



Police & Your Community

What You Need to Know to Challenge Actions and
Change Policy in Washington State



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This Guide was prepared as a public service by the Washington State Bar Association Leadership Institute in 2011. It contains general information and is not intended to apply to any specific situation. Nothing in this Guide should be considered as legal advice. If you need legal advice or have questions about the application of the law in a particular matter, you should consult a lawyer.

➤ **Introduction**

This Guide is created to provide you with information to help you address or challenge actions taken by police agencies in Washington State. Inside you will find:

- (1) How to address conduct of an individual officer by filing a complaint with a law enforcement agency;
- (2) How to address actions of an officer or a law enforcement agency by filing a lawsuit;
- (3) How to make changes in law enforcement policy and structure through the legislative process;
- (4) How to obtain public records; and
- (5) Other tools available to help you through this process.

This Guide is meant to encourage active participation and dialogue with law enforcement. This is merely an overview to start you on your way to bring about positive change in your community and resolve your own individual disagreement or dispute with law enforcement.

If you would like additional or more specific information than the general information provided by this Guide, you can ask a librarian at your local public library or a law school's library for help locating additional resources. If you are considering filing a lawsuit or complaint against an officer or law enforcement agency, you may want to consult an attorney for assistance.

➤ **Filing a Complaint Against a Police Officer with a Law Enforcement Agency**

Police officers have an essential role in keeping the peace in our society.

Many of us will likely have only a handful of interactions with police officers during our lifetimes, and those interactions will likely be problem-free. However, if you believe that an individual police officer's conduct violated the law or was inappropriate and would like to



address the officer's action by filing a complaint with the law enforcement agency, it is important that you know what steps you can take.

There is some information you must have before you begin the process. For example, you will need to know if the officer is employed by a city, county, or the federal government to ensure that your complaint goes to the correct agency.

It is helpful, although not necessary, to know the officer's name. If you do not know the officer's name, you may contact the officer's employer (city police department or county sheriff's office) and request a copy of the incident report and any audio- or video-tapes related to your incident. You will probably be asked to provide some basic information about the incident such as your name, and the date, approximate time, and location of the incident. You may also ask the police department for assistance in identifying the individual officer.

Even if you do not know the officer's name, you can still start the complaint process. If your complaint is against an officer who works for either a city police department or county sheriff's department, then you should check to see if the agency has specific procedures or forms for filing a complaint. You can consult the agency's website or contact that law enforcement agency's *non-emergency* number to learn more about the agency's particular process.

When filing your complaint, you should also consider what type of result you are looking to achieve. Would you like to put the police department on notice of the misconduct? Would you like to see the officer disciplined or fired? Are you seeking money damages or a change in policy? You may not be able to get all of these results from filing a complaint.

If your complaint involves a city or municipality officer and you are not satisfied with the way your complaint was handled or with the outcome of your complaint, then you may also file a complaint with the chief executive of your city. A chief executive is either the mayor or the city manager, depending on the way



your city is structured. The chief of police is accountable to either the mayor or the city manager. You may also file a complaint with Washington State's Executive Ethics Board if you believe a violation of the state ethics laws has occurred. More information, including the ethics complaint form, is available at www.ethics.wa.gov.

If you do not want to file a complaint directly with a law enforcement agency, some local governments have ombudsmen, who operate as impartial intermediaries between the agency and the community, or some other form of independent agency to whom a complaint may be directed. You should check with your local government to see if this option is available to you. Additionally, you may also file a complaint with the Federal Department of Justice about federal, state, county, and local officers,

including those who work in prisons and jails. More information is available at www.justice.gov/crt/about/spl/documents/polmis.php.

If you would like to bring a complaint against an Indian tribe officer, you may contact the appropriate tribal government to see if you may file a complaint and for information regarding the Tribe's process.

Please be aware that complaints must be made in good faith. False or highly exaggerated complaints may be prosecuted under Washington law. Also, if there are pending criminal charges against you, filing a complaint may interfere with your Fifth Amendment right not to incriminate yourself. Your complaint may also affect any later lawsuit. If you are concerned about any of these risks, it is best to consult an attorney before filing a complaint. A list of resources is provided at the end of this Guide.

Quick Checklist

Before you file a complaint, it will be helpful, although not required, to have the answers to the following questions. If you need help, consult the resources at the end of this Guide.

