

COMMUNITY RESOURCE

HOW TO REPORT POLICE MISCONDUCT IN HAWAI‘I



WHAT IS POLICE MISCONDUCT?

Police misconduct is a wide range of conduct that police officers either should not engage in or are prohibited from engaging in given their unique role in enforcing the law, ranging from conduct that is simply unbecoming of an officer to more serious illegal and unconstitutional conduct.

Police misconduct includes:

- Rudeness and disorderly conduct
- Dereliction of duty
- Making false, misleading, or inaccurate statements
- Using their office for personal benefit, including soliciting or accepting bribes
- Suppressing or falsifying a complaint or evidence
- Unlawfully or unnecessarily arresting someone
- Using excessive force
- Sexual harassment
- Illegal conduct, including reckless driving, assault, and malicious threats
- Depriving someone of their constitutional rights, including discrimination on the basis of race, sex, religion, national origin, disability, and citizenship status
- Otherwise depriving someone of constitutional rights.

For serious misconduct, you should consult an attorney as soon as possible. You should also consider reporting the incident to the [United States Department of Justice](#) and submitting an [intake](#) to the ACLU of Hawai'i. For criminal behavior, consider calling or writing to the [Honolulu Field Office of the Federal Bureau of Investigation](#) at (808) 566-4300 or 91-1300 Enterprise Street, Kapolei, HI 96707.

WHAT IS A POLICE MISCONDUCT COMPLAINT?

All police departments have different ways for people to report misconduct by an officer. Usually, these complaints (sometimes also referred to as “charges”) can be made directly to the police department or to an independent commission or body. This guide discusses the options and process for reporting police misconduct to the relevant county and state agencies in Hawai'i.

Reporting such misconduct is what this guide refers to as a “complaint,” which may result in an investigation and some findings on what happened. Depending on the body investigating the complaint, the officer may also be disciplined or even fired. *Filing such a complaint will not, by itself, result in monetary compensation to the victim.*

There are other types of complaints that this guide does not directly address: (1) criminal complaints and (2) civil lawsuits. A criminal complaint can be made to county, state, and federal law enforcement agencies. For criminal complaints, we generally recommend contacting the Federal Bureau of Investigation.

To recover monetary compensation, a civil lawsuit will likely be necessary. For filing a civil lawsuit, we recommend consulting an attorney. With few exceptions, the ACLU of Hawai'i typically does not represent individuals in lawsuits primarily seeking monetary compensation.

WHY FILE A COMPLAINT?

Police have the awesome responsibility to enforce the law. This includes the privilege to investigate, arrest, and use force in a judicious, responsible, and legal manner. Ensuring that the police do not abuse their power is essential to our constitutional and legal system. It is also critical to protecting everyone's civil rights and liberties.

Reporting misconduct is necessary but not sufficient for holding police accountable. The process for reporting police misconduct is far from perfect. It is time consuming, opaque, frustrating, and too often, unsatisfactory. Reporting misconduct, however, is the best and, sometimes, the only way for creating a record against a police officer or department, and can, over time, be used for effecting more systematic and lasting change. This is true even if a complaint is ultimately unsuccessful.

Many people fear that filing a complaint can result in retaliation from the police. While retaliation is generally rare, it can be a valid concern, particularly in situations where the officer involved has a close relationship or access to the person filing the complaint. There are ways for reducing such risk. If you are concerned about retaliation, please submit [an intake](#) to the ACLU of Hawai'i to discuss your options.

WHO CAN FILE A COMPLAINT?

Anyone with information about police misconduct can file a complaint.

That includes (1) the people directly affected or harmed by the police misconduct (e.g., the victim), (2) people indirectly affected or harmed by the police misconduct (e.g., family and friends of the victim), and (3) any witness to the police misconduct.

Caution: If criminal charges are pending against you, you should speak to a criminal defense attorney or public defender before making any type of complaint about police conduct. Otherwise, you could waive your constitutional rights, such as your right to remain silent, inadvertently. Your criminal defense attorney can advise you on whether and when to file a complaint against a police officer.

HOW TO MAKE A COMPLAINT

If you are contemplating filing a complaint against an officer, it is important that you move quickly as there are several deadlines that you could miss otherwise. The deadlines depend on where you are filing the complaint. These deadlines are discussed in the next section.

