

Is my property protected if we report human trafficking?

Business owners and managers may have concerns about reporting suspicions of human trafficking. If their suspicions prove to be incorrect, will such a report expose their company to legal liability?

The downsides of failing to report suspected cases are numerous, including brand risk, safety risks for guests and staff, criminal liability for managers and owners, and financial risks.

In most states, good liability protections are in place for people who report criminal activity to police in good faith. An attorney researched liability protections for each state and provided an opinion on the strength of existing protections.

Click your state for more information...

ALABAMA	HAWAII	MASSACHUSETTS	New Mexico	South Dakota
ALASKA	IDAHO	MICHIGAN	New York	TENNESSEE
ARIZONA	ILLINOIS	MINNESOTA	North Carolina	TEXAS
ARKANSAS	INDIANA	MISSISSIPPI	North Dakota	UTAH
CALIFORNIA	IOWA	MISSOURI	OHIO	VERMONT
COLORADO	KANSAS	MONTANA	OKLAHOMA	VIRGINIA
CONNECTICUT	KENTUCKY	NEBRASKA	OREGON	WASHINGTON
DELAWARE	LOUISIANA	NEVADA	PENNSYLVANIA	West Virginia
FLORIDA	MAINE	New Hampshire	Rhode Island	WISCONSIN
GEORGIA	MARYLAND	New Jersey	South Carolina	WYOMING

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What is Anti-SLAPP?

SLAPP stands for Strategic Lawsuit Against Public Participation. In some states, statements to the police regarding suspected criminal activity may also be protected under, what is commonly referred to as, an anti-SLAPP law.

A SLAPP is intended to silence or intimidate critics. The plaintiff institutes legal proceedings against a person who has acted in furtherance of their freedom of speech rights or perhaps has made a petition regarding a matter of public concern. When instituting proceedings, the plaintiff in a SLAPP case is less concerned with a successful outcome than with intimidating the individual(s) they filed the suit against. In many cases, the plaintiff's claim is of a frivolous nature. **The goal** of the plaintiff is to intimate and silence critics through the fear of mounting legal costs and stressful litigation.

In an effort to combat SLAPP cases, some states have adopted legislation intended to address SLAPP proceedings. An anti-SLAPP law is designed to deter frivolous actions which are instituted for the predominate purpose of silencing and intimidating critics. Anti-SLAPP laws allow the defendant to file a motion at an early stage in the proceedings to dismiss the claim on the basis that it is baseless and unfounded. The anti-SLAPP law promptly disposes of meritless litigation and may also allow the defendant to recover their attorney fees and legal costs in defending the action.

It is important to note that not all states have enacted anti-SLAPP laws. In those states that have adopted anti-SLAPP laws, the laws vary from state to state. In some states, the anti-SLAPP law is narrow in scope. In other States, it is not apparent from the wording of the anti-SLAPP law if statements made to the police are covered within the scope of the law. Please refer to the individual state below for further details on a particular state's anti-SLAPP law (if any).

The following state lists are broken down into three categories, Good, Strong and Unclear:

GREEN = STRONG

State law provides strong protection for people who report suspected crimes to police in good faith. There is both legislation (i.e. an anti-SLAPP law) and common law to support the proposition that reports to the police regarding suspected criminal activity are protected from civil liability.

ORANGE = GOOD

State law provides good protection for people who report suspected crimes to police in good faith. There is no anti-SLAPP law, the anti-SLAPP is not applicable or it is unclear if the anti-SLAPP applies **but** the common law recognizes the doctrine of privilege and statements to the police are thus protected under the doctrine of privilege (either qualified or absolute).

RED = POOR

State law provides poor protection for people who report suspected crimes to the police in good faith.

PURPLE = UNCLEAR

State law is unclear if it will protect people who report suspected crimes to police. It was difficult to find either legislation or case law to support the proposition that reports to the police regarding suspected criminal activities are protected from civil liability.



ALABAMA

There is **good** protection under Alabama law for those who report suspected crimes to the police in good faith.

- Alabama does not have an anti-SLAPP law.
- There does not appear to be any specific legislation that protects individuals from civil liability for statements made in good faith to the police to report a crime. Such an individual may, however, plead the common law doctrine of privilege by arguing that the communication is prompted by the individual's duty to the public in general. The leading authority of [*Tidwell v. Wynn-Dixie, Inc.*](#) (Supreme Court of the United States, 1987) sets the legal precedent for related cases. In this case, the Supreme Court held that the communication must be in good faith and without actual malice or it will lose the protection of the law. The privilege is thus qualified and not absolute.

ALASKA

The law is **unclear** in Alaska as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Alaska does not have an anti-SLAPP law.
- It is difficult to find a case on file confirming that the common law doctrine of privilege will protect statements to the police regarding suspicious criminal activity. In [*Taranto v. North Slope Borough*](#) (Supreme Court of Alaska, 1996), the Supreme Court of Alaska recognized that a conditional (qualified) privilege will apply to speech addressing matters of public health and safety. The court decides on a case-by-case basis what constitutes “speech addressing public health and safety.”



ARIZONA

There is **good** protection under Arizona law for those who report suspected crimes to the police in good faith.

- Arizona has an anti-SLAPP law, which is set out at [Arizona Revised Statutes §12-751 – 12-752](#) (2006).
- The Arizona anti-SLAPP law protects the exercise of the right of petition. The right of petition is defined as “any written or oral statement that falls within the constitutional protection of free speech and that is made as part of an initiative, referendum or recall effort or that is all of the following: (i) made before or submitted to a legislative or executive body or other governmental proceeding; (ii) made in connection with an issue that is under consideration or review by a legislative or executive body or any other governmental proceeding; or (iii) made for the purpose of influencing a governmental action, decision or result.”
- In [Varela v. Perez](#) (District Court of Arizona, 2009), the District Court held that the Arizona anti-SLAPP statute does not apply to the filing of a criminal complaint with law enforcement officers.
- In the leading case of [Ledvina v. Cerasani](#), (Arizona Court of Appeals, 2006) the Arizona Court of Appeals held that reports to law enforcement officers are absolutely privileged. In this regard, the court was heavily influenced by Restatement (Second) of Torts. Good faith and malice are therefore irrelevant in this context.