- What is the name of the officer and what agency employs the officer?
- What conduct do you believe was inappropriate? How did the conduct violate a rule or law?
- Were you present when the conduct occurred?
- Were others present? If so, do you have their names and contact information?
- When and where did the incident occur?
- What result do you want?

➤ **Filing a Lawsuit Against a Police Officer or Law Enforcement Agency**

In some situations, it may be appropriate to sue an individual officer, a law enforcement agency, or both. This can be more difficult because there are limits on your ability to sue the government.

If you want to sue a police officer or law enforcement agency for a wrongful act, then you must first submit a claim form to the appropriate government entity.



The form gives the agency an account of what happened and describes the harm that you suffered. The standard form for claims against state government entities can be found at <http://www.ofm.wa.gov/rmd/forms/allforms.pdf>.

Each local government may use its own claim form instead of the standard form. So, if you are suing an officer employed by a local government or the local government itself (or both), be sure to check with the local government about its form and ask for more information about how to file it. Information about the address for filing a claim form and local government's designated person may also be obtained by calling the county auditor's office.

If you want to bring a lawsuit against a police officer employed by the State of Washington, then you must return the completed standard claim form to the Office of Financial Management for the State of Washington.

You must wait 60 calendar days after submitting the completed claim form before you can file a lawsuit.

You must also file your lawsuit within the specific time period allowed for that particular type of lawsuit, which is called the statute of limitations. You should consult an attorney to confirm the applicable statute of limitations for your particular type of lawsuit.

If you are unsure of whether you have a claim against a police officer or law enforcement agency, then contact an attorney. Because there are many possible laws that might apply to your situation, you might want to search the laws of Washington at your local library. You will want to ask a librarian to see these laws, which are called the Revised Code of Washington. They can also be found at <http://apps.leg.wa.gov/RCW>.

If you decide to file a lawsuit, you can either hire an attorney to represent you or you can represent yourself (appear “pro se”). As the process can often be difficult, it is best to have the assistance of an attorney. If you decide to represent yourself, you may want to stop by a law library and ask the librarian to assist you in finding additional resources. There are law libraries in different counties and at



the three law schools in Washington State: University of Washington, Seattle University and Gonzaga University. A directory of county law libraries can be found at <http://www.wacll.org/>.

Please note that this Guide focuses on state and local officers. If you would like to bring a lawsuit against the federal government, more information is available at http://www.justice.gov/civil/docs_forms/SF-95.pdf.

Please be aware that filing a lawsuit against a law enforcement officer that is based on false or unfounded accusations may expose you to claims made by the officer. You might be ordered to pay the officer's damages, attorneys' fees, and costs. If you are concerned about this risk, it is best to consult an attorney before filing a lawsuit.

Quick Checklist

Before you can file a lawsuit:

- Consider contacting an attorney for assistance with your claim.
 - Do research online or at a law library to determine what claims you have against the entity you seek to sue.
 - Know the statute of limitation (the deadline to start the lawsuit).
 - If you were assaulted, falsely imprisoned, or injured by the negligence of an officer, or if your property was improperly taken by an officer, among other tort claims, remember to file a tort claim form with the appropriate entity.
 - Submit a claim form to the agency's designated individual.
 - If you are suing the State of Washington, return your completed claim form to the Office of Financial Management.
 - In the claim form, include your account of the incident and a description of your damages.
 - Wait 60 calendar days.
 - File a summons and complaint to start your lawsuit.
-

➤ Making Change with Legislation

In addition to taking action against individual officers or police departments, you can also work to personally influence the outcome of political decisions that impact law enforcement policies and procedures. For example, you can learn how the legislative process works, where to locate issues under current consideration, and how to participate in the legislative process at the local, state, and national level.



You can actively participate in the legislative process in a variety of ways. For your participation to be effective, it is important to have a basic understanding of this process.

The legislature is the branch of government that makes and changes laws. Washington's State Legislature, which makes and changes laws for Washington State, is made up of two houses (or "chambers"): the Senate and the House of Representatives.

In addition to the State Legislature, laws are considered and enacted by a variety of local legislative bodies that deal with issues for a particular city, county, or community. Washington's 39 counties elect county commissioners, council members, and executives to address issues for their counties. Washington cities have city councils that enact local laws, ordinances, and codes. If you are a registered voter, you can find your local officials at <http://www.sos.wa.gov> under the "myvoter" tool. These officials can also be found on your local government's website.

