

# 7 bills spurred by slain Utah student Lauren McCluskey target officer misconduct

State lawmakers are looking to fill gaps after the officer assigned to McCluskey's case shared her explicit pictures with his co-workers.

Salt Lake Tribune

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<https://www.sltrib.com/news/education/2021/02/03/bills-spurred-by-slain/>

Feb. 3, 2021, 6:00 a.m.

It's been [more than two years since student-athlete Lauren McCluskey was killed](#), and her case continues to drive public policy debates in the state.

In each legislative session since her October 2018 murder, [bills have been drafted](#) with the aim of fixing the shortcomings that contributed to her concerns being largely ignored by University of Utah campus police. And this year on Capitol Hill is no different.

There are at least seven proposals in the works that were spurred, at least in part, by McCluskey's case — not counting [the legal settlement with her family that lawmakers must sign off on](#).

This session, the focus is on changing laws around police misconduct, which comes after The Salt Lake Tribune reported last year that the officer assigned to McCluskey's case [showed off to his co-workers the explicit photos she had sent him as evidence in her extortion case](#). An investigation from the Utah Department of Public Safety [confirmed that display of pictures occurred without a work-related purpose](#) in the days before McCluskey was fatally shot by the man she was trying to report.

Now, state lawmakers are looking to update the processes for investigating officers and suspending their licenses, as well as strengthening the code on what's known as "revenge porn" around showing off nude photos without consent.

What happened to McCluskey was tragic, said Sen. Jani Iwamoto, D-Holladay, who's suggesting three of the bills. She hopes McCluskey's case, though, can be used to help other students — particularly women — moving forward. "This is about accountability and transparency and good policy," she said.

Here's a rundown of the measures being proposed:

## **[HB147](#) — Revenge porn amendments**

After former U. police officer Miguel Deras showed off the explicit photos of McCluskey, prosecutors in the Salt Lake County District Attorney's Office considered charging him under the state's "revenge porn" law. [But District Attorney Sim Gill said they ultimately were unable to do so](#) because the current code requires proof that the person in the image was directly harmed — and McCluskey's death made that impossible.

Rep. Craig Hall, R-West Valley City and one of the original sponsors of the state's revenge porn bill, has brought forward a new measure to close that gap.

An initial version of the bill, HB147, would have outlawed the sharing of intimate images of someone without his or her consent, regardless of whether the distribution had caused actual emotional harm. That would ensure death wouldn't bar prosecution and also protect a wider swath of people whose images had been shared, Hall said.

"If someone is sexually assaulted, if someone is raped, we don't require the witness to get on the stand and testify as to whether this caused actual emotional distress," he said. "We don't make a prosecutor put a victim on the stand and say, 'Tell us how you were emotionally disturbed because of the sexual assault.' ... So why should we do that here?"

On Monday, the House Judiciary Committee ultimately opted, though, in favor of an amendment to the bill that would eliminate the requirement for emotional harm only in cases of death or incapacitation. Marina Lowe, legislative and policy counsel of the American Civil Liberties Union of Utah, argued that the more restrictive version would ensure the law wouldn't "sweep up" and criminalize people who aren't engaging in revenge porn. "You can imagine a situation where a woman maybe goes on a date with an individual and he sends her an intimate photo and she passes it along to a friend saying, 'Can you believe this guy?'" she said. The proposal now moves to the full House for further consideration.

### **[HB229](#) — Internal investigation amendments**

In HB229, Hall proposes barring law enforcement agencies, including those at universities, from investigating a criminal allegation against their own employees. Instead, the agency would need to bring in a separate department to review alleged misconduct.

With this, Hall is targeting how the University of Utah handled the complaint against Deras. When it first came up through a records request from The Salt Lake Tribune, the U. did its own review and concluded there was no evidence to prove Deras showed off the photos.

But the new police chief [later acknowledged that review was not thorough](#), and he requested a new investigation from the Utah Department of Public Safety. DPS later confirmed that the display of the photos had occurred.

This bill has not yet been heard by committee.

### **[HB62](#) — POST certification amendments**

The idea behind this bill is to expand what types of misconduct or allegations would prompt an investigation of an officer.

Deras' conduct is currently being reviewed by [the Peace Officer Standards and Training council, or POST](#), which oversees officers across the state and can suspend or revoke their licenses — a process that runs separately from any criminal charges.

Rep. Andrew Stoddard, D-Sandy, would specifically like to add "conduct involving dishonesty or deception," a violation of a police agency's use-of-force policy or overall biased behavior as grounds for action on an officer's certification. There would additionally be the possibility for review based on "credible allegations" of misconduct.