ARKANSAS

The law is **unclear** in Arkansas as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Arkansas has adopted an anti-SLAPP law, which is laid out in Arkansas Code Annotated §16-3-504 (2010).
- This law protects communications or performance of an act in furtherance of the rights of free speech or petition in connection with an issue of public interest or concern unless such statements are made with knowledge of or reckless disregard for their falsity. There has yet to be a decision on whether this anti-SLAPP law covers statements to the police regarding suspected criminal activity.
- There is dicta from the Arkansas courts to support the proposition that statements to the police regarding potential criminal activity are protected under the doctrine of qualified privilege. For instance, in [Sawada v. Walmart Stores Inc.](#), (Arkansas Court of Appeals, 2015) the Court of Appeals stated as follows: “The law recognizes that a potentially defamatory communication may not impose liability under the qualified-privilege doctrine. A statement may become privileged when made in good faith and in reference to a subject matter in which the communicator has an interest or duty and to a person having a corresponding interest or duty. For example, negligently reporting activity thought to be criminal is usually a privileged communication.” The difficulty with this statement, however, is that the Court of Appeals cited an earlier Supreme Court of Arkansas decision ([DeHart v. Wal-Mart Stores, Inc.](#)) in support of that contention. DeHart, in turn, cited authority from the Texas courts, but the Supreme Court in DeHart went on to expressly reserve their position on the matter because they disposed of the case on another point of law and it was therefore not necessary for them to pronounce on this aspect of the law. Sawada and DeHart are arguably supportive of the contention that the reporting of potentially criminal behavior is privileged, provided it is made in good faith and without malice, but the aforementioned cases are not necessarily dispositive of the issue.
- It is also noteworthy that the anti-SLAPP law was not pleaded in *Sawada v. Walmart Store Inc.*, which is unfortunate as it may have provided some welcome clarification on the issue.



CALIFORNIA

There is **strong** protection under California law for those who report suspected crimes to the police in good faith.

- California's anti-SLAPP law is detailed in [California Civil Procedure Code §425.16](#). This law protects acts in furtherance of the right of petition or free speech under the United States or California Constitution in connection with a public issue.
- It is well settled law in California that statements made to the police come within the ambit of their anti-SLAPP law. Code of Civil Procedure (e.g., [Walker v. Kiouisis](#) (California Court of Appeals, 2001)).
- In addition, the Supreme Court of California confirmed in [Hagberg v. California Federal Bank](#) (Supreme Court of California, 2004) that a citizen's report to the police is absolutely privileged.

COLORADO

There is **good** protection under Colorado law for those who report suspected crimes to the police in good faith.

- Colorado does not have a dedicated anti-SLAPP statute but the courts have developed a procedure whereby they will review SLAPP-type claims with greater scrutiny. This is following [Protect Our Mountain Environment, Inc. v. The District Court In and For the County of Jefferson](#), (Supreme Court of Colorado, 1984), and is commonly referred to as a "POME Motion." The scope of the POME Motion is, however, much more limited than a typical anti-SLAPP statute and will not provide much protection or relief for statements to the police regarding potential criminal activity.
- In the Court of Appeals decision [Kenneth M. Lawson, II and Megan E. Lawson v. William R. Stow](#) (Colorado Court of Appeals, 2014), the court recognized that statements made to the police about suspected crimes are "matters of public interest" and therefore will be protected by the doctrine of qualified privilege. Statements to the police are thus immune from civil liability, provided that the statements are made in good faith and without malice.



CONNECTICUT

There is **good** protection under Connecticut law for those who report suspected crimes to the police in good faith.

- Connecticut does not have an anti-SLAPP law.
- Statements made to the police will, however, be protected under the common law doctrine of qualified privilege and are therefore immune from civil liability, provided the statements are made in good faith and without malice. The Supreme Court of Connecticut in [Gallo v. Barile](#) (Supreme Court of Connecticut, 2007) confirmed this position at law. The Supreme Court refused to afford such statements an absolute privilege, reasoning that “in view of the potentially disastrous consequences that may befall the victim of a false accusation of criminal wrongdoing, we are unwilling to afford absolute immunity to such statements. We also are persuaded that qualified immunity affords sufficient protection for those who cooperate with the police”.

DELAWARE

There is **good** protection under Delaware law for those who report suspected crimes to the police in good faith.

- Delaware’s anti-SLAPP law is set out in [Delaware Code Annotated §10-8136 – 8138](#) (1992). This law protects statements made by an applicant, permittee or related person regarding a government licensing, permitting or other decision. This anti-SLAPP law is narrower in scope than those of other states and will not assist those seeking protection for statements to the police regarding suspected criminal activity.
- In [Steven McLeod v. Hughey F. McLeod](#) (Delaware Superior Court, 2015), the court (citing earlier authority) acknowledged that statements to law enforcement officers reporting an alleged crime are protected by a conditional (qualified) privilege. The report must be made in good faith, without malice and absent any knowledge of falsity or desire to cause harm.



DISTRICT OF COLUMBIA

There is **strong** protection under D.C. law for those who report suspected crimes to the police in good faith.

- The District of Columbia anti-SLAPP law is available at [D.C. Code 16-5502](#). The scope of this anti-SLAPP law has been discussed in many cases, although it does not appear that the courts have addressed the specific issue of whether statements to the police regarding criminal activity are within the scope of this law. Some courts refer to California case law when interpreting the anti-SLAPP law of the District of Columbia, which is interesting because California courts specifically include reports of suspected criminal activity within California's anti-SLAPP law. In addition, it is noteworthy that the anti-SLAPP law specifically includes "safety" as a public interest, thereby supporting the contention that reports to the police should be covered under the anti-SLAPP law.
- In any event, the Court of Appeals held in [Columbia First Bank v. Ferguson](#) (District of Columbia Court of Appeals, 1995) that statements to law enforcement officers regarding suspected criminal activity is protected under the doctrine of qualified privilege. The statements must be made in good faith and without malice or the privilege will be lost.



FLORIDA

There is **good** protection under Florida law for those who report suspected crimes to the police in good faith.

- Florida has adopted an anti-SLAPP law but the scope of the law is narrower than in other states and unlikely to be of assistance for present purposes. The anti-SLAPP law is laid out in [Florida Statutes §768.295](#) (2000) and [720.304](#) (2000).
- Section 768.295 protects peaceful assembly, instructing representatives or petitioning for redress of grievances from lawsuits brought by the government.
- Section 720.304 protects statements made by parcel owners about matters concerning their homeowners associations.
- In [Valladares v. Bank of America, et. al](#) (Florida Supreme Court, 2016) decided on June 2, 2016, the Supreme Court of Florida found that statements to the police regarding suspected criminal activity are protected under the doctrine of qualified privilege. The statements must be made in good faith and without malice or the privilege will be lost.



GEORGIA

The law is **unclear** in Georgia as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Georgia's anti-SLAPP law is covered under [Georgia Code Annotated §9-11-11.1](#) (1996), which states as follows:
 - "Statements made before a government body, or in connection with an issue under review by a government body, are protected in that a plaintiff filing a claim arising from such statements must file a verification that the claim is in good faith."
- The scope of this anti-SLAPP law has been discussed in many court decisions. The most relevant decision is that of [Hindu Temple and Community Center of the High Desert, Inc. et. Al. v. Raghunathan et. Al.](#) (Court of Appeals of Georgia, 2011) decided by the Court of Appeals in June of 2011. In this case, the court held that statements made to the police regarding suspected criminal activity fell within the scope of the anti-SLAPP law. However, it is important to note that in this case, the relevant statement was made as part of an ongoing investigation. Arguably, this is distinguishable from unsolicited statements to the police. This decision should therefore be treated with a degree of caution.
- The doctrine of privilege has been codified in [Georgia Code Annotated §51-5-7](#) (2015). The relevant portion states:
 - "The following communications are deemed privileged:
 - Statements made in good faith in the performance of a public duty;
 - Statements made in good faith in the performance of a legal or moral private duty;"
- Arguably, statements to the police regarding suspected criminal activity fall within the above definition.