Legislative change starts with an idea for something new. Maybe you would like the state to start a monetary fund for victims of police brutality, or perhaps you want to change the hiring criteria for police officers. These types of changes can be made through the legislative process. During the legislative process, a proposed law (called a “bill”) is drafted, introduced, sent to a legislative committee, where public comment may be received, and then voted on by the legislature. If the bill passes by a vote of the legislature, then an executive, such as the Governor, county executive, or a mayor, may sign it and the bill will then become a law. The executive can veto the bill in whole or in part. If the Governor vetoes part or all of the bill, the Legislature may vote to override the veto, although this happens rarely. If the executive does not act on a bill after a certain period of time, the bill still becomes law.

Anyone can write a bill, but only elected officials of the legislative body can introduce it. If you have an idea for a bill, you can contact your elected representative, discuss the bill, and ask him or her to introduce it. The following resources can be used to learn more about how a bill becomes a law in each house of the Washington State legislatures.

Legislative Resources

Federal legislative process	thomas.loc.gov/home/lawsmade.toc.html
Washington State Legislature process	leg.wa.gov/legislature/Pages/Overview.aspx
Washington county websites with information on county legislative processes	mrsc.org/byndmrsc/counties.aspx
Washington city websites with information on city legislative	mrsc.org/byndmrsc/cities.aspx

Advocating for Legislation

If you are interested in supporting change in legislation that concerns law enforcement agencies, there are various ways to find information on bills that have already been drafted that may relate to law enforcement. To find bills in the Washington State Legislature, go to the Washington State Legislature Bill Information online site, apps.leg.wa.gov/billinfo. You can search for bills by number or topic. You can also look at the Bill Status Report to view a list of all bills and their current status. Once you have found a bill that you're interested in, you can review the bill information to find out what the bill is about, who sponsors it, its history (including any public hearings that have been or will be held), and its current status. Select the link for the sponsor of the bill to view the contact information for the sponsor.



You may also ask your district's legislator to help find information on specific topics or bills. To find your district's legislator, go to the Washington State Legislature – Find Your

Legislator Page, apps.leg.wa.gov/DistrictFinder/Default.aspx, and enter your address to find your district. The district map at the “information about district boundaries” link shows the different districts and the legislators for each district. If you select the link for a specific legislator, you will see the contact information for that legislator.

The Washington State Legislature also has a function on its website that can assist you in tracking bills. Creating a personal profile at

dlr.leg.wa.gov/user/login.aspx will allow you to create custom bill tracking reports and follow legislation related to public safety and law enforcement. You can also watch hearings live online at twv.org or view these hearings on the TVW television station.

You can also sign up for email notifications of public hearing agendas for one or more of the legislative committees through the Legislature's website. If you are interested in a particular committee's hearings, the email notifications will give you advance notice of the work sessions and the bills that will be heard in the committee on a particular day. You can sign up for email notifications at <http://apps.leg.wa.gov/subscriptions>.

It is more difficult to track local and county bills because they may not be as readily available on the Internet. Each local and county legislative body is required to have regular meetings, provide agendas for the meetings, and make the meetings open to the public. Many local legislative bodies provide information about the meetings on their websites. You can track federal bills at thomas.loc.gov.

Getting Your Opinion Heard in the Legislature

Once you have done some research on the topic or bills that may interest you, the next step in advocating for change to law enforcement practices may include voicing your opinion to the legislature.

Your legislators hold public meetings from time to time and can provide you with information on when these meetings are held. You can attend these meetings and provide feedback to your legislator about the bills that interest you. Your legislator



may also work with you to sponsor a new bill if none of the current bills address your particular interest.

The Washington State Legislature also has a toll-free hotline – 1-800-562-6000 (TTY for Hearing Impaired 1-800-635-9993) – to help people send messages to their representatives and senators. If you call the Hotline and leave a brief message for your district legislators or for the Governor or Lt. Governor, your message will be forwarded electronically to the appropriate individuals. You should also be prepared to give your name and address.

The Hotline staff can answer questions about meeting times and places, pending legislation, and the legislative process. During the legislative session, the Hotline is open from 8 a.m. to 8 p.m. Monday through Friday and from 9 a.m. to 1 p.m. on Saturday. When the Legislature is not in session, the Hotline is open from 8 a.m. to noon and from 1 p.m. to 4:30 p.m. Monday through Friday. For non-English speaking callers, the Washington State Legislature offers interpreter services for many languages.