Stoddard, a prosecutor, believes those areas are not currently covered by the law and give officers, like Deras, a loophole for poor behavior not spelled out in code. Maj. Scott Stephenson, who heads POST, has said the closest thing Deras could currently be investigated for is "conduct unbecoming," but he's acknowledged that's quite broad.

"It came out in the press that [this officer] had engaged in some pretty damning conduct," Stoddard said during a committee hearing on the bill Monday. The measure, he hopes, would help "hold officers more accountable."

The bill temporarily stalled on a 5-5 vote, but Stoddard said he plans to revise it and bring it back again for more discussion. It has support from POST, as well as the Utah Law Enforcement Legislative Committee and the Salt Lake County District Attorney's Office.

Two lawmakers, Rep. Matthew Gwynn, R-Farr West, and Rep. Ryan Wilcox, R-Ogden, raised concerns that the bill might subject an officer to all kinds of investigations deemed "credible." Gwynn said that can be "very subjective."

But Stoddard said POST can only investigate those cases that an agency has flagged for the council to review. With use of force, the officer's conduct also has to have already been deemed intentional, excessive or unreasonable.

### **HB59 — Law enforcement investigation amendments**

Stoddard is also proposing a bill to add penalties to the criminal code specifically for those who share explicit images without consent.

Stoddard's proposal changes the law on the distribution of images. It adds penalties for law enforcement officers and prosecutors who obtain an image as evidence and then share it for non-work related purposes.

It states: "A law officer who obtains access to an intimate image in the course of the law officer's official duties may not display, duplicate, copy, or share the intimate image, unless: (a) displaying, duplicating, copying, or sharing the intimate image is done solely for the purpose of the prosecution or investigation of a criminal matter involving the intimate image; or (b) each individual who is the subject of the intimate image gives written permission to display, duplicate, copy, or share the intimate image."

Violators could face a misdemeanor charge for a first offense. HB59 has not yet come up in committee.

### **SB13 — Law enforcement internal investigation requirements**

Currently, if a police officer leaves an agency in the middle of an internal investigation, that investigation is dropped.

This bill would allow those reviews to continue with the hope to "prevent a bad officer from jumping from department to department," said Iwamoto, the sponsor.

(Bethany Rodgers | The Salt Lake Tribune) Matt McCluskey, father of slain University of Utah student Lauren McCluskey, speaks to reporters after testifying on a campus safety bill in 2019. Standing next to him is Sen. Jani Iwamoto, D-Holladay

Deras, for instance, left the U. about a year after McCluskey was murdered and was hired by the Logan Police Department. Concerns about him sharing her photos arose shortly before he left, and the university said at that point that it could not question him or take action if it had wanted to. ([Logan police fired Deras](#) after the conduct was confirmed by the state.)

Iwamoto also wants to have agencies report all allegations of misconduct to POST, as well as the agency hiring the officer under investigation.

The bill received unanimous support in committee last week. And it also has the backing of the NAACP in Utah, the Utah League of Cities and Towns, the state chapter of Black Lives Matter and the Utah Fraternal Order of Police. It passed through the full Senate in a vote Wednesday and now goes to the House.

Stephenson with POST said: "We value transparency and the desire to prevent officers from staying ahead of discipline."

### **SB163 — Campus safety amendments**

Iwamoto's final bill is about sharing campus crime data with students in an easily accessible way, an idea also spurred by McCluskey's case.

Each year, colleges are [required to release a report that details the crimes](#) that occurred on or near campus. But they don't have to specify where they occurred. Iwamoto would like the state's colleges to provide a live dashboard or map going forward.

She believes that will give students insight in what's happening on their campuses.

The bill would also require college police departments to communicate with their nearby city police departments and share data. And it would call for the creation of a panel of students to review policies for campus safety statewide. There would be a seat for a student from each of the eight public universities and eight technical colleges, as well as spots for private schools, including Brigham Young University.

It has initial support from the Utah System of Higher Education.

**Law enforcement agency disclosure amendments**

This bill has not yet been numbered, but with it Iwamoto is drafting a proposal to ensure officers have protection if they share information about a co-worker's misconduct.

Deras showed a photo of McCluskey to at least four officers and none of them spoke out until the state investigated. Iwamoto said: "I want to make sure they feel, without threat, that they can talk about what's happening."

—*Tribune reporter Taylor Stevens contributed to this article.*