



What to Do If You Are a Victim of Police Misconduct in Utah

Nationwide and in Utah, police misconduct is a serious problem. While many officers recognize that misconduct gets in the way of effective law enforcement, the actions of only a few bad officers can undermine a community's trust in an entire agency. Misconduct can range from minor violations of police policy to gross examples of excessive force. Unfortunately, its victims are often unaware of the options they have after being subjected to abuse or wrongdoing.

The intent of this guide is to offer individuals some strategies they can use if they have been victims of police misconduct. Not everyone will want to use every tactic and some strategies may actually be inappropriate for some people. If you have any doubts or are considering legal action, consult an attorney you trust before taking action. Please note that this guide is not a legal document and nothing in it should be construed as legal advice.

1. Gather Information

As soon as possible after an incident, write down everything you can remember about what happened. Be as detailed as possible and include the date, time, and location of the incident, as well as the name, badge number, and agency of the police officer(s) involved.

Witnesses and Evidence

Immediately locate any witnesses and write down their names and contact information. If possible, obtain from them a detailed written statement describing what happened. If the witness is willing, get their statement notarized. Gather any physical or documentary evidence that will help you explain the incident. Collect relevant medical records. Photograph any injuries or property damage sustained during the encounter.

The Incident Report

Go to the law enforcement agency involved and obtain a copy of the Incident Report related to your encounter with the officer. This report should be readily available to you, although if it contains information about other individuals, privacy concerns may delay the process. Take someone with you if you are nervous, but this should be a routine transaction. Call the front desk at the agency and ask where you can get a copy of your Incident Report. If you have any trouble, file an open records request for the Incident Report.

To file a law enforcement complaint with the ACLU of Utah, call (801) 521-9862 ext 104 to request a complaint form or fill out our online form at www.acluutah.org/policerreport.htm.

Open Records Requests

Once you obtain your Incident Report, you may want to file an open records request with the department for all public documents related to the investigation of the incident, including information related to any disciplinary actions or supervisory interventions against the officer. Utah's Government Records Access and Management Act (GRAMA) gives you access to some information about individual officers, unless that information is protected by personal privacy provisions or is part of an ongoing criminal investigation. You can file a written open records request asking for copies of all complaints against the officer or deputy, made for any reason, either by citizens or other officers. Also request any record of complaint outcomes, all use-of-force reports related to that officer, and records of any formal disciplinary actions taken against the officer by his or her employer. Information about filing an open records request under GRAMA is available online at www.archives.utah.gov/recordsmanagement/government-records-law.html.

Records Checklist

- Get the Incident Report from the law enforcement agency.
- File an open records request with the law enforcement agency for the dispatcher's report, 911 tapes, video from any police camera, or any other information in any medium related to the incident or alleged misconduct.
- Request from the police department all documents related to the incident including prior complaints against the officer by citizens or other officers, records related to the officer's use-of-force, and any record of punishments for sustained complaints.
- Search civil and criminal court records and other

sources at the county courthouse for any cases involving the officer as plaintiff or defendant.

- Search case records at the federal district court for any court records on the officer.
- Search for the name of the officer in local or regional newspaper archives. Remember to also look at newspaper archives from other cities or regions where the officer may have lived or worked.
- If you think the offending officer broke the law, identify exactly which law(s). Utah laws are available online at www.utah.gov/government/utahlaws.html.

2. File a Complaint

Once you have gathered information about the incident, you are ready to file an official complaint with the Internal Affairs Department (IAD) of the law enforcement agency involved. IAD complaints are serious and may adversely affect an officer's employment status. On the other hand, if you or your family has been a victim of police misconduct, it is your right to formally seek justice and redress. Also, your actions may prevent future misconduct from occurring. If an officer treated you poorly, then he or she may treat others the same way, and the only way agencies can root out abusive or unprofessional officers is if victims speak up and tell their stories.

