

After a summer of protests, Utah lawmakers will consider dozens of police reform bills this session

Do elected leaders have the political will to implement meaningful change?

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In the wake of a summer of protests against police brutality, Utah's state lawmakers are poised to consider a slate of bills that would bring more uniformity to how officers do their jobs — including how they're held accountable if they do something wrong.

But it's been several months since the last protesters marched. And in the midst of a breakneck 45-day session that will also be marked by the coronavirus pandemic, it remains to be seen whether the Republican supermajority that rules the Legislature has the political will to implement meaningful reform.

Sen. Todd Weiler, who chairs the Senate Judiciary, Law Enforcement and Criminal Justice Committee, said he expects police bills will be a "big part of the dialogue" on Capitol Hill this session, which begins Tuesday. But he thinks the momentum from months of discontent has dissipated over the last few months.

"A lot of that fervor, a lot of that passion and emotion has ... let's just say it's not as high as it was last summer and maybe even last fall," he said in an interview. "If our general session had started in August, I think those bills would have probably taken on maybe a different amount of priority than they're going to take on in February."

That political reality is why Lex Scott, leader of the Black Lives Matter Utah chapter, says it wasn't exciting to see hundreds of Utahns take to the streets this summer.

"Every time there's a high profile shooting, we see massive crowds come out and we see those crowds go away as quickly as they came," she said. "The only thing that gets me excited is police reform bills that actually pass."

While she anticipated that the momentum for change would die down as the weather grew colder, Scott said she has "hope for the best" this session — though she's still preparing "for the worst."

"I want to think that the Republicans are sick of watching the uprisings and watching the unrest and they've actually thought about this in a calculated way and they've said, 'Hey, if we don't get some police reforms, we're going to continue to see unrest,'" she said.

But Scott still thinks some legislators "don't believe that police reform is top of mind or a priority." (Rick Egan | Tribune file photo) In this Aug. 3, 2020, file photo, Lex Scott from Black Lives Matter Utah, leads a chant as counterprotesters look on from across the street at the Cottonwood Heights police station. The inflamed passions of Utah's summer of discontent over police shootings and reform has chilled with the winter weather going into the 2021 legislative session.

(Rick Egan | Tribune file photo) In this Aug. 3, 2020, file photo, Lex Scott from Black Lives Matter Utah, leads a chant as counterprotesters look on from across the street at the Cottonwood Heights police

station. The inflamed passions of Utah's summer of discontent over police shootings and reform has chilled with the winter weather going into the 2021 legislative session.

Utah lawmakers have so far filed dozens of bills on police reform ahead of the upcoming legislative session. They're expected to debate whether police should be required to de-escalate a situation and whether an officer has a duty to intervene if another officer is using excessive force. They also have the power to decide if police should be required to give a warning before using deadly force and if there should be more consistency among agencies when it comes to internal affairs investigations.

Several of the proposals come from Republican lawmakers, who mobilized in a special session in the wake of protests this summer to support a ban on officers using knee-on-neck chokeholds — a new law Rep. Sandra Hollins, D-Salt Lake City and the bill's sponsor, described at the time as a “down payment” on law enforcement reform for communities that have long lived in fear of the police.

Rep. Angela Romero, D-Salt Lake City, says now that it's overdue for Utah legislators to take up these issues.

“For someone who is BIPOC [Black, Indigenous and People of Color],” she said in an interview, “and for someone who has worked with these people, I'm happy to see that my colleagues on both sides of the aisle are taking this seriously.”

Weiler said he thinks the summer of protests made the community at large more aware and “sensitive” — but “that doesn't always translate into a sweeping change in the law.”

“I think that we've been trying to root out racism for years and you can only legislate so much of that, right?” he said. “So I'm not going to sit here and say our laws are perfect but as I've looked at them, I don't think we're starting from zero. I think a lot of what we need is already there on the books.”

He anticipates only a small fraction of the 60 or so bills that have been filed will actually pass and that lawmakers will “be looking for tweaks rather than substantive reforms” this session.

At the height of the protests, Salt Lake County District Attorney Sim Gill released 22 suggestions to change Utah's use-of-force laws. He said recently that even though the streets are no longer filled with protesters every night, there still needs to be a commitment from officials to listen and implement the reform that people want — even during a session where other important issues, like the state's continued COVID-19 response, might dominate.

“We can make excuses about coronavirus, but we cannot escape the responsibility that we have and what needs to be done,” Gill said. “If that's the change we want.”

Use of force and uniformity

Rep. Kera Birkeland, R-Morgan, is one of several lawmakers running legislation to limit how much force police are allowed to use — something she thinks will help ensure lawmakers “are passing the best language possible.”

Her bill would prohibit police from using force on someone who has been detained but is complying with officers.

“If they're mouthing off, that doesn't mean the officer gets to use more force on them,” she explained in an interview.

And if a fellow officer sees the use of excessive force, her proposal would codify a requirement that they intervene and then report the incident, which she said should take away the concern some officers have expressed “that if a higher ranking officer does something they shouldn't be doing, there's nothing to protect them if they go to report it.”

Birkeland said her legislation is rooted in constituent concerns about policing she's heard over the last few months. And while she hasn't yet secured the support of law enforcement, she said she doesn't see the legislation as hostile toward police but is instead a way to promote good behavior.

In addition to addressing use of force, Birkeland's bill would also tackle questions of transparency by requiring all police agencies to make investigations available to the public upon completion.

"If there's a department that's constantly getting allegations against them and the people can see and read for themselves the findings, the people will know whether these are just unfounded or whether we have an issue with that department that needs to be looked into," she said. "I think that transparency is vital to supporting law enforcement and dealing with the bad actors."

Several other bills are aimed at bringing uniformity to policing in Utah, especially oversight. Along with discussions about whether disciplinary actions should be made public, lawmakers are also expected to debate legislation that would allow prosecutors to bring police shooting cases to a grand jury. The bill also comes with increased transparency, requiring a prosecutor to make the grand jury transcript public if charges aren't filed.

The proposal would also require county attorneys to explain their legal reasoning when deciding whether an office was justified in using deadly force. The state currently has a patchwork system where some county attorneys regularly release body camera footage and their legal analysis, while others do not.

Ian Adams, the executive director of Utah's Fraternal Order of Police, said one of the most critical changes he wants to see is more uniform data collection, especially with use-of-force cases. Without that data, he said, policymakers are changing laws based on what "feels right," rather than what's actually happening.

"I'm not afraid of the data," he said. "We're all developing policy in the absence of real information." Romero is sponsoring a bill that would make it mandatory for police departments to collect use-of-force data and send that to state and federal agencies. This would give Utahns more information any time police use force, including in instances where police use deadly force.

The American Civil Liberties Union of Utah started sounding the alarm about the number of deadly police encounters two years ago, after 2018 became the deadliest year for Utah police shootings in recent history. Jason Stevenson, a spokesperson for the ACLU, said the group was met with a lot of shoulder-shrugging from officials.

But 2020 brought a heightened interest in policing issues, he said. It also was a record-tying year for policing shootings, after police shot at 30 people through the year, killing 17.

Stevenson said better policies need to be put in place so there are better outcomes. And he sees a "window for reform that can happen right now."

"Otherwise," he said, "we will be writing this same article every year, shrugging our shoulders and wondering why this is still happening."