HAWAII

The law is **unclear** in Hawaii as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Hawaii's anti-SLAPP law is set out in [Hawaii Revised Statutes §634F-1 – 634F-4](#) (2002). This law states that oral or written statements submitted to or made before a government body are protected. This anti-SLAPP law is narrower in scope than in other states. In the case decision of [John D Frye v. Karen M Scott](#) (Intermediate Court of Appeals of Hawaii, 2013), the court found that statements to the authorities regarding criminal activity do not fall under the scope of the anti-SLAPP law.

IDAHO

There is **good** protection under Idaho law for those who report suspected crimes to the police in good faith.

- Idaho does not have an anti-SLAPP law.
- In [Borg v. Boas](#) (United States District Court. 9th Cir., 1956), the federal court (in their interpretation of Idaho state law) held that absolute immunity applies to information given to a prosecutor by a private person for the purpose of initiating a prosecution.
- This case should be treated with a degree of caution as it is an old case, although it was cited in the more recent case of [Ledvina v. Cerasani](#) (Arizona Court of Appeals, 2006). In [Ledvina v. Cerasani](#), the Arizona Court of Appeals held that reports to law enforcement officers are absolutely privileged.



ILLINOIS

There is **good** protection under Illinois law for those who report suspected crimes to the police in good faith.

- Illinois enacted their anti-SLAPP law in 2007. It is commonly known as the Citizen's Participation Act (CPA).
- This law immunizes from civil liability acts in furtherance of the constitutional rights to petition, speech, association and participation in government, except when not aimed at procuring favorable government outcomes. In particular, this law recognizes that information, reports, opinions, claims, arguments and other expressions provided by citizens are vital to effective law enforcement, the operation of government, the making of public policy and decisions and the continuation of representative democracy. It has been noted that Illinois's legislature intended the CPA to be construed liberally to effectuate its purposes and intent fully. It is very likely that statements to the police will be protected under Illinois's anti-SLAPP law. The legislation itself acknowledges that citizens are vital to effective law enforcement.
- In addition, in the leading authority of [*Layne v. Builders Plumbing Supply Co.*](#) (Appellate Court of Illinois, 1991), the Illinois Court of Appeals conducted a review of the law in Illinois and other states and found that statements to the police are absolutely privileged.



INDIANA

There is **good** protection under Indiana law for those who report suspected crimes to the police in good faith.

- Indiana enacted an anti-SLAPP law in 1998.
- Under [Indiana Code §34-7-7-7](#), it is a defense in a civil action against a person that the act or omission complained of is: (1) an act or omission of that person in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue; and (2) an act or omission taken in good faith and with a reasonable basis in law and fact. This anti-SLAPP law is broadly drafted and the courts of Indiana generally adopt a broad interpretation of the law. It is plausible that statements to the police will be protected under this law.
- At common law, in the case of [Tikidanke Bah v. Mac's Convenience Stores, LLC d/b/a/ Circle K and David Ruffin](#) (Court of Appeals of Indiana, 2015) decided in June 2015, the Indiana Court of Appeals held that statements to the police are privileged. Citing earlier authority, the court held that it is well established in Indiana that communications to law enforcement reporting criminal activity are qualifiedly privileged. Interestingly, the Court of Appeals did not address the anti-SLAPP law, but that is presumably because it was not employed by the defense in this case.

IOWA

There is **good** protection under Iowa law for those who report suspected crimes to the police in good faith.

- Iowa does not have an anti-SLAPP law.
- In the case of [Lyons v. Midwest Glazing, LLC](#), (United States District Court, Iowa, 2002), the US District Court for the Northern District of Iowa held that statements to the police are protected by the doctrine of qualified privilege. Statements must be made in good faith or will lose the protection of the privilege.



KANSAS

The law is **unclear** in Kansas as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Kansas does not have an anti-SLAPP law but it passed the Enacting the Public Speech Protection Act (HB2054) last year. The law has yet to come into force.
- It is difficult to find any case law specifically addressing statements to the police and protection thereof. The most relevant case is the Supreme Court of Kansas decision of [*Turner v. Halliburton Co.*](#) (Supreme Court of Kansas, 1986), decided in 1986. In this case, the Supreme Court of Kansas commented that, in relation to communications with the police department initiated by the police during a routine investigation of a reported theft, “there was a duty on the part of employees to cooperate in that investigation and the communications were subject to a qualified privilege.” The case refers to statements made during an ongoing routine investigation and does not specifically address unsolicited statements to the police regarding suspected criminal activity. The case is, therefore, distinguishable on that ground.



KENTUCKY

There is **good** protection under Kentucky law for those who report suspected crimes to the police in good faith.

- Kentucky does not have an anti-SLAPP law.
- In the case of [*Bertram v. Federal Express Corporation*](#) (United States District Court, Kentucky., 2006), decided by the District Court in 2008, the court held with regards to initial communications to the police regarding suspected criminal activity that led to an arrest, that the statements were part of the institution of judicial proceedings and were related directly to the criminal charges that were subsequently brought against the perpetrator. Those statements were therefore absolutely privileged because they were made preliminary to and directly related to judicial proceedings. The courts thus considered communications to the police as part of the judicial process.
- This is a very much a minority view and many states have expressly rejected any suggestions that unsolicited communications to the police could be considered part of the judicial process (although many states accept that such statements are qualifiedly privileged). However, the case appears to represent the current law in Kentucky, although one should bear in mind that higher courts are not bound by district court decisions and a higher court may very well come to a different conclusion should the case come before a higher court.



LOUISIANA

There is **strong** protection under Louisiana law for those who report suspected crimes to the police in good faith.

- Louisiana enacted an anti-SLAPP law in 1999.
- Under Article 971 of the Civil Code, acts in furtherance of petition and free speech in connection with a public issue are protected. It is difficult to find cases directly confirming that statements to the police fall under the anti-SLAPP law privilege, but in [*Thomas v. The City of Monroe Louisiana*](#) (Louisiana Court of Appeal, 2002) and [*Lee v. Pennington*](#) (Louisiana Court of Appeal, 2002), the Court of Appeals of Louisiana noted that Louisiana's anti-SLAPP law is the same in "form, substance and legislative intent" as that of California's anti-SLAPP law. It is well settled under California law that citizens' statements to the police fall under the ambit of California's anti-SLAPP law.
- In the case of [*Vincent v. CSE Federal Credit Union*](#) (Louisiana Court of Appeals, 2016), the Louisiana Court of Appeals held that qualified privilege exists when possible criminal activity is reported to the proper authorities, provided that the report was made in good faith. Thus, where a private, non-public figure plaintiff brings an action against a private, non-media defendant who spoke on the matter of public concern (the report to law enforcement of suspected criminal activity), the defendant may assert qualified privilege as a defense. Surprisingly, the anti-SLAPP law was not raised as a defense in *Vincent v. CSE Federal Credit Union*.