Different law enforcement agencies have different procedures for reporting complaints against officers, and you should contact the agency involved to find out its specific IAD procedures. In general, it is best if you file your initial complaint in writing rather than over the phone. When preparing your written complaint, do the following:

1. Prepare a letter explaining that you are filing a complaint of officer misconduct and that you would like the agency to investigate the incident.
2. Attach your written record of the incident and include a list of any witnesses and evidence that you have.
3. Take your written record to a notary public and have it notarized.
4. Make copies of your letter, your written record of the incident, and lists of witnesses and evidence. Keep copies of everything, including photographs, that you send to the agency.
5. Send, preferably by certified mail, your notarized letter and copies of your backup information to the agency's Internal Affairs Department as well as to the Chief of Police or Sheriff.

Unfortunately, not all law enforcement agencies have

a formal IAD that accepts and investigates complaints against officers. If the agency involved does not have an IAD, please see "Other Places to File a Complaint" (below). You may also want to inform your city, county, or state representative about the agency's lack of an IAD.

The IAD Interview

After you file a written complaint, investigators may want to interview you face-to-face. Consider taking someone with you whom you trust—a friend or preferably a lawyer. This may help you feel more comfortable and less susceptible to intimidation. Use your written summary of the incident and your backup materials to focus your interview and help ward off tangential lines of discussion. Pause before answering each question and think to yourself, "Have I addressed this in my written materials?" Keep going back to your written record to answer the questions.

Don't answer questions that seem unreasonable or invasive about your own background, but keep insisting that the questioning focus on the incident. Be polite, but firm: "I'm sorry, I'm here to report my complaint about this officer, not so you can investigate me. I'll be happy to answer any more questions you have about the incident or the officer's conduct." Leave when the questioner has no more questions on those topics. You have the right to refuse to answer any question that seems irrelevant or that may incriminate you. If you agree to a face-to-face interview, consider taking a tape recorder so you will have a record of the conversation.

Potential Problems

Some attorneys advise clients who have been victims of police abuse not to file an IAD complaint because they fear that the document could later be used against their clients in court. There is a risk associated with filing a complaint, especially if you have a criminal case pending from the incident or have an outstanding warrant. However, not filing a complaint allows the police to dismiss accusations of abuse. That said, you must know and evaluate your own personal risk. Even if you don't answer their questions, IAD may probe your background and investigate any previous criminal record or incidents where the police were called to your residence.

In rare cases, officers may aggressively attempt to dissuade you from filing a complaint, either by arguing with you, threatening you with perjury for making false allegations against officers, or telling you that they don't accept citizen complaints. If you are harassed when you attempt to file a

complaint against a police officer, do not argue or attempt to force the situation. Try to get the name of the harassing officer, but not at any risk to your personal safety or freedom. Look for any identifying numbers or insignias on badges if you don't have the officer's name. Retreat as soon as tactically possible and consult with an attorney if you fear charges may be brought against you. Afterwards, you can file a complaint regarding your IAD experience with one of the agencies listed below.

Other Places to File a Complaint

Increasingly, law enforcement agencies have citizen committees that review department policies and complaints against officers. If the agency you are complaining about has one of these committees, send copies of your IAD complaint to them as well. Below is contact information for the citizen committees we know about:

Salt Lake City Police Department
Civilian Review Board
451 South State Street #532
Salt Lake City, UT 84111

Salt Lake County Sheriff's Office
Citizen Advisory Board
2001 South State Street #S2700
Salt Lake City, UT 84190

The Department of Justice and the Federal Bureau of Investigation both track civil rights complaints. You can send your IAD complaint to:

Federal Bureau of Investigation
Salt Lake City Field Office
257 East 200 South #1200
Salt Lake City, UT 84111-2079

Department of Justice
U.S. Attorney's Office
185 S State Street #400
Salt Lake City, UT 84111-1552

Law enforcement agencies are responsible to different public officials. In general, city police departments are responsible to that city's mayor and city council members; complaints against county sheriffs are investigated by the Office of the Utah Attorney General; and the Utah Highway Patrol is responsible to the Governor. You may want to submit your complaint to the appropriate public official.

