have not listed. The protocol should require the police to record the specific legal ground, factual basis, necessity and available less restrictive steps, and the prosecutor to review any ongoing detention without treating a charging instruction as permission to detain until the file is finished.

Article 23(4) requires a person arrested on reasonable suspicion to be brought to court, if not earlier released, as soon as possible and in any event within forty-eight hours (Constitution of the Republic of Uganda, 1995, art. 23(3)–(4); ODPP, 2023, s. 2.1.4, 5; ODPP, 2023, paras. 2.2.1, 2.4.1–2.4.9). Section 2.1.4 of the PGIG says the prosecutor registers a case upon confirmation that suspects are present at court. Read as a logistical instruction, this is innocuous. Read as a decision rule, it makes physical production the gateway to charging and risks creating an incentive to hold or transport a person simply so a charge can be lodged. The prosecutor must decide independently whether there is a lawful basis and adequate evidence to charge; police must comply with the constitutional clock; and the court controls its own process. The later Decision to Charge Guidelines permit a narrow threshold decision in urgent serious cases where investigation remains incomplete, with conditions and prompt review. That exception cannot be converted into a licence to detain while the police look for a case. If the charging standard cannot lawfully be met, the person must be released or dealt with under another lawful process, not held beyond the constitutional deadline in the name of "investigation".

Sections 2.3(xii) to (xiv) encourage a charge and caution statement following an admission, production before a magistrate in certain cases and a medical examination on Police Form 24 before and after recording a statement "in order to eliminate allegations of torture" (ODPP, 2023, ss. 2.3(xii)–(xiv), 7; Constitution of the Republic of Uganda, 1995, arts. 23(3)–(5), 24, 44(a); Wanyoto v Sgt Ouma and Another, 2022). That last phrase is constitutionally untenable. An examination can preserve evidence of injury, but it cannot eliminate an allegation; the absence of visible injury cannot prove the absence of torture. Nor does presenting a detainee to a magistrate automatically establish that earlier custody was lawful or a confession voluntary. The Guidelines specifically contemplate suspects transferred from "other security organs". In those cases the prosecutor needs the complete chronology of arrest, transfer, access to counsel, medical treatment and any complaint of coercion. Article 24 and Article 44(a) prohibit torture, and Article 23 protects access to legal advice and prompt judicial production. In *Wanyoto v Sgt Ouma and Another*, the Court of Appeal's treatment of investigative torture and malicious prosecution illustrates why the investigator's conduct must itself be scrutinised before a prosecution proceeds.

Kitutu Mary Goretti Kimono v Attorney General exposes two further qualifications (Kitutu Mary Goretti Kimono v Attorney General, 2023, pp. 18–19, 31–32, 36–37; Constitution of the Republic of Uganda, 1995, arts. 23(3), 24, 28, 44(a)). The High Court rejected a blanket assumption that the police must record a charge and caution statement from every suspect, invoking the right against self-incrimination. It found failures to notify the applicant of the reason for detention and her right to counsel, but on its assessment did not find that those

failures had compromised the fairness of the proposed trial, particularly because no suspect statement had been taken. A rights breach and its effect on a later trial are distinct questions; the ruling cannot be read as permission to withhold advice or notice. The court also accepted that torture can be proved without medical evidence, although it rejected the particular torture claim on the evidence. These distinctions reinforce the need to replace the PGIG's automatic confession language and its stated aim of "eliminate[ing]" allegations through a medical form with a rule requiring voluntariness, access to counsel and independent inquiry into any complaint.

The protective reach of Article 120(3)(a) matters here. A person reporting an abduction, incommunicado detention or an assault by investigators supplies information of a criminal nature even if police have opened no file (Constitution of the Republic of Uganda, 1995, arts. 23(9), 50, 120(3)(a), (5), 212, 221). The DPP can direct an appropriate police investigation and require an expeditious account. Where the alleged perpetrators belong to the proposed investigative unit, an instruction to the same officers is plainly inadequate: impartial investigators, preserved custody records and an escalation beyond the implicated unit are necessary. The DPP does not personally issue a writ of habeas corpus or acquire a general power to command every security agency through Article 120(3)(a). The office can nonetheless use its own constitutional initiative, seek a lawful investigative route and bring urgent liberty concerns before the competent court. Article 23(9) and Article 50 remain available judicial remedies.

