



COUNCIL STAFF Memo

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Ben Luedtke
Constituent Liaison / Public Policy Analyst

DATE: 12/2/14

RE: Salt Lake County District Attorney
Sexual Assault Case Processing

Council Sponsor: **Council Request – Sponsor not required**

PROJECT TIMELINE:

Briefing: 12/2/14

Set Date:

Public Hearing:

Potential Action:

ISSUE AT-A-GLANCE

As a courtesy, DA Sim Gill has agreed to brief the Council regarding how his office handles sexual offense cases and potential impacts from the new City policy of submitting samples from all Code R kits for DNA analysis.

The Council has provided policy direction via straw poll that all untested Code R kits be submitted for DNA analysis at a qualified lab. An ordinance codifying this policy has been drafted and was discussed at the November 25, 2014 work session.

Policy implementation may increase the number of sexual offense investigations. In turn, this would increase demands on the City Police Department, City Prosecutor, County District Attorney and the court system.

Goal of the briefing: Continue the discussion of Code R kit process improvements as it relates to the Salt Lake County District Attorney's Office.

POTENTIAL BRIEFING QUESTIONS

1. How does the District Attorney's office process sexual assault cases?
2. The District Attorney's Office has used a victim-centered approach, can you explain more about what that approach entails?
3. Of the sexual offense cases that the DA's office screens, is there a category or type of case that is typically not pursued?
4. Can you describe more about the pros / cons of pursuing a sexual offense case in the City's Justice Court versus in the County's District Court?
5. Are there opportunities for better collaboration between the City and County? If so, what would be needed to help (policy changes, resources, staffing, etc.)?



6. What would the potential impact be to the DA's office if the City increases the number of Code R kits sent for DNA testing?

Note: The following information below was previously provided to the Council

ADDITIONAL & BACKGROUND INFORMATION

Classification of Offenses in Utah

<u>Offense Type</u>	<u>Category</u>	<u>Prison/Jail Term</u>	<u>Offense</u>	<u>Court Jurisdiction</u>	<u>Prosecutor Jurisdiction</u>
Felony	Capital	Life in prison, life in prison without parole, or death	-	District Court	Salt Lake County District Attorney (DA) or Attorney General (AG)
	First Degree	Five years to life in prison	-		
	Second Degree	One to 15 years in prison	Sexual Assault		
	Third Degree	Zero to five years in prison	Attempted Sexual Assault		
Misdemeanor	Class A	Up to one year in jail	Sexual Battery	Justice Court	DA, AG, or SLC Prosecutor
	Class B	Up to six months in jail	Attempted Sexual Battery		
	Class C	Up to 90 days in jail			
Infraction	Minor Offense	No jail time	-		

Prosecution – Does the Council want to explore opportunities for collaboration between Salt Lake City Police Department (SLCPD), City Prosecutor's Office and the District Attorney's (DA) Office? The highest offense the Salt Lake City Prosecutor can charge is a class A misdemeanor, which would be a sexual battery charge. Only the DA can prosecute sexual assault cases because it is a second degree felony (see classification of offenses). The Prosecutor's Office may need additional funding and personnel to handle sexual battery cases resulting from an increase of Code R kit testing.

- a. Testing all Code R kits may increase the number of cases the City refers to the DA, because they prosecute sexual assaults. Sexual battery cases, handled by the SLC Prosecutor's Office, rarely use DNA evidence because the statutory definition does not include penetration.
- b. After investigation, a detective sends a screening packet to the DA for review. Screening packets are first sent to the jurisdiction which could file the highest possible charge. A declination letter is sent to the detective if the DA declines to prosecute.
 - i. The DA and SLC Prosecutor can request (but not control) that a case be sent to the other jurisdiction for consideration.
 - ii. Sending declination letters has been upgraded to an electronic process to reduce delays.
 - iii. Unclear what criteria and/or guidelines determine when cases declined by the DA are sent to the Salt Lake City Prosecutor for review. Victim advocates could play a role in tracking cases and acting as liaison among criminal justice agencies for victims.
 - iv. Staff has heard anecdotally that some victims object to a "downgrading" of sexual assault to the lesser charge of sexual battery. Conversely, some victims prefer a lesser criminal charge to none at all.
- c. The Salt Lake City Prosecutor's Office uses a victim-centered approach. (We understand that the DA uses this approach as well.)
 - i. Victims of sexual offenses and domestic violence (which often overlap) can meet with the SLC Prosecutor's Office face-to-face in a citizen screening.
 - ii. Sexual battery cases, because they are a Class A misdemeanor, can only be filed in District Court. When filing an attempted sexual battery case, sometimes the City Prosecutor files in District Court to avoid the scenario of double-trial where a Justice Court judgment can be appealed "de novo" to District Court (case starts all over from the beginning).
 - o A double-trial scenario is possible because the Justice Court is NOT a court of record.