

Police Misconduct Matters

Table of contents

1 Excessive Force.....	2
2 False or Wrongful Arrest.....	2
3 Unreasonable Search of the Person.....	2
4 Unreasonable Search of the Home.....	3

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.

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.

3 Unreasonable Search 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.

4 Unreasonable Search 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.