



Preparing for the Worst: Knowing Your Rights and Getting Your Day in Court After Police Brutality

A Guide prepared by the American Civil Liberties Union

A Definition of Police Brutality

When a law enforcement officer uses more force than necessary, it's considered police brutality. It is a crime and a civil rights violation, and police can be suspended, fired or arrested for committing it. Police brutality can be difficult to prosecute. If you are a victim of police brutality, the most important thing is to document everything as quickly as possible to create a solid body of evidence of the crime.

Why Police Brutality Is Difficult to Prosecute

Police departments exist to foster public safety, and people usually turn to police officers to report a crime. But when police officers themselves abuse their power and commit crimes, it can be hard, if not impossible, to turn to them for help.

This is why documenting the crime with pictures, written statements, medical reports and legal documentation is crucial. Only an airtight case will succeed.

Rights and Restrictions of Police Officers

Not everything unfair that police officers do is necessarily illegal. There is often a fine line between police brutality and police work.

Police officers are entitled to:

- Arrest you for breaking the law, either if they have seen the act or have reasonable suspicion
- Arrest you if they have a warrant
- Search you and your immediate surroundings, including your vehicle

But police are never allowed to:

- Use excessive force
- Search you or your car without consent or reasonable suspicion
- Harass homeless people, young people, racial and ethnic minorities or members of the LGBT community based on their status alone
- Use unnecessary aggression for simple offenses, including conducting a body search when one is not warranted
- Conduct illegal mass stops and arrests or demand photo IDs without a reason

What You Should Do If You Are a Victim of Police Brutality

During the Incident:

Your goal during the incident is not to be arrested, to remember everything you can, to escape the situation peacefully and to avoid violence.

- Be as compliant as possible, and resist the urge to run, argue or express anger. If the police officer believes you pose a threat – or can convince other people that you were threatening – your case becomes much weaker.
- Memorize the badge number and name of the officer or officers
- Say as little as possible, because what you say can be used against you
- Remember concrete details that can back up your story

Immediately After the Incident:

Your goal after the incident is to create a record of the events. The police officer is not on your side, so you will need other professionals – including legal, medical and criminal justice experts – as well as witnesses and your memory to support the facts of your story.

- Write down everything about the incident as soon as possible, so critical details are fresh in your mind. If your story changes, it will be more difficult to fight your case.
- Take pictures of any injuries you received from the police officer. They will be invaluable.
- Talk to any witnesses and get their names and contact information. If you can find a pen and paper, get witnesses to write a statement of the events. Keep it as evidence.
- Seek medical attention. Not only will you be treated, but your medical report can be used in court to back up your story. It's that much more believable if a doctor has officially documented your injuries.
- Contact a lawyer. If you can't afford one, the state and nonprofit organizations may provide you with one or help you find one.
- Report abuse to authorities. The internal affairs unit of state and local police departments and the county prosecutor's office all have ways to report police abuse. Even if they can't help you, your record of reporting the incident can help you in court.

If You Are Arrested and Taken into Custody after the Abuse:

Your goal is to talk to legal and medical experts as quickly as possible and avoid confessing anything, no matter what police officers tell you.

- Request medical attention for your injuries. This can help you keep a record and show the severity of your injuries.
- Request to speak with a lawyer. If you can meet with one, tell your story immediately. The lawyer can help you or direct you to helpful resources.
- Do not speak to police officers or interrogators without talking to a lawyer. Your case will hold little weight if you confess under coercion. Even if police officers offer you a deal or tell you they have evidence that you committed a crime, do not respond or confess to anything. Police officers are allowed to lie during interrogations, and you, not them, will be held responsible if you respond to their false information.

Reporting to Internal Affairs and Other Authorities

Internal Affairs divisions are units in police departments responsible for investigating reports of police misconduct. All levels of police departments – from local to state – have internal affairs units. Internal affairs units investigate police abuse, but according to a Human Rights Watch study, these investigations often do not solve problems with abusive officers.

Still, reporting claims to internal affairs is a major part of responding to police brutality. Like other actions immediately following an incident, writing a report can be used to help you in court. When you submit your claim in writing, also send copies to city officials, county prosecutors, the state attorney general and the U.S. Department of Justice – these agencies may be able to help you.

The complaints should include as much detail as possible, including:

- A detailed description of the incident, including the time, place and order of events
- The name, badge number and physical description of any officer involved
- The names, addresses and telephone numbers of any witnesses
- If medical treatment was required, the name of the examining doctor and the hospital or clinic you attended
- Copies of photographs taken of any injuries from the incident. Be sure not to send the original copies so you can have a set to keep for evidence.

Keep copies of all documentation and correspondence, so you can prove that you filed reports.

Resources

ACLU of San Diego & Imperial Counties

The ACLU defends the Constitution and fights for civil rights. It represents only a small number of clients each year, but if it can't help, it can guide you to resources.

ACLU of San Diego & Imperial Counties

P.O. Box 87131 San Diego, CA 92138-7131 619.232.2121 www.aclusandiego.org

U.S. Department of Justice, Civil Rights Division

The criminal section can investigate and prosecute police misconduct complaints. The Criminal Section does not take every case, so this should not be your only response to police brutality.

Civil Rights Division, Department of Justice

950 Pennsylvania Avenue, N.W. Criminal Section, PHB Washington, D.C. 20530

202-514-3204

<http://www.usdoj.gov/crt/crim/index.html>

Police Complaint Center

The PCC assists victims of police misconduct. It helps document and investigate police misconduct and helps file complaints against law enforcement. It offers counseling, investigates and helps to report incidents