3. Tell Your Story

Once you have done your research, take a fresh look at all the evidence you have gathered. Reconstruct the incident in light of the material you've accumulated and decide for yourself, with the advice of people you trust, whether your complaint is justified and whether you want to pursue it further. If criminal charges have been filed against you, it is wise to wait until after they have been adjudicated before proceeding any further. Even then, consult your attorney before going public. If you decide to proceed with a more aggressive response, the first thing to do is tell your story.

Using the Media

Get your story to the media. Send letters to the editor or tell your story on the Internet. Identify local media outlets that might be interested in covering the story—the daily newspaper, an alternative weekly, minority-oriented weeklies, local TV stations, local radio stations with news departments, and any other local medium you can think of. Create a one-page executive summary of what happened to you and staple it together with witness statements, copies of photos, and other backup material that explains your story. Be sure to provide contact information on the cover page so the media can reach you. Then call each news outlet to ask which reporter or editor should receive your information. Follow up with another phone call if you have not heard back in a few days.

There are experienced attorneys who insist that people who might sue in civil court over a police misconduct incident should not speak to the media because they might say something damaging to the case or potentially anger the judge. However, consider this: The police and their public relations team automatically tell their story to the media and, by extension, to the public even if you do not. Most departments have full-time public relations offices dedicated to just that. So the public quickly receives a one-sided version of what happened unless the victims of police misconduct choose to speak out.

Tell Public Officials

Send a copy of your notarized IAD complaint with a cover letter to the District Attorney, your mayor, city council members, your county judge, the Attorney General, your state representative, state senator, Congressman, and U.S. Senator. Ask them to do everything in their power to address the problems raised by your complaint. Your chances will be greater if you talk to a staff person and call or visit their offices afterward to confirm they received

your letter. You should send your material out widely to see if anybody picks up on it. Most will not, yet sometimes, somebody will. You don't know until you try.

4. Consider Your Legal Options

What should you do if after thoroughly investigating the case yourself, you believe an officer has demonstrably broken a specific, identifiable criminal law (as opposed to violating department regulations)? You do not have to stop at submitting your charges to the Internal Affairs Division, but can also go directly to the District Attorney (DA).

Inform Prosecutors

This option only applies to persons who do not have criminal charges pending against them. If *any* charges are pending against you or if you have a concrete reason to fear potential criminal charges, consult with a criminal defense attorney before contacting the DA's office. It may be that all contact should occur through your attorney. Indeed, although there is no law requiring you to have an attorney, you should probably consult with an attorney before contacting the DA about criminal allegations against a law enforcement officer.

Call the local DA's office and ask which assistant DA is assigned to the law enforcement agency involved. If no one has been assigned, ask for the name of the head assistant DA and send copies of your complaint, along with the names of witnesses and any evidence of wrongdoing, to that person (always keep copies for yourself). Tell them that the law enforcement agency is supposed to be investigating the incident, but you are concerned that they may not aggressively pursue it. Say that you would like the officer prosecuted for the crime you allege or, if the officer

is not prosecuted, that you would like an explanation as to why not. DAs are elected and their offices are generally responsive to the public. If this process fails, repeat at the federal U.S. Attorney's offices.

Consider a Civil Lawsuit

Only you and your lawyer can decide whether it is appropriate to file a civil suit in state district or federal court over your particular incident. Winning cases against a police officer is difficult, and it is even tougher to win against a city or police department where you have to not only prove specific misconduct, but that a "pattern and practice" of misconduct was tolerated or encouraged by the department or city. On the other hand, every case is different and, depending on the evidence you are able to marshal, a lawsuit can be the most direct and powerful way to impose significant reforms on a law enforcement agency. If you have done all of your research first, it will be easier for an attorney to assess your case.

Online Resources

Fighting Police Abuse: A Community Action Manual

www.aclu.org/police/gen/14614pub19971201.html

Know Your Rights: What to Do if You're Stopped by the Police

www.aclu.org/police/gen/14528res20040730.html

Police Complaint Center at www.policeabuse.org

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