MAINE

There is **strong** protection under Maine law for those who report suspected crimes to the police in good faith.

- Maine enacted their anti-SLAPP law in 1995. Pursuant to [Maine Revised Statutes §14-556](#), statements made before a government body or proceeding, in connection with an issue under review by a government body, reasonably likely to encourage review by government, reasonably likely to enlist public participation to effect consideration, or any other statement within constitutional right of petition, are protected.
- In the case of [Lynch v. Christie](#) (United States District Court, Maine, 2011), the District Court held that submitting a police report constitutes petitioning activity under Maine's anti-SLAPP law.
- In addition, the Supreme Judicial Court of Maine held as follows in [Arnold Packard v. Central Maine Power Company](#) (Supreme Judicial Court of Maine, 1984): "Communications made to law enforcement officials for the purpose of aiding in the detection of crime are privileged if made in the belief, based on reasonable grounds, that they are true." In other words, Maine recognizes that communications to the police are protected by the doctrine of qualified privilege.



MARYLAND

There is **good** protection under Maryland law for those who report suspected crimes to the police in good faith.

- Maryland enacted an anti-SLAPP law in 2005.
- Pursuant to Maryland Courts and Judicial Proceedings Section 5-807, “Communications with a government body or public regarding any matter within the authority of a government body, if made without constitutional malice, are protected.” Maryland’s anti-SLAPP law is narrow in scope compared to other anti-SLAPP laws. The law includes a requirement that the case be brought in bad faith and must relate to a matter within the authority of a government body. In addition, Maryland is the only state that does not allow the recovery of attorney fees upon a successful invocation of the anti-SLAPP law.
- To date, there has been minimal judicial discussion on the scope of Maryland’s anti-SLAPP law and it is difficult to find any case dealing with the specific issue of statements to the police.
- In the case of [*Caldor v. Bowden*](#) (Court of Appeals of Maryland, 1993), the Court of Appeals of Maryland held that statements made to the police are protected by conditional (qualified) privilege. The court rejected the argument that such statements ought to be absolutely privileged. The court found no compelling public policy reason to grant communications to the police absolute privilege, fearing that doing so would encourage harassment or wasting of law enforcement resources. The court did not wish to discourage the reporting of criminal activity, but opined that a qualified privilege offered sufficient protection.



MASSACHUSETTS

There is **strong** protection under Massachusetts law for those who report suspected crimes to the police in good faith.

- Under Chapter 231, Section 59H of the Massachusetts General Laws (commonly known as the Massachusetts anti-SLAPP statute), “[A]ny written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive, or judicial body or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement falling within constitutional protection of the right to petition government” is protected.
- In [*Wenger v. Aceto*](#), (Supreme Judicial Court of Massachusetts, 2008), the Massachusetts Supreme Judicial Court held that reporting a crime to police constitutes petitioning activity under Massachusetts's essentially identical anti-SLAPP statute.
- It is also noteworthy that in the case of [*Correllas v. Viveiros*](#) (Supreme Judicial Court of Massachusetts, 1991), the Supreme Judicial Court of Massachusetts acknowledged that the reporting of a crime is conditionally (qualifiedly) privileged. The court distinguished between statements made during an ongoing investigation, which are absolutely privileged, and unsolicited reports to the police, made on the initiative of the communicator, which are only conditionally privileged. The court cited a number of authorities in support of its conclusion.



MICHIGAN

There is **good** protection under Michigan law for those who report suspected crimes to the police in good faith.

- Michigan does not have an anti-SLAPP law.
- In the recent decision of [Eddington v. Torrez](#) (Michigan Court of Appeals, 2015) decided in 2015, the Michigan Court of Appeals held that statements made to the police regarding criminal activity are absolutely privileged and therefore immune from suit for defamation. The court cited an earlier Supreme Court decision to the same effect. The Court of Appeals found no meaningful difference between statements made to the police to initiate an investigation and those made during an ongoing investigation. It should be noted that leave to appeal the Court of Appeals decision to the Supreme Court was denied by the Supreme Court, which concluded that the issue raised was not one that needed a review by the Supreme Court.

MINNESOTA

There is **strong** protection under Minnesota law for those who report suspected crimes to the police in good faith.

- Pursuant to [Minnesota Statute 554](#) (2016), statements made to the police are protected, and the statute now specifically refers to the reporting of suspicious activity to law enforcement officers. People who report suspected crimes are therefore immune from liability. It is important to note that Minnesota individuals who successfully invoke the Minnesota anti-SLAPP law will also be awarded their fees.



MISSISSIPPI

There is **good** protection under Mississippi law for those who report suspected crimes to the police in good faith.

- Mississippi does not have an anti-SLAPP law.
- In [Downtown Grill, Inc. v. Connell](#) (Supreme Court of Mississippi, 1998) the Supreme Court of Mississippi found the law to be clear that "a citizen has a privilege to start the criminal law into action by complaints to the proper officials so long as one acts either in good faith, i.e., for a legitimate purpose, or with reasonable grounds to believe that the person proceeded against may be guilty of the offense charged." In other words, the Supreme Court recognized that communications to the police are qualifiedly privileged. Interestingly, there was a strong dissenting opinion in this case. The dissenting opinion held that "the majority has gone astray in its unfounded declaration that statements made to law enforcement officers carry a qualified privilege. No such privilege exists in our common law and the Mississippi legislature has not seen fit to create one by statute. Further, we have not adopted any such privilege in our Rules of Evidence." Nonetheless, the majority opinion was cited in the 2017 case [Gatheright v. Clark](#) (United States Court of Appeals, 2017), a United States Court of Appeals decision.



MISSOURI

There is **good** protection under Missouri law for those who report suspected crimes to the police in good faith.

- Missouri enacted an anti-SLAPP law in 2004, which is set out in [Missouri Revised Statutes §537.528](#). Under this law, “speech or conduct undertaken at, or made in connection with, a public hearing or public meeting, or in a quasi-judicial proceeding before a tribunal or decision making body” is protected. Missouri has adopted a broad anti-SLAPP law, although it is difficult to find a case confirming that statements to the police regarding suspected criminal activity fall under its scope. Of interest is [Terry v. Davis Community Church](#) (Court of Appeal, 2005), wherein the Court of Appeals concluded that even private communications concerning issues of public interest are protected by the anti-SLAPP statute.
- Nonetheless, in [Brown v. P.N. Hirsch & Company. Stores, Inc.](#) (Missouri Court of Appeals, 1983), the Court of Appeals held that communications to the police for the purpose of helping bring a criminal to justice are qualifiedly privileged.

MONTANA

There is **poor** protection under the laws of Montana for those who report suspected crimes to the police in good faith.