As soon as possible after the incident took place, write down in your own words everything that happened from the start of the encounter to the end. In writing about the incident, try to keep it as specific and factual as possible. There is no need for name calling or insults.

In writing about the incident make sure to address the following five questions:

Who is the officer or officers you're filing a complaint against?

Ideally, include their name and badge number. The name of the officer can usually be found near their shirt's pocket. The badge number is on their metal badge, which officers also often display on their uniform. Police officers are generally required to give you their name and badge number upon request.

What did the officer say or do?

Was the officer rude or abusive? Did the officer use excessive force?

When?

Provide the date and time of the incident, as well as any later events that are related to the incident (e.g., called the police department to report the misconduct, went to hospital to treat injuries).

Where?

Location and other relevant circumstances?

How or why did the incident occur?

If possible, also try to gather any relevant evidence about the incident including photos, videos, and the names and contact information of corroborating witnesses. If you were injured, after seeking medical attention, make sure to document and photograph your injuries, including by requesting medical records. For corroborating witnesses, you should ask each witness to write a separate account of the incident and sign it. Finally, make sure to make copies of all the documents and evidence for your records.

Police departments have different requirements for submitting a complaint. These requirements are discussed in the next section.

We recommend mailing the written complaint together with supporting documentation by "Certified Mail return receipt requested." Please make sure to make copies of everything submitted for your records. Also, keep the return receipt to demonstrate that the complaint was delivered.

WHERE TO FILE A COMPLAINT

Complaints against Honolulu Police Department officers can be filed in one of two places. We recommend filing the complaint in both places if possible.



Honolulu Police Commission

To file a complaint with the Honolulu Police Commission, the complaint must involve misconduct that took place while (a) the officer was on duty and (b) within 60 days from the filing of the complaint.

On-duty misconduct generally involves the person's duties as a law enforcement officer. When in doubt on whether the officer was on duty, we recommend submitting a complaint to the Commission for its independent investigation and determination of that question.

Generally, complaints filed 60 days after the incident took place cannot be considered by the Commission. However, the Commission can make exceptions for (1) excusable neglect, (2) newly discovered evidence, and (3) other compelling reasons.

The complaint and supporting documentation should be submitted using the [HPC Statement Form, Written Complaint](#) available on the Honolulu Police Department's [website](#). *The form must be notarized before being submitted.*

Professional Standards Office

To file a complaint with the Professional Standards Office (which is the Honolulu Police Department's "internal affairs" office), the complaint can involve any of the following (1) on-duty misconduct reported 60 days after the incident, (2) off duty misconduct, (3) crimes committed by officers, and (4) misconduct by non-law enforcement personnel.

The complaint and supporting documentation should be submitted using the [PSO Written Complaint Form](#) available on the Honolulu Police Department's [website](#). *The form must be notarized before being submitted.*

HONOLULU

We recommend filing both of these forms:

[HPC Written Complaint Form](#)

honoluluupd.org/complaints-against-hpd-employees/

Fill out, notarize, and submit within 60 days of the incident to:

Honolulu Police Commission

1060 Richards St., Suite 170
Honolulu, HI 96813

For questions about the process, call the Honolulu Police Commission: 808-723-7580

[HPD PSO Written Complaint Form](#)

honoluluupd.org/complaints-against-hpd-employees/

Fill out, notarize, and submit 60 or more days after the incident to:

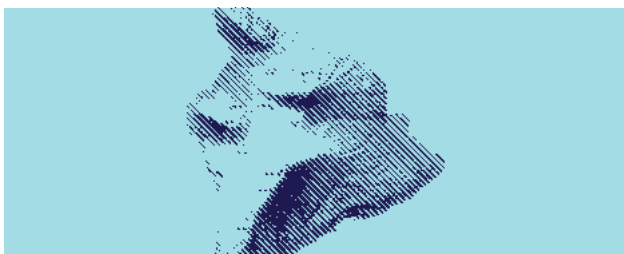
Honolulu Police Department

Attn: Professional Standards Office
801 South Beretania St.
Honolulu, HI 96813

For questions about the process, call the Professional Standards Office: 808-723-3775

WHERE TO FILE A COMPLAINT IN HAWAII COUNTY

Complaints against Hawaii Police Department officers can be filed in one of two places. We recommend filing the complaint in both places if possible.



