

REGULATING AI: TOOLKIT CHECKLIST

Getting Started & Common Language

Determine whether prosecutorial guidance or a non-prosecution policy is the right approach, or, if not, whether and how the toolkit can be useful for your chosen path of regulatory reform.



- ✓ Understand the access to justice crisis and how the current UPL landscape contributes to it.
- ✓ Understand the opportunities and challenges associated with using tech to deliver legal help.

- ✓ Determine how your state enforces UPL (civilly, criminally, or a combination), the mechanism(s) for changing existing rules, and who needs to be involved.



- ✓ Understand what a non-prosecution policy is and the associated opportunities and challenges.

- ✓ Review Appendix B (Colorado OARC Non-Prosecution Policy) as a model for how a complete non-prosecution policy is structured. [Note: Colorado's policy is an example, not a template; adapt it to your jurisdiction's regulatory structure and context.]
- ✓ Review the Tips for Working Groups section of the toolkit for practical guidance on structuring your working group, maintaining momentum, and managing internal conflict.
- ✓ Form the working group for your regulatory innovation initiative or bring this idea to an existing working group.
- ✓ Share Appendix D (Glossary for Direct-to-Consumer Legal Innovation) with the working group to ensure members are using key terms—including tool provider, tech-powered legal tool, prosecutorial guidance, non-prosecution policy, and no-action letter—consistently.

Principles



- ✓ Understand the importance of developing principles at the outset of your work. Review Appendix A (2024 Colorado Subcommittee's Principles) as a concrete example of how another jurisdiction anchored its work in shared principles before drafting policy.

- ✓ Review the list or proposed principles in the toolkit.
- ✓ Develop principles to guide your working group as you continue with your work. Share these with the working group. Refer back to the shared principles as a neutral reference point when tensions arise during policy discussions.

Components

- ✓ Facilitate group completion of the AI Use Case & UPL Discussion Matrix as a working-group exercise to surface where group members have consensus and where they diverge on specific use cases and risk levels. Share the aggregated results to the working group and discuss.
- ✓ Discuss where there is consensus among the group and where there is not.
- ✓ Review the list of proposed components in the toolkit.
- ✓ Consider your principles and matrix discussion and identify components to include in your regulatory approach. [Note: This approach can work for the development of a wide range of regulations, including non-prosecution policies, prosecutorial guidance, sandboxes, rule changes, etc.]
- ✓ Determine which regulatory approach—non-prosecution policy, prosecutorial guidance, no-action letters, or deprioritization statement—best fits your jurisdiction.

Stakeholders Engagement & Messaging

- ✓ Create a comprehensive list of the wide range of potential stakeholders your working group can engage.
- ✓ Determine which stakeholders you will engage.
- ✓ Develop messaging that will resonate with these stakeholders.
- ✓ Pitch your idea(s) to the stakeholders and seek feedback.