- Montana does not have an anti-SLAPP law. In the case of [Sacco v. High Country Independent Press](#), (Montana Supreme Court, 1995), the court found that reports to the police by a citizen are not an official proceeding and thereby concluded that unsolicited complaints to the police are not privileged under Montana law.



NEBRASKA

There is **good** protection under Nebraska law for those who report suspected crimes to the police in good faith.

- Nebraska enacted an anti-SLAPP law in 1994 pursuant to [Nebraska Revised Statutes §25-21,241 - 25-21,246](#). This law is narrow in scope when compared to California's anti-SLAPP law and is more akin to anti-SLAPP laws enacted in New York and Delaware. This anti-SLAPP law concerns applicants or permittees seeking approval before a government agency. It is, therefore, not likely to be of much assistance to those seeking immunity for unsolicited reports to the police regarding suspected criminal activity.
- On the other hand, the case of [Knight v. Knight](#) (Court of Appeals, 1992) held that communications to the police are conditionally (qualifiedly) privileged. The court refused to extend an absolute privilege to such statements.



NEVADA

There is **strong** protection under Nevada law for those who report suspected crimes to the police in good faith.

- Nevada enacted an anti-SLAPP law in 1993, which is detailed in [Nevada Revised Statutes §41.650](#). It was initially limited in scope but the ambit of the law was significantly broadened pursuant to a later amendment. The law as amended now protects “communication made in direct connection with an issue of public interest in a place open to the public or in a public forum, so long as the statement is truthful or made without knowledge of falsehood.”
- In the case of [Lawrence v. Krahne](#) (United States District Court, D. Nevada, 2017) the Court of Appeals in 2015 affirmed a decision of the District Court which held that “statements to the police made in good faith and meant to procure governmental action in the form of an investigation are protected under the anti-SLAPP law.” The District Court was influenced by a California decision that had previously found that communications “designed to prompt action by law enforcement” were protected under California’s anti-SLAPP statute and further noted that Nevada’s anti-SLAPP law is similar in phrasing and purpose to that of California.
- It is also noteworthy that [Pope v. Motel 6](#) (Supreme Court of Nevada, 2005) held that communications with police in aid of law enforcement are qualifiedly privileged.

NEW HAMPSHIRE

There is **good** protection under New Hampshire law for those who report suspected crimes to the police in good faith.

- New Hampshire does not have an anti-SLAPP law.
- In [McGranahan v. Dahar](#) (Supreme Court of New Hampshire, 1979) a rule was adopted that treats both formal and informal complaints and statements to a prosecuting authority as part of the initial steps in a judicial proceeding, and as such, they are entitled to absolute immunity from an action for defamation.



NEW JERSEY

There is **strong** protection under New Jersey law for those who report suspected crimes to the police in good faith.

- New Jersey does not have an anti-SLAPP law.
- In [*Dijkstra v. Westerink*](#) (Superior Court of New Jersey, Appellate Division, 1979) the court found that it is the duty of citizens to give to police or other officers such information as they may have respecting crimes which have been committed, and public policy requires that communications of this kind, at least if made in good faith, be protected as privileged. Consequently, communication to a law enforcement officer is generally held to be qualifiedly privileged if it is made in good faith for the purpose of helping to bring a criminal to justice, and statements made to an officer in the course of his investigation of a crime are privileged, at least in the absence of a malicious motive. Communications to the police regarding suspected activity are, therefore, protected by qualified privilege. This ruling was recently affirmed by the Supreme Court of New Jersey in [*Salzano v. N.J. Media Group Inc.*](#) (Supreme Court of New Jersey, 2010).



NEW MEXICO

The law is **unclear** in New Mexico as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- New Mexico enacted an anti-SLAPP law in 2001 that protects statements in connection with a public hearing or public meeting in a quasi-judicial proceeding before a tribunal or decision-making body of the state or a subdivision. This anti-SLAPP law is narrow in scope and will not apply to communications to the police regarding suspected criminal activity.
- In the case of [*Painter v. Wells Fargo Bank, N.A.*](#) (United States District Court, D. New Mexico, 2009) the court refused to find that statements made to the police by an employee of Wells Fargo regarding suspected fraudulent activity of a customer were qualifiedly privileged. The court could find no authority that would support the application of qualified privilege in such instances. On the other hand, when discussing the allegation of malicious abuse of process, the court cited an earlier Supreme Court of New Mexico decision, [*Westar Mortgage Corporation v. Jackson*](#) (Supreme Court of New Mexico, 2002), wherein the court recognized that "[e]fficient law enforcement requires that a private person who aids the police by giving honest, even if mistaken, information about a crime, should be given effective protection from civil liability." The court counseled "the need for caution in reviewing malicious abuse of process actions" and emphasized that citizens must have "wide latitude in reporting facts to authorities so as not to discourage the exposure of crime." The decision of the District Court is at odds with the statements of the Supreme Court. District Court decisions are not binding on higher courts and it is hoped that should this matter come before an appellate court, the court would take an approach more in line with sentiments expressed in the Supreme Court. It is unfortunate that the District Court refused to acknowledge that communications to the police are privileged given that this has been recognized in a number of other states.



NEW YORK

There is **good** protection under New York law for those who report suspected crimes to the police in good faith.

- New York's Anti-SLAPP law is set out in [N.Y. Civil Rights Law 70-a \(McKinney 2011\) & 76-a \(New York Appellate Division, 2008\); N.Y.C.P.L.R. 3211 \(McKinney 2011\)](#) and protects speech that comments, rules on, challenges or opposes an application or permission by the government. The anti-SLAPP law only covers suits brought by the aggrieved applicant or permittee. This anti-SLAPP law is narrower in scope than other anti-SLAPP laws and will not apply to communications to the police regarding suspected criminal activities.
- In the leading authority of [Toker v. Pollak](#) (Court of Appeals of the State of New York, 1978) the court reviewed this area of the law and found that reports to the police regarding suspected criminal activity are sufficiently protected by a qualified privilege. The court refused to extend an absolute privilege to such statements and distinguished between statements made to a police officer (who is not a judicial officer) and statements made in judicial proceedings. Statements to the police are, thus, protected by a qualified privilege. The privilege will be lost if the statement is not made in good faith or was made with malice.

NORTH CAROLINA

There is **good** protection under North Carolina law for those who report suspected crimes to the police in good faith.

- North Carolina does not have an anti-SLAPP law.
- In the case of [Averitt v. Rozier](#) (Court of Appeals of North Carolina, 1995) the court implied that communications to the police regarding suspected criminal activities are protected under the doctrine of qualified privilege. In this case, whether or not the communicator acted in good faith was in dispute, but the decision of the court implied that if the good faith element were not in dispute the statements would have been privileged. Whether or not the communicator acted in good faith is a question of fact. *Averitt v. Rozier* has been cited in a number of later decisions.



NORTH DAKOTA

There is **good** protection under North Dakota law for those who report suspected crimes to the police in good faith.

