



## Color of Law Violations

U.S. law enforcement officers and other officials like judges, prosecutors, and security guards have been given tremendous power by local, state, and federal government agencies—authority they must have to enforce the law and ensure justice in our country. These powers include the authority to detain and arrest suspects, to search and seize property, to bring criminal charges, to make rulings in court, and to use deadly force in certain situations.

Preventing abuse of this authority, however, is equally necessary to the health of our nation's democracy. That's why it's a federal crime for anyone acting under "color of law" to willfully deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "Color of law" simply means the person is using authority given to him or her by a local, state, or federal government agency.

**The FBI is the lead federal agency for investigating color of law violations**, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. Off-duty conduct may be covered if the perpetrator asserted his or her official status in some way.

In 2014, FBI cases led to 72 indictments for color of law violations.

- Excessive force;
- Sexual assaults;
- False arrest and fabrication of evidence;
- Deprivation of property; and
- Failure to keep from harm.

**Excessive force:** In making arrests, maintaining order, and defending life, law enforcement officers are allowed to use whatever force is "reasonably" necessary. The breadth and scope of the use of force is vast—from just the physical presence of the officer...to the use of deadly force. Violations of federal law occur when it can be shown that the force used was willfully "unreasonable" or "excessive."

**Sexual assaults** by officials acting under color of law can happen in jails, during traffic stops, or in other settings where officials might use their position of authority to coerce an individual into sexual compliance. The compliance is generally gained because of a threat of an official action against the person if he or she doesn't comply.

**False arrest and fabrication of evidence:** The Fourth Amendment of the U.S. Constitution guarantees the right against unreasonable searches or seizures. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. It is in the abuse of that discretionary power—such as an unlawful detention or illegal confiscation of property—that a violation of a person's civil rights may occur.

Fabricating evidence against or falsely arresting an individual also violates the color of law statute, taking away the person's rights of due process and unreasonable seizure. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

**Failure to keep from harm:** The public counts on its law enforcement officials to protect local communities. If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute.

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### **Filing a Complaint**

To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. The following information should be provided:

- All identifying information for the victim(s);
- As much identifying information as possible regarding the subject(s), including position, rank, and agency employed;
- Date and time of incident;
- Location of incident;
- Names, addresses, and telephone numbers of any witness(es);
- A complete chronology of events; and
- Any report numbers and charges with respect to the incident.

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Assistant Attorney General  
Civil Rights Division  
Criminal Section  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

### **Civil Applications**

While the FBI does not investigate civil violations, Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where law enforcement agencies have policies or practices that foster a pattern of misconduct by employees. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- Lack of supervision/monitoring of officers' actions;
- Lack of justification or reporting by officers on incidents involving the use of force;
- Lack of, or improper training of, officers; and
- Citizen complaint processes that treat complainants as adversaries.

Under Title 42, U.S.C., Section 1997, the Department of Justice has the ability to initiate civil actions against mental hospitals, retardation facilities, jails, prisons, nursing homes, and juvenile detention facilities when there are allegations of systemic derivations of the constitutional rights of institutionalized persons.

Reference: [https://www.fbi.gov/about-us/investigate/civilrights/color\\_of\\_law](https://www.fbi.gov/about-us/investigate/civilrights/color_of_law)