County of Hawaii Police Commission

To file a complaint with the County of Hawaii Police Commission, the complaint must involve misconduct that took place (a) while the officer was on duty or acting under the color of authority and (b) within 90 days from the filing of the complaint.

On-duty and under the color of authority misconduct generally involves the person's duties and powers as a law enforcement officer. When in doubt on whether the officer was on duty or under the color of authority, we recommend submitting a complaint to the Commission for its independent investigation and determination of that question.

Generally, complaints filed 90 days after the incident took place cannot be considered by the Commission. However, the Commission may accept late complaints explaining the reason for the delay.

The complaint and supporting documentation should be submitted using the [Police Commission Complaint Form](#) available in the Hawaii County Police Department's [website](#). The form must be notarized before being submitted.

Office of Professional Standards

To file a complaint with the Office of Professional Standards, the complaint and supporting documentation should be submitted using the [Police Department Complaint Form](#) available on the Hawaii County Police Department's [website](#). The form must be notarized before being submitted.

HAWAII COUNTY

We recommend filing both of these forms: (Both can be downloaded from hawaiiipolice.com/contact-us/feedback under "What We Did Wrong")

[Police Commission Complaint Form](#)

Fill out, notarize, and submit within 90 days of the incident to:

Hawai'i County Police Commission
Aupuni Center
101 Pauahi Street, Suite 9
Hilo, Hawai'i 96720

For questions about the process, call the Hawaii County Police Commission: 808-932-2950

[Police Department Complaint Form](#)

Fill out, notarize, and submit to:

Hawai'i County Police Department
Office of Professional Standards
349 Kapiolani Street
Hilo, Hawai'i 96720

For questions about the process, contact the Professional Standards Office at 808-961-2328 or copsysop@hawaiicounty.gov

WHERE TO FILE A COMPLAINT IN MAUI COUNTY

Complaints against Maui Police Department officers can be filed in one of two places. We recommend filing the complaint in both places if possible.



Maui Police Commission

To file a complaint with the Maui Police Commission, the complaint must involve misconduct that took place within 60 days from the filing of the complaint. The Commission may not consider cases where the complainant has threatened or raised the prospect of civil litigation.

Generally, complaints filed 60 days after the incident took place cannot be considered by the Commission. However, the Commission may accept late complaints for good cause.

The complaint and supporting documentation should be submitted using the [Complaint Registration form](#) available on the Maui Police Department's [website](#). *The form must be notarized before being submitted.*

Internal Affairs

To file a complaint with Internal Affairs, the complaint and supporting documentation should be submitted using the [Internal Affairs Written Complaint](#) available on the Maui Police Department's [website](#). *The form must be notarized before being submitted.*

MAUI COUNTY

We recommend filing both of these forms:

[Complaint Registration Form](#)

mauicounty.gov/234/Police-Commission

Fill out, notarize, and submit within 60 days of the incident to:

Maui Police Commission
55 Mahalani St.
Wailuku, HI 96793

For questions about the process, contact the Maui Police Commission at 808 244-6440 or mauipolicecommission@mpd.net

[Police Department Complaint Form](#)

mauicounty.gov/235/Internal-Affairs

Fill out, notarize, and submit to:

Maui Police Department
Internal Affairs
55 Mahalani St.
Wailuku, HI 96793

For questions about the process, contact Internal Affairs at 808 244-6400 or crs@mpd.net

WHERE TO FILE A COMPLAINT IN KAUA'I COUNTY

Complaints against Kauai Police Department officers can be filed in one of two places. We recommend filing the complaint in both places if possible.



Kauai Police Commission

To file a complaint with the Kauai Police Commission, the complaint must involve misconduct that took place within 30 days from the filing of the complaint.

Generally, complaints filed 30 days after the incident took place cannot be considered by the Commission. However, the Commission may accept late complaints for good cause.