- North Dakota does not have an anti-SLAPP law.
- Nonetheless, in the Supreme Court of North Dakota decision of [*Richmond v. Nodland and Broer*](#) (Supreme Court of North Dakota, 1996) the court concluded that defamatory statements voluntarily made to law enforcement during the investigation of criminal activity are qualifiedly privileged. The court recognized the important public policy considerations for protecting communications to the police but was not convinced that such communications should be absolutely privileged. Hence, statements must be made in good faith or the privilege will be lost. Furthermore, the Supreme Court of North Dakota went on to hold that "A privilege which protected an individual from liability for defamation would be of little value if the individual were subject to liability under a different theory of tort." The court, therefore, also rejected the other complaint of intentional infliction of emotional distress.



OHIO

There is **good** protection under Ohio law for those who report suspected crimes to the police in good faith.

- Ohio does not have an anti-SLAPP law.
- It appears to be well settled law in Ohio that statements to the police are qualifiedly privileged. See for instance the decision of the [District Court of Dehlendorf v. City of Gahanna](#) (Court of Appeals of Ohio, 10th Appellate District, 2011). In this case, the judge reviewed the relevant case law and concluded that statements to the police regarding suspected criminal activity are qualifiedly privileged. More recently, in the case of the [Foley et al. v. University of Dayton et al.](#) (United States District Court for the Southern District of Ohio, Western Division, 2016) the court recognized the importance of encouraging all citizens to report crime and to come forward to aid law enforcement officers during the investigation of those crimes. *Foley et al. v. University of Dayton et al.* is important because it rejected the existence of a “tort of negligent misidentification.” The Supreme Court was concerned that to recognize such a tort would have a chilling effect on effective law enforcement and would discourage citizens from reporting suspected criminal activities. It is noteworthy that while there was a dissenting opinion in this case, the dissenting judge did recognize that public policy favors the reporting of crime.



OKLAHOMA

There is **good** protection under Oklahoma law for those who report suspected crimes to the police in good faith.

- Oklahoma has a strong anti-SLAPP law since its amendment in 2014. [*HB 2366, the Oklahoma Citizens Participation Act*](#) encourages and safeguards the constitutional rights of persons to petition, speak freely, associate freely and otherwise participate in government to the maximum extent permitted by law and, at the same time, protects the rights of a person to file meritorious lawsuits for demonstrable injury. It is difficult to find case law specifically confirming that communications to the police regarding suspected criminal activity are covered under the scope of the anti-SLAPP law.
- Nonetheless, in the case of [*Redd v. The City of Oklahoma City*](#) (United States District Court for the Western District of Oklahoma, 2012) the court found that upon a careful review of the applicable case law, “a defendant’s communication to a police officer that imputes a person’s involvement in a crime is afforded a qualified privilege rather than an absolute privilege”... The statement must be made “in good faith, with an honest belief that it was true, and with the sole intent to aid justice, and with no malice... or intent to injure.” Statements to the police are thus protected by a qualified privilege, provided that they are made in good faith.



OREGON

There is **strong** protection under Oregon law for those who report suspected crimes to the police in good faith.

- Oregon implemented an anti-SLAPP law in 2001. The scope of the law is set out in [Oregon Revised Statutes §31.150](#) (2011). Under Article 31.152 (3) an applicant who successfully strikes a claim may recover legal fees and costs.
- In September of 2016, the District Court of Oregon held that statements reporting wrongdoing to the police are within the scope of Oregon's anti-SLAPP law [Zweizig v. NW. Direct Teleservices, Inc.](#) (United States District Court, D. Oregon, 2016).
- In the Supreme Court of Oregon decision of [DeLong v. Yu Enterprises, Inc.](#) (Court of Appeals of Oregon, 2002) the court recognized that a qualified privilege applies to communications to the police regarding suspected criminal activities. Also, mention ought to be made of the case of [Shires v. Cobb](#) (Supreme Court of Oregon, 1975). In this case, the Supreme Court of Oregon rejected the tort of negligent misidentification as a cause of action, reasoning that it would be unwise to acknowledge such a tort for public policy reasons. [Shires v. Cobb](#) was more recently cited in the case of [Foley et al. v. University of Dayton et al.](#) (United States District Court for the Southern District of Ohio, Western Division, 2016) as persuasive authority for rejecting the recognition of a tort of negligent misidentification in Ohio.



PENNSYLVANIA

There is **good** protection under Pennsylvania law for those who report suspected crimes to the police in good faith.

- Pennsylvania enacted an anti-SLAPP law in 2000 under [27 Pennsylvania Statutes §7707 & §8301 - 8303](#) (2011). This law is narrow in scope and only applies to environmental and regulatory issues. It is thus not relevant for our purposes.
- Nevertheless, in the case of [Pawlowski v. Smorto](#) (Superior Court of Pennsylvania, 1991) the court, when quoting the Restatement (second) of Tort, concurred with “the statement of the scope of the absolute judicial privilege as it applies to private parties involved in providing information to the proper authorities in connection with the suspected commission of a crime. As stated above, according absolute privilege to statements made in or preliminary to judicial proceedings aims at ensuring free and uninhibited access to the judicial system.” The court thus held that statements to the police regarding suspected criminal activity are absolutely privileged. Pawlowski was cited as a correct statement of Pennsylvania law in the more recent case of [Marino v. Fava](#) (Superior Court of Pennsylvania, 2006).



RHODE ISLAND

There is **good** protection under Rhode Island law for those who report suspected crimes to the police in good faith.

- Rhode Island enacted an anti-SLAPP law in 1995, found in R.I. Gen. Laws §§ 9-33-1 – 9-33-4 (1995). Under this law, any statement made before or submitted to a government body, in connection with an issue under review by that government body, or made in connection with an issue of public concern, is conditionally immune from civil claims unless said petition or free speech constitutes a sham.
- In *Shire Corporation, Inc. v. Rhode Island Department of Transportation* (Superior Court of Rhode Island, 2012), Michael Lewis, when speaking in regard to the anti-SLAPP law, commented that “essentially, a party is immune from civil suit for petition or speech in connection with an issue of public concern.” Citing the case of *Global Waste Recycling, Inc. v. Mallette, Jr., et al.* (Supreme Court of Rhode Island, 2000), the court went on to say that issues of public concern are any issues “fairly considered as relating to any matter of political, social, or other concern to the community.” This case concerned actions potentially constituting a crime, which led the court to conclude that the issue in dispute was clearly a matter of public concern. Rhode Island has thus adopted a very broad anti-SLAPP law and its comments in *Shire Corporation* are indicative that a court would conclude that communications to the police are protected under the anti-SLAPP law.
- The leading authority on the issue of privilege is the Supreme Court of Rhode Island decision of [*Ponticelli v. Mine Safety Appliance Co.*](#) (Supreme Court of Rhode Island, 1968). In this case, the court found that “[Q]ualified privilege ... permits a person to escape liability for a false and defamatory statement made about another if the occasion for the publication is such that the publisher acting in good faith correctly or reasonably believes that he has a legal, moral or social duty to speak out, or that to speak out is necessary to protect ... his own interests.” *Ponticelli* was later quoted in the United States District Court decision of [*Kissell v. Dunn*](#) (United States District Court, D. Rhode Island, 1992). In *Kissell*, the court held, “I find that the supreme courts of both Connecticut and Rhode Island have afforded only a qualified defamation privilege to statements made to a law enforcement agency in support of a request for issuance of an arrest warrant.” *Kissell* was, in turn, quoted in the more recent decision [*Vasudeva v. Dutta-Gupta*](#) (United States District Court, D. Rhode Island, 2014).