You can also testify at committee hearings and council meetings and make statements regarding a bill. Be sure to arrive early and sign in. A call to your legislator can help you with information regarding the rules for presenting your opinions on the record.

Generally, you should prepare your remarks before the hearing or meeting. If you have written materials, you should bring enough copies for each one of the elected officials at the hearing or meeting. If you cannot attend a public hearing, you can send letters and emails to the committee or council members. As a general rule, it is best to avoid duplication of other testimony and to keep your remarks short. More information regarding testimony in the Washington State Legislature is available at www.leg.wa.gov/legislature/Pages/Testify.aspx.

Making Change Through the State Budget Process

The state budget process is another way to seek legislative change. This process provides funding to state agencies with missions related to public safety including the Washington State Patrol, Department of Corrections, the courts, the Office of the Attorney General, the Office of Public Defense, and the Criminal Justice Training Commission. The programs that receive funding include the Crime Victim Compensation Program and service programs for juvenile criminal offenders. A majority of those programs are funded by the state's General Fund.

Both the Governor and the Washington State Legislature seek public input during the budget-making process. The most effective way to learn about and participate in the public safety budget process at the state level is to regularly check the budget committee websites and visit the website for the Governor and for the Office of Financial Management. Another useful resource is the Washington State Budget and Policy Center, an independent organization that performs detailed analysis and commentary on the state budget.



At the county level, law enforcement is generally managed by the county sheriff's department. The sheriff enforces state and county laws in parts of the county that are not governed by a city or town. The sheriff's department's budget information can be

obtained from the county treasurer's office or the sheriff's office.

Cities and towns operate police departments. Cities and towns fund public safety operations from local taxes and some federal grants. The budget information for local law enforcement can be obtained from the local police department or mayor's office.

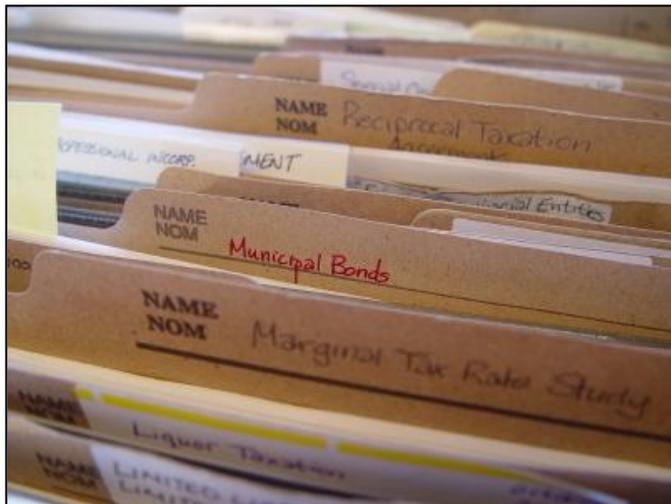
The Legislative Information Center (LIC) is a service that provides information and documents about the legislative process:

- Toll-free hotline: 1-800-562-6000
- LIC office: 360-786-7573
- Room 106 of the Legislative Building
- support@leg.wa.gov
- The Legislative Information Center
P.O. Box 40600
Olympia, WA 98504-0600

➤ **Obtaining Public Records**

In certain circumstances, you may want to look at public records as they relate to law enforcement action. For example, you may want to look at the policy manual, training manual, or operations manual of your local law enforcement agency. Although some exceptions may apply, this information is generally available to the public and can be viewed and copied. This section provides basic information to help you obtain public records from law enforcement agencies for your review or use in your lawsuit or your complaint.

In Washington State, the Public Records Act (RCW 42.56) permits you to request records from government agencies. The Public Records Act ensures that you have access to information regarding



your government's actions. Under the Act, you can request writings, including emails, recordings, pictures, electronic disks, instant messages, and other forms of information. A record is "public" if it relates to the conduct of a government agency or the performance of a government function. You are entitled to access all public records maintained by state and local agencies unless a specified exemption applies. A list of exemptions can be found in the Public Records Act itself or can be obtained through the Municipal Research and Services Center of

Washington at <http://www.mrsc.org/Publications/pr09.pdf>. You may be required to pay a copying fee if you would like copies of any public records.

