

## WHAT TO DO WHEN YOU ARE THE VICTIM OF POLICE MISCONDUCT

We place a great deal of trust in police officers to serve and protect our communities. Police officers and prison guards are employed to protect us from harm and uphold the law. Unfortunately, not all officers fulfill this duty, and some even abuse their power and authority as an officer of the law. Police misconduct, including excessive force, false arrest, and malicious prosecution, is a growing problem across the country, and the officers at fault must be held accountable for their actions. If you are the victim of police violence or misconduct, an experienced attorney can defend your rights and fight for the justice you deserve. The law protects all people, including those accused or convicted of crimes, from violence and abuse at the hands of police.

If you believe that you are being mistreated by the police, there are actions you can take during and after your encounter to help protect your rights and build your case. This guidebook outlines some of the common instances of police misconduct, and gives advice on what you should do, should you find yourself on the receiving end of police abuse. As you read this guidebook, please contact our office with any questions you have.



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This guidebook is for informational purposes only.

Since individual situations and legal issues vary, it is important to contact an attorney to discuss your specific legal situation.

# WHAT CONSTITUTES POLICE MISCONDUCT?

Police misconduct doesn't necessarily have to be on the part of state or county police officers. Transit police, housing authority police, and even private security guards can be charged with police misconduct. Police misconduct can take a variety of forms, but generally involves either police brutality, false arrest, or malicious prosecution.



## POLICE BRUTALITY

Under state law, police officers are forbidden from using anything more than the minimum amount of force necessary to detain a person during the course of an arrest. Police brutality, often referred to as excessive force, is when a police officer acts in a way that goes beyond the scope of actions necessary to arrest, which can result in serious injury to the victim. Excessive force can take the form of:

- Inappropriate use of a firearm
- The use of a chokehold
- Sitting or standing on the chest of the victim
- Use of unnecessary force after the individual has been handcuffed

## FALSE ARREST

A false arrest occurs when a police officer arrests or detains an individual without sufficient probable cause. Probable cause is legally defined as facts or circumstances sufficient to cause a reasonably intelligent and prudent person to believe that a crime has been committed, is being committed, or is about to be committed. Police officers do not have the right to arrest you if they cannot provide facts that indicate you were involved in committing a crime. If you have been arrested without probable cause, the police have deprived you of important civil and constitutional rights. This can have serious repercussions in your life, including damage to your reputation, time in jail, even a criminal record.

## MALICIOUS PROSECUTION

Malicious prosecution is not limited to police misconduct cases, but is frequently associated with instances of false arrest. Malicious prosecution is when an incident of false arrest is not immediately redressed, and the case goes to trial. In order to sue the police for malicious prosecution, the following must have occurred:

- A criminal case was initiated against you
- The court proceedings must rule in your favor (clear you of charges)
- Your attorney must establish there was no probable cause for the police to file criminal charges against you

# WHAT SHOULD I DO IF THE POLICE ARE MISTREATING ME?

If, during the course of an interaction with a police officer, you believe you are being abused, mistreated, or discriminated against, there are several actions you should take to improve your chances of a successful police misconduct lawsuit.

## 1. REMEMBER YOUR MOST IMPORTANT RIGHT

The right to remain silent is an important right to remember in any arrest, but especially if you are the victim of police misconduct. Any off-the-cuff accusations can cue the police to begin covering up any alleged misconduct, which can make it difficult for you to compile evidence for a future case. Speak only to answer any identification questions or request medical attention if you have been injured, and request an attorney as soon as possible.

## 2. MAKE MENTAL NOTES

If you have been falsely arrested or mistreated by the police, it is most likely a traumatic experience for you, and this can affect your memory. One of the biggest obstacles in police misconduct cases is a lack of evidence or an unclear account of the events that took place. Try to actively make mental notes of everything that is happening, focusing on the timeline of events, the people involved, and any potential witnesses. Begin writing down everything you remember as soon as you can.

## 3. FIND AN ATTORNEY

Once the incident is over, and you're looking to bring a suit against the police department or the state, it is important to find an attorney with experience handling cases of police misconduct. An experienced attorney will be able to help you sort through the details of your experience in order to begin building your case. To prepare, you should create an organized, written account of your experience to present to your prospective attorney, incorporating as much detail as you can remember.