SOUTH CAROLINA

There is **good** protection under South Carolina law for those who report suspected crimes to the police in good faith.

- South Carolina does not have an anti-SLAPP law.
- In the case of [*Myles v. Main-Water Enterprises, LLC*](#) (Court of Appeals of Southern Carolina, 2011) the court, citing earlier authority, held that “Communications made in the investigation of a crime for the purpose of detecting the participants in the crime are privileged.” The court applied a qualified privilege, which would be lost if the statements were not made in good faith or were made with a malicious intent. Note that in this case, the statements were made in the course of an ongoing investigation and did not specifically address unsolicited communications to the police. While it is arguable that in principle, the same privilege should apply to both unsolicited communications and communications made in the course of an investigation, some state courts draw a distinction between the two.



SOUTH DAKOTA

The law is **unclear** in South Dakota as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- South Dakota does not have an anti-SLAPP law.
- Also, it is difficult to find any authority supporting the proposition that communications to the police are privileged and it appears that South Dakota courts have not yet addressed the issue of communications to the police. It should be noted, though, that the common law doctrine of qualified privilege has been codified in South Dakota and is contained in [Statute SDCL 20-11-5](#). This law states, "If a communication is made without malice, to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information, it is privileged." The existence of privilege is a question of law, [Sparagon v. Native American Publishers, Inc.](#) (Supreme Court of South Dakota, 1996). Many other states have relied on this doctrine of qualified privilege to protect communications to the police, and the fact that this law is codified in South Dakota is supportive of the proposition that South Dakota courts would follow the line of authority in other states. It is also noteworthy that in the Supreme Court of South Dakota decision of [Paint Brush Corporation v. Neu and Neu Realty Company et al.](#), (Supreme Court of South Dakota, 1999) the court made the following comment: "We have also cited the Restatement (Second) of Torts with approval in determining whether the communication was made to an interested person." This is important because the Restatement (Second) of Torts recommends that communications to the police should be absolutely privileged and supports the proposition that, if presented with the issue, South Dakota courts would find statements to the police to be privileged.



TENNESSEE

The law is **unclear** in Tennessee as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Tennessee enacted an anti-SLAPP law in 1997. Under this law, [*Tennessee Code Annotated §4-21-1001 -21-1004*](#) (2011), any person who, in furtherance of the right of free speech or petition in connection with a public or government issue, communicates information regarding another person or entity to any government agency regarding a matter of concern of that agency, unless with knowledge or reckless disregard of falsity with regards to a public figure or negligence of falsity with regards to private figure, is immune from civil liability. Arguably, this is broad enough to cover communications to the police, but it is difficult to find any authority to support this conclusion.
- It was difficult to find any authority regarding communications to the police and any protection thereof. In [*Spain v. Connolly*](#) (Court of Appeals of Tennessee, Middle Section, 1980) the court found that immunity does not protect statements in preliminary and investigatory proceedings. The court did not draw any distinction between absolute and qualified immunity. If the court found that preliminary proceedings were not entitled to any kind of immunity, it follows that the court is not prepared to recognize any type of immunity for unsolicited communications.
- A person seeking to argue that communications to the police are protected will have a stronger argument invoking the anti-SLAPP law than relying on the common law.



TEXAS

There is **strong** protection under Texas law for those who report suspected crimes to the police in good faith.

- Texas enacted the [Texas Citizens Participation Act](#) (2011). Under this anti-SLAPP law, statements based on, relating to, or in response to the exercise of the right of free speech, the right to petition, or the right of association are protected, [Texas Civil Practice and Remedies Code §27.005\(b\)](#).
- In [Ford v. Bland](#), (Court of Appeals of Texas, Fourteenth District, Houston, 2016) the court stated that “statements to police regarding incidences of perceived wrongdoing are protected by the TCPA”, citing [Murphy USA, Inc. v. Rose](#) (Court of Appeals of Texas, Twelfth District, Tyler, 2016).
- In [Writt v. Shell Oil Company and Shell International](#) (Court of Appeals of Texas, First District, Houston, 2013) the court determined that only a qualified privilege applied to communications “of alleged wrongful acts to an official authorized to protect the public from such acts.” The court acknowledged that “strong public policy consideration[s]” dictate that communications like the criminal complaint before it “be given some privilege against civil prosecution for defamation,” and it is “vital to our system of criminal justice that citizens be allowed to communicate to peace officers the alleged wrongful acts of others without fear of civil action for honest mistakes.” The court thus found that communications to the police regarding suspected wrongdoing are protected by a qualified privilege.



UTAH

There is **good** protection under Utah law for those who report suspected crimes to the police in good faith.

- Utah enacted an anti-SLAPP law in 2001, [Utah Code Annotated §78B-6-1401-1405](#) (2011). The Supreme Court of Utah, however, has previously ruled that the Utah anti-SLAPP law applies only to claims arising from attempts to influence legislative or executive decision-making.
- In the Federal Court of Appeals decision of [Murphree v. US Bank of Utah](#) (United States Court of Appeals, Tenth Circuit, 2002) the court held that an individual reporting suspected criminal conduct to police authorities is entitled to qualified immunity for erroneous statements made to police officials. The court went on to state that even though they were unable to locate a directly relevant Utah case, this qualified immunity is well established in both federal and state courts across the country.



VERMONT

The law is **unclear** in Vermont as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Vermont's anti-SLAPP law, covered under [Vermont Statutes Annotated §12.1041](#) (2011), protects statements made in the course of or in connection with government proceedings, and statements and conduct in connection with an issue of public interest, unless devoid of any reasonable factual support and any arguable basis in law and harmful to the plaintiff.
- It is difficult to find any authority specifically confirming that communications to the police come within the scope of this anti-SLAPP law but the following points are noteworthy:
 - This anti-SLAPP law only applies to petitioning activity on public issues, [Felis v. Downs Rachlin Martin, PLLC et al.](#) (Supreme Court of Vermont, 2015).
 - Public issues have been defined as relating to any social, political or other concern affecting the community, [Connick v. Myers](#) (United States Supreme Court, 1983).
- This statute is very similar in wording to that of Massachusetts. The Courts of Massachusetts have already confirmed that communications to the police are within the scope of their anti-SLAPP law.
- It is difficult to find any authority confirming that communications to the police regarding suspected criminal activity will be protected under common law.



VIRGINIA

There is **good** protection under Virginia law for those who report suspected crimes to the police in good faith.

- Virginia does not have an anti-SLAPP law except for very limited circumstances in public proceedings.
- In [*Rodarte v. Wal-Mart Associates, Inc.*](#) (United States District Court, Western Division of Virginia, 2013) the Federal Court, when interpreting Virginia law, concluded that “as long as the defamatory statement is made preliminary to a proceeding contemplated in good faith, the absolute privilege protects statements made maliciously and with knowledge that they are false”. In other words, the Federal Court found that communications to the police are absolutely privileged. This case, however, should be treated with a degree of caution because it conflicts with the previous decision of [**Matthew v. Carr**](#) (2006). In *Matthew v. Carr*, the court concluded that only a qualified privilege applies to complaints to law enforcement officials.
- It appears to be settled that the common law of privilege applies but the standard of privilege has yet to be definitively determined.



WASHINGTON

There is **strong** protection under Washington law for those who report suspected crimes to the police in good faith.

- The [Washington Act Limiting Strategic Lawsuits Against Public Participation](#) (Wash. Rev. Code § 4.24.525) allows someone who has had a SLAPP suit filed against them to strike any claim against them that is based on their public statements about an issue of public concern. In order to counter a SLAPP lawsuit under Washington's anti-SLAPP law, you must be able to show that the claim(s) against you are based off of your (written or spoken) acts "involving public participation and petition."
- Washington defines statements involving "public participation and petition" in 5 ways:
 - (1) Statements made in a "legislative, executive, or judicial proceeding or other governmental proceeding authorized by law,"
 - (2) Statements made regarding any issues under consideration by any branch of the government,
 - (3) Statements that are reasonably likely to encourage public participation and interest in an issue being considered by the government,
 - (4) Statements made "in a place open to the public or a public forum in connection with an issue of public concern," or
 - (5) "Any other lawful conduct in furtherance of the exercise of the constitutional right of free speech in connection with an issue of public concern, or in furtherance of the exercise of the constitutional right of petition."
- Washington's anti-SLAPP law is explicitly based on California's statute. If you win your motion to strike a SLAPP lawsuit under Washington's anti-SLAPP law, you are entitled to receive your attorney's fees, your court costs, and an automatic statutory damage award of \$10,000. If your motion to strike is denied, there is no consequence other than the suit against you moving forward. However, if the court finds that your motion to strike under the anti-SLAPP law "was entirely frivolous or solely intended to delay the lawsuit," the court can award attorney's fees, court costs, and an automatic statutory damage award of \$10,000 to the plaintiff.



WEST VIRGINIA

The law is **unclear** in West Virginia as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- West Virginia does not have an anti-SLAPP law.
- In the case of [Belcher v. Walmart Stores Inc.](#) (Supreme Court of Appeals of West Virginia, 2002) when citing [Dzinglski v. Weirton Steel Corporation](#) (Supreme Court of Appeals of West Virginia, 1994) the court acknowledged that West Virginia Courts recognize the doctrine of “qualified privilege.” The court noted that “this privilege is based upon the public policy that true information be given whenever it is reasonably necessary for the protection of one's own interests, the interests of third persons or certain interests of the public. A qualified privilege exists when a person publishes a statement in good faith about a subject in which he has an interest or duty and limits the publication of the statement to those persons who have a legitimate interest in the subject matter; however, a bad motive will defeat a qualified privilege defense.” The court then held that statements made by an employer to law enforcement officials in the course of an investigation of criminal activity were privileged. Belcher is arguably distinguishable from cases addressing unsolicited communications to the police from citizens for two reasons: (a) Belcher related to an ongoing investigation; and (b) Belcher involved an employee/employer relationship. Nonetheless, the court’s adoption of the qualified privilege and its assessment thereof indicates that West Virginia courts would accept that unsolicited communications to the police are protected by a qualified privilege.



WISCONSIN

There is **good** protection under Wisconsin law for those who report suspected crimes to the police in good faith.

- Wisconsin has no anti-SLAPP law.
- In the leading case of [Lisowski v. Chenenoff](#) (Supreme Court of Wisconsin, 1968) the court held that “communications made to law enforcement officers for the purpose of bringing a criminal to justice fall within the ambit of conditionally privileged statements, provided, however, that the damaging remarks are made in good faith without malice.” The Supreme Court of Wisconsin thus recognized that communications to the police are qualifiedly privileged. The statements must be made in good faith and without malice or the communicator will lose the privilege. This statement of the law was confirmed more recently in the case of [More v. Callahan](#) (United States District Court, Western District, Wisconsin, 2015).



WYOMING

The law is **unclear** in Wyoming as to whether it will protect people who report suspected crimes to the police, however, should the issue arise, it is more likely than not that the court would protect people who report crimes.

- Wyoming does not have an anti-SLAPP law.
- It is difficult to find any authority confirming that statements to the police are protected under the common law.
- More generally though, the doctrine of qualified privilege is recognized under Wyoming law. For instance, in the case of [Sylvester v. Armstrong](#) (Supreme Court of Wyoming, 1938) the court held that “in those cases where one person has an interest in the subject matter of the communication and the person to whom the communication is made has a corresponding interest, every communication honestly made in order to protect such common interest is privileged by reason of the occasion.”
- Of interest is also the case of [Abromats v. Wood](#) (Supreme Court of Wyoming, 2009). This case addressed the issue of whether statements by a victim published to a victims' services organization for the purpose of use in a criminal proceeding were protected by qualified immunity as statements made pursuant to a common interest. It is well settled law that statements made in judicial proceedings are absolutely privileged. The issue in this case, however, was that the victims' services organization is neither an attorney acting in furtherance of a court proceeding nor a direct part of the judicial branch.



- The Supreme Court of Wyoming noted that, “the claims of the individual must yield to the dictates of public policy, which requires that the paths which lead to the ascertainment of truth should be left as free and unobstructed as possible... The process of discovering, organizing, and understanding evidence is a vital part of the judicial process. It is perhaps more essential to the court's truth-seeking function than the actual trial for without it there would be no grist for the mill. The search for evidence often requires interviews with persons who may not actually testify at trial but who are nonetheless important to the process because they might know of someone else whose testimony would be more helpful. The possibility that they may be forced to defend a lawsuit for damages can only discourage such people from becoming involved. The court's need for evidence demands that all participants in the process of gathering evidence for use at trial be immune from any liability for damages... Wyoming has a strong public policy of protecting victims of crimes from harassment” [Wyoming Statutes, Annotated §1-40-205\(a\)](#). “A victim or witness has the right to be free from any form of harassment, intimidation or retribution.” Indeed, the Supreme Court of Wyoming ultimately concluded that not only were the statements to the victims’ services organization protected by a qualified privilege, but that they were absolutely privileged.
- This case does not directly address statements to police, but is indicative of the general view of Wyoming courts. The dicta in this case certainly suggest that statements to the police made in good faith regarding suspected criminal activity would be qualifiedly privileged (if not absolutely privileged) under Wyoming law.