If a law enforcement or other government agency refuses to provide the records you requested, then that agency must also provide the specific exemption it believes applies as well as a short description of how the exemption applies to your specific request. Also, portions of certain records may be given to you once they have been “redacted,” meaning that certain information has been blocked out or removed.

If you need additional assistance, the Office of the Attorney General and the Washington Coalition for Open Government have created some helpful resources regarding public records requests. The Office of the Attorney General also created an Open Government Ombudsman position to assist individuals and agencies with the Public Records Act and the Open Public Meetings Act. An ombudsman is someone who acts as go-between and investigates complaints and problems regarding compliance. More information is available at:

- Open Government Internet Manual produced by Office of the Attorney General
<http://www.atg.wa.gov/OpenGovernment/InternetManual.aspx>
- Open Government Ombudsman
<http://www.atg.wa.gov/OpenGovernment/Ombudsman.aspx>
- Washington Coalition for Open Government
<http://www.washingtoncog.org>

➤ Accessing Interpreter Services

If you cannot readily speak or understand English due to limited English proficiency or a hearing impairment, you may obtain interpreter services in court and administrative hearings. State and federal government agencies may provide additional interpreter or translation services. In many instances, an interpreter will be provided to you free of charge.



Certain law enforcement and other government agencies provide interpreter services. For example, Seattle Police Department's Office of Professional Accountability, which investigates complaints about police misconduct, posts a *Questions About Police Misconduct?* brochure in multiple languages at <http://www.seattle.gov/police/OPA/Publications.htm>. The Washington State Human Rights Commission also provides a Spanish language form for filing a discrimination claim at <http://www.hum.wa.gov/CQ/>.

If you need an interpreter for filing a claim with a law enforcement or other government agency, contact the agency to see if interpreter services are available. Depending on the facts of your case, you may also have a right to interpreter services under federal law. More information is available at <http://access.wa.gov/agency/agency.aspx> and the following resources:

Limited English Proficiency – A Federal Interagency Website

- http://www.justice.gov/crt/lep/guidance/guidance_index.html

Department of Justice LEP Guidance

- <http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.php>

➤ **Additional Resources**

In addition to the above resources, the following information may also be useful.

1. Free access to the Revised Code of Washington:

www.mrsc.org

2. ACLU-Washington:

<http://www.aclu-wa.org>

901 5th Avenue, Suite 630

Seattle, WA 98164

(206) 624-2184

3. Mothers for Police Accountability:

[http://www.facebook.com/pages/Mothers-for-Police-](http://www.facebook.com/pages/Mothers-for-Police-Accountability/118638944875585)

[Accountability/118638944875585](http://www.facebook.com/pages/Mothers-for-Police-Accountability/118638944875585)

153 14th Avenue

Seattle, WA 98122

(206) 329-2033

4. National Police Accountability Project:

<http://www.nlg-npap.org>

14 Beacon Street, Suite 701

Boston, MA 02108

(617) 227-6015

5. NACOLE (National Association of Civilian Oversight of Law Enforcement):

<http://www.nacole.org>

638 E. Vermont St.,

Indianapolis, IN 46202

(866) 4NACOLE

(866) 462-2653

➤ **Legal Clinics**

If you need to consult with an attorney and cannot afford one, you may call CLEAR, Northwest Justice Project's Coordinated Legal Education and Referral system, a toll-free telephone service for low-income people in Washington who need legal assistance with non-criminal problems.

- Outside King County: 1-888-201-1014
- King County: Call 211. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274)
- Persons 60 and Over: 1-888-387-7111

You can also contact a bar association in your area for assistance:

- King County Bar Association: 206-267-7010
- Kitsap County Bar Association: 360-373-2426
- Lewis County Bar Association: 360-748-0430
- Pierce County (Tacoma/Pierce County Bar Association): 253-383-3432
- Snohomish County Bar Association: 425-388-3018
- Southwest Washington Lawyer Referral Service: 360-695-0599
- Spokane County Bar Association: 509-477-6032

➤ **Final Note**

This Guide was prepared based on the statutes and other information available in 2011. Over time, the statute numbers and other information may change or may be superseded. You may want to ask a law librarian to assist you in finding the most current information available.

The information contained in this Guide should not be construed as legal advice. If further explanation of these materials is required, please contact an attorney or use the resources described throughout the Guide.

➤ **Acknowledgements**

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