

OFFICE OF THE STATE ATTORNEY

EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA
BREVARD AND SEMINOLE COUNTIES
WILLIAM SCHEINER

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“I want to make a criminal complaint”

The information provided here is intended to assist the public in understanding the process of making a criminal complaint in Brevard or Seminole County.

The Structure of the Criminal Justice System

In Florida’s criminal justice system, up to two distinct entities are involved in the processing of criminal complaints.

The first is a law enforcement agency (LEA) such as city police departments, county sheriff’s offices, or the Florida Department of Law Enforcement. In most circumstances (a list of exceptions is provided below), a criminal complaint must originate with a LEA. The duty of a LEA is to conduct an investigation and determine whether there is probable cause¹ to believe that 1) a violation of a Florida criminal statute has occurred and 2) the person subject to the complaint committed the criminal offense. When both conditions are met, a LEA may, but is not required to, forward the complaint to the State Attorney’s Office. This can be done by several methods including arrest, notice to appear, and “sworn complaint.”

The second is the State Attorney’s Office, which investigates complaints submitted by LEAs to determine 1) whether there is sufficient proof to file a criminal charge in the courts; and 2) whether the filing of a criminal complaint is appropriate under the facts and circumstances of each particular case.²

The State Attorney’s Office does not investigate matters where a LEA has determined probable cause does not exist as set out above. The State Attorney does not act as an “appeal” of a LEA’s decision that probable cause does not exist. Except as provided below, the State Attorney does not accept matters for investigation from the public without the matter having first been investigated by a LEA.

¹ Probable Cause means sufficient reason based upon known facts to believe a crime has been committed.

² The American Bar Association suggests that “A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice. 3-4.3(a)

After the State Attorney's Office determines that there is sufficient proof to file a criminal charge — and that it is appropriate to do so — then, and only then, is a criminal charge filed with the court. The State Attorney then represents the State of Florida as plaintiff in that criminal lawsuit.

When a member of the public attempts to file a criminal complaint directly with the State Attorney's Office, the office will direct that member of the public to a law enforcement agency with jurisdiction over the location and nature of the offense.

Exceptions

The State Attorney's Office will accept direct complaints related to the following violations of Florida Law:

1. A violation of Florida's Public Records Law (Florida Statute §119).
2. A violation of Florida's Sunshine Law (Florida Statute § 286).
3. Complaints involving criminal official misconduct by public officials.

Scams and Business Complaints

Complaints about business fraud or unlicensed businesses should be reported to the Florida Department of Agriculture and Consumer Services online at complaints.fdacs.gov or by calling 1-800-435-7352.

Victims of phone or online scams should call the Florida Attorney General's Fraud Hotline at 1-866-966-7226 or file a complaint online at myfloridalegal.com.

Election Law Violations

The Florida Department of State investigates allegations of irregularities or fraud involving voting, voter registration, or petition-collection activities by candidates or campaigns. The department may then report its findings to the Office of Statewide Prosecution or to the State Attorney's Office to consider criminal charges.

The Florida Elections Commission investigates reports of [election-law violations](#) by political candidates and committees including problems with campaign, reporting and advertising. Instructions for writing and mailing complaints can be found online at fec.state.fl.us.