The complaint and supporting documentation should be submitted using a [Formal Complaint Form](#) available on the Kaua'i Police Department's [website](#). *The form must be notarized before being submitted.*

Office of Professional Standards

To file a complaint with the Office of Professional Standards, the complaint and supporting documentation should be submitted using a [KPD Internal Affairs Formal Complaint Form](#) available on the Kaua'i Police Department's [website](#). *The form must be notarized before being submitted.*

KAUAI COUNTY

We recommend that you file both of these forms:

[Formal Complaint Form](#)

kauai.gov/Government/Boards-and-Commissions/Police-Commission

Fill out, notarize, and submit within 30 days of the incident to:

Commission Secretary
County of Kaua'i, Police Commission
4444 Rice St.
Piikoi Building, Suite 300
Lihu'e, HI 96766

For questions about the process, contact the Kauai Police Commission at 808-241-4920

[KPD Internal Affairs](#)

[Formal Complaint Form](#)

kauai.gov/Government/Departments-Agencies/Police-Department/Commendations-Complaints

Fill out, notarize, and submit to:

Office of Professional Standards
Kauai Police Department
3990 Kaana St., Suite 200
Lihue HI 96766

For questions about the process, contact the Office of Professional Standards at 808-241-1633

WHERE TO FILE A COMPLAINT

Complaints against officers of the Department of Public Safety's Law Enforcement Division can be filed in one of two places. We recommend filing the complaint in both places if possible.



DEPARTMENT OF PUBLIC SAFETY

Write a letter describing in detail the facts and circumstances of the complaint and submit with supporting documentation to:

Department of Public Safety
Internal Affairs Office
919 Ala Moana Blvd., 4th Floor
Honolulu, HI 96814

For questions about the process, contact Internal Affairs at 808-587-1130

Office of the Ombudsman
465 South King St., 4th Floor
Honolulu, HI 96813

For questions about the process, contact the Office of the Ombudsman at 808-587-0770 or complaints@ombudsman.hawaii.gov

WHAT HAPPENS AFTER I FILE A COMPLAINT?

The processes for reviewing and responding to complaints are different depending on where the complaint was filed. Below are the rules and procedures for some of the relevant bodies:

[Honolulu Police Commission Rules](#)

[County of Hawaii Police Commission Rules](#)

[Maui Police Commission Rules](#)

[Kauai Police Commission Rules](#)

While the processes for each department and commission are different, you generally can expect the following after filing a complaint. Investigators may try and contact you by phone or mail to follow up on the complaint. While you may want to answer questions, we suggest not speculating and sticking to what you said in the complaint. After a few months, you should receive a letter with the status of your complaint.

The response to your complaint will likely be one of the following:

Sustained: the investigation disclosed sufficient evidence to support the complaint and further disciplinary actions may be taken against the officers.

Not sustained: the investigation failed to discover sufficient evidence to support the complaint.

Exonerated: the investigation revealed that the acts did occur, but the actions taken were justified, lawful, and proper.

Unfounded: the investigation indicated that the alleged misconduct did not occur.

Generally, police commissions do not have the authority to directly discipline an officer. Instead, after the police commission conducts its investigation and makes findings, the internal affairs or standards office may further investigate

the matter for purposes of disciplining the officers involved. Even after this internal investigation is completed, the officer generally has the right to challenge the disciplinary decision through a grievance process sometimes involving binding arbitration.

What to do if you are dissatisfied with the process or resolution?

The process for disciplining and holding police accountable in Hawai'i is deeply flawed and in need of wholesale change. If you are dissatisfied with the process or resolution of your complaint, you are not alone. From ridiculously short deadlines for filing complaints with the police commissions to lengthy grievance and arbitration processes that too often reinstate officers fired for serious misconduct, the police disciplinary system is broken. Even when the process "works," people reporting police misconduct can expect to wait several years before any action is taken against the offending officers.

So what can you do?

Filing a complaint is necessary but not sufficient to hold police accountable. Other options you need to consider include (1) consulting with an attorney about your rights and filing a civil lawsuit, (2) organizing and [getting involved with the ACLU of Hawaii's Police Campaign](#), or (3) [submitting an intake](#) with the ACLU of Hawai'i for our staff to consider how best to support and elevate your complaint. ■