6. Privacy and Disclosure Expose the Limits of a Conviction Centred File

The Guidelines contain sound directions to obtain judicial authority for searches of digital material and access to bank or telecommunications records, preserve chain of custody and document forensic steps (Constitution of the Republic of Uganda, 1995, arts. 27, 120(3)(a); ODPP, 2023, ss. 3.1, 3.1.2, 3.1.5, 3.2.2–3.2.3, 9–15). These measures have a constitutional reason beyond improving admissibility. Article 27 protects the privacy of the home, correspondence and communications. A prosecutor who guides an inquiry should ask whether the search has a lawful basis, whether the material sought and period covered are proportionate, how unrelated or privileged material will be handled, and whether an independent court must authorise access. Article 120(3)(a) cannot substitute for a warrant or a preservation order where one is legally required.

The sharper inconsistency concerns disclosure. Section 2.3(vi) requires the investigator to record all evidence, inculpatory or exculpatory, and submit it to the prosecutor. But section 2.1.5 speaks of disclosing the evidence the prosecutor intends to rely upon at trial; section 5.2 suggests disclosure of that material at least two weeks before hearing where possible (ODPP, 2023, ss. 2.1.5, 2.3(vi), 5.2, 5–7, 17; Constitution of the Republic of Uganda, 1995, art. 28(1), (3)(c); Soon Yeon Kong Kim and Another v Attorney General, 2008; Bongomin v Uganda, 2014). Those formulations can leave adverse witness accounts, failed identification procedures or material that challenges an apparently persuasive digital extract off the defence copy. Article 28's guarantee of adequate time and facilities to prepare a defence cannot be made wholly dependent on what the prosecution elects to tender. In *Soon Yeon Kong Kim and Another v Attorney General*, the Constitutional Court held that an accused in a magistrate's court is prima facie entitled to copies of prospective prosecution witnesses' police statements and documentary exhibits to be used at trial, subject to limitations the State establishes with evidence and the trial court assesses (Soon Yeon Kong Kim and Another v Attorney General, 2008, pp. 6–9; Juma and Others v Attorney-General, 2003, paras. 21–22, 29–34). It did not lay down an invariable right to copies before plea or decide a general entitlement to every unused item.

The Ugandan court expressly approved the fair trial reasoning in the Kenyan High Court's *Juma and Others v Attorney-General*. *Juma* viewed the fruits of a public investigation as material for doing justice and held that relevant evidence assisting the accused may require disclosure even if the prosecutor will not tender it. That comparative holding is persuasive rather than itself binding Ugandan law. Both courts recognised that witness protection, informant safety and State secrets can justify a restriction under judicial supervision; those concerns call for a particularised justification, not a blanket refusal or a rule set by the prosecution alone.

The further Ugandan authority is *Aniket Patel v Attorney General*, discussed in *Kitutu* (Aniket Patel v Attorney General, 2019, as discussed in Kitutu Mary Goretti Kimono v Attorney General, 2023, pp. 9–13, 36–37; High Court (Anti-Corruption Division) (Case Management) Rules, 2021, r. 8(1)–(2)). As *Kitutu* explains, the Constitutional Court ordered access to relevant exculpatory accounting records held by the prosecution or complainant even though the prosecution did not intend to rely on them. The High Court in *Kitutu* considered that the State should disclose material favourable to the accused even without a request, but treated a contested demand for many additional records differently from the identifiable records in *Aniket*. It left existence, availability and materiality to the trial court and refused at that preliminary stage to find an irreparable fair trial violation. This is neither a licence to suppress useful material nor an unconditional right to the entire police docket. Where a claim is contested, the prosecutor should identify the material, explain any claim that it is irrelevant or unavailable, and seek a reasoned court ruling on a proposed restriction. Rule 8 of the Anti-Corruption Division Case Management Rules provides for disclosure of material to be relied on and withholding only with leave of court on specified or other justifiable grounds.

Early PGI is capable of improving disclosure if it requires an audit trail from the first interview and preservation of unused material. The prosecutor should receive an indexed record of material collected, identify material that weakens the case or assists the defence, and keep the obligation under review (ODPP, 2023, paras. 1.4.4, 2.3.1–2.3.6, 2.7.1, 2.8.1; ODPP, 2023, ss. 2.3(vi), 5.2). A meeting with a victim or investigator must not become a way of settling the story before contradictory evidence is recorded. The later Decision to Charge Guidelines expressly require impartial assessment of material favourable and unfavourable to the suspect and continuous review. The PGIG should refer directly to that standard and state that timing in section 5.2 is a planning target, not a ceiling on constitutional disclosure. A prompt police report is useful only if it reveals the evidence and the gaps on which disclosure and charging decisions depend.

7. A Workable Constitutional Protocol

The solution is to retain PGI and specify its legal edges. At intake, an authorised prosecutor should be able to consider information received directly from a person, a police officer or another lawful source, including information alleging police wrongdoing (Constitution of the Republic of Uganda, 1995, art. 120(3)(a), (4)(a), (5); ODPP, 2023, ss. 1.4, 2.2(i)). A short selection record should state the criminal information, why direction is needed, the rights or evidence at risk, and the authorised officer responsible. The same triage should permit urgent direction before a case file or identified suspect exists. It should also permit the prosecutor to decline PGI while giving a reason and preserving an avenue for review when new material appears.

Each direction should then be in writing where practicable. It should distinguish the outcome sought from the method of investigation: request an account of competing explanations, relevant records, witness contacts and exculpatory possibilities; identify any immediate liberty or privacy issue; set a date for an initial or interim report; and name the police officer or command level to receive it (Constitution of the Republic of Uganda, 1995, arts. 23(4), 27, 120(3)(a); ODPP, 2023, ss. 2.1.1, 2.2(vii)). The word "expeditiously" calls for urgency adjusted to circumstances. A missing detainee may require an account measured in hours. A forensic extraction may require longer, documented steps and regular progress reports. Silence should trigger recorded escalation to police command and, where appropriate, recourse to a court. This is an implementation proposal, not a claim that Article 120(3)(a) itself fixes a numerical deadline or prescribes a single enforcement mechanism.

The reporting duty should cover steps taken, unused and exculpatory material, unresolved alternatives and any failure to carry out a lawful direction (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(b), (5)–(6), 212(c); ODPP, 2023, s. 2.3(vi); see Wanyoto v Sgt Ouma and Another, 2022). Police autonomy in investigative methods must not become a power to determine silently what the DPP is allowed to know. Conversely, a prosecutor's request to investigate must be framed as a question capable of an unwelcome answer. These paired duties make the sequence in Article 120(3)(a) meaningful: criminal information prompts a lawful direction; the police investigate; a sufficiently complete, prompt report permits an independent decision under Article 120(3)(b), guided by Article 120(5).

Operational responsibility should remain visible throughout. The police officer records who performed an arrest, search or interview and under what legal power. The prosecutor records the legal advice, any conflict, significant dissent and responses to indications of coercion or missing evidence (Constitution of the Republic of Uganda, 1995, arts. 28, 120(3)–(6); ODPP, 2023, ss. 2.3(ii)–(vi); ODPP, 2023, paras. 1.4.1, 2.1.6, 2.6.1–2.7.1). When a direction is disputed or ignored, the matter goes to authorised senior officers rather than being quietly abandoned. At the charging stage, an independent reviewer applies the Decision to Charge Guidelines, records reasons to charge or decline, and remains free to require further inquiry. Evidence capable of favouring the suspect must travel with the file, not be filtered by the original case theory.

Where a minister or other official communicates a criminal allegation, the record should preserve the communication and the independent reasons for each direction and charging decision (Constitution of the Republic of Uganda, 1995, arts. 120(3)(a)–(d), (4)–(6), 212(c), 213(3)–(4); Kanaba Estates and Agencies Ltd v Dr Sam Mayanja and Another, 2025). It should also show how police tested the allegation's alternatives. This makes later review of improper pressure possible without preventing a public official from alerting the police to suspected wrongdoing. Publishing aggregated data about PGI selection, investigation delays, no-charge decisions and rights complaints would permit evaluation without prejudging a live case.

The present PGIG can be read consistently with the Constitution if "lead" is confined to legal direction, "all stages" is applied to properly selected PGI matters, "successful trial" means a fair and accurate outcome, and its arrest and disclosure clauses yield to the Constitution and governing law. Interpretation alone is insufficient, however, while the operational text continues to invite broader readings. The ODPP and police should publish a revised joint protocol that states these limits, separates investigative and charging roles in sensitive cases, and evaluates the quality of no-charge outcomes as seriously as convictions. Article 120(3)(a) is strongest when the DPP can demand an investigation, demand a report and still have the independence to say that the evidence does not justify a prosecution.

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