

Current Practice Areas.

Table of contents

1. Police Misconduct.....	1
1.1. Excessive Force.....	1
1.2. False (or Wrongful) Arrest.....	1
1.3. Unreasonable Search.....	2
1.4. Wrongful Prosecution.....	2
2. Employment Discrimination.....	3
3. Criminal Appeals.....	3
4. Other Matters.....	3
4.1. Loyola-Mundelein Teacher Tenure Litigation.....	3

1. Police Misconduct

The vast majority of law enforcement officers in this country perform their very difficult jobs with respect for their communities and in compliance with the law. But this is not always true.

1.1. Excessive Force

In far too many cases, a police officer will misuse his (or her) authority to make an arrest and use excessive and unreasonable force, sometimes causing death or great bodily harm. Damages for injuries resulting from this type of wrongdoing can be secured, although it is often difficult to convince a jury that the officer acted unreasonably. This type of case is usually prosecuted on a contingent fee basis. [Click](#) for examples.

1.2. False (or Wrongful) Arrest

A person has been arrested when the facts are such that a reasonable person would believe that he (or she) is not free to leave. There is no need for the police to state that "You're under arrest." Thus, witnesses to a police shooting who are taken to a police station and held in a locked room until they can be interrogated have been "arrested." An example is [here](#). Similarly, a suspect who is held at a police station "for investigation" has been arrested as

long as a reasonable person in that situation would conclude that he, or she, was not free to leave.

False arrest cases are very hard to win, because courts (and juries) do not want to discourage the police from making lawful arrests. In most cases, the arresting officer need only show "arguable" probable cause to arrest.

False arrest cases are easier when the claim is that the arresting officer is lying about the facts, such as where the claim is that the officer planted drugs on the arrestee. [Here](#) are some sample complaints filed in "frameup" cases.

1.3. Unreasonable Search

1.3.1. Of the Person

A search of the person can be unreasonable if it is conducted without a reasonable basis *or* if it is conducted in an unreasonable manner.

An obvious "unreasonable search" is a strip search without a reasonable basis to believe that the search will turn up evidence of a crime. Courts are fairly unanimous that it is not reasonable to strip search a person simply because he (or she) has been arrested for speeding.

A search of the person can also be unlawful if it is conducted in an unreasonable manner (even if there is a reasonable factual basis to conduct the search). One extreme example would be a strip search conducted in a public place.

[Here](#) are several of the important pleadings from *Jane Doe v. Calumet City*, a class action that ended the routine strip-search policy of an Illinois municipality.

1.3.2. Of the Home

The general rule is that the police may not enter a dwelling without a [warrant](#). There are, of course, exceptions to this rule. But even when the police have a valid warrant, or have otherwise lawfully entered a home, it is still possible for the search to be unlawful if the police conduct the search in an unreasonable manner, such as in [this case](#)

The unnecessary destruction of property is one way in which an otherwise lawful search may become unlawful. Another way is exceeding the scope of the permissible search. For example, if the police lawfully enter a dwelling because they have probable cause to believe that a person named in a valid arrest warrant is inside of the home, the police may not use this as an excuse to rummage through the home looking for narcotics.

1.4. Wrongful Prosecution

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A criminal prosecution based on false information is a [wrongful prosecution](#) and, if the false information was provided by the police, may be the basis for a civil rights lawsuit when the prosecution has been resolved in favor of the criminal defendant by a dismissal, not-guilty judgement, or appellate reversal.

Wrongful prosecution is an evolving area of the law in the Seventh Circuit. Briefs from a currently pending appeal, which argues that these cases should be analyzed under a Fourth Amendment theory, are available [here](#).

2. Employment Discrimination

Federal law prohibits discrimination in employment on the basis of race, sex, age, or disability. The rules for bringing any of these cases are complicated and subject to numerous exceptions. (For example, the disability statute allows the employer to argue that a person with a prosthetic leg is not disabled because she is able to take part in regular everyday activities.) Prompt consultation with a lawyer is important if you believe that you have been subjected to this type of discrimination. Examples of the firm's extensive experience in employment discrimination are available [here](#).

3. Criminal Appeals

In general, anyone convicted of an offense has the right to appeal. Appellate work is specialized and requires a different skill set and orientation than trial representation. While it is often impossible to review the work product of a trial lawyer before choosing counsel, it is simple to review legal briefs prepared by an attorney in previous cases. Several [examples](#) of appellate briefs in criminal cases are available on this website.

4. Other Matters

4.1. Loyola-Mundelein Teacher Tenure Litigation

In 1991, Mundelein College affiliated with Loyola University. Loyola did not extend tenure to all of Mundelein's tenured faculty -- three of the 40 Mundelein tenured faculty members were offered two years severance pay, eleven were offered five year non-tenured contracts, and 26 were offered full tenure.

Two of the Mundelein tenured faculty who were offered two years severance filed suit against Mundelein and Loyola. Their case was dismissed by the trial court but reversed by the Illinois Appellate Court. *Gray v. Loyola University*, 274 Ill.App.3d 259

The Law Offices of Kenneth N. Flaxman P.C. was retained to represent the plaintiffs on

remand. On November 7, 1996, the trial court [found](#) in favor of the the plaintiffs. On May 6, 1998, the Appellate Court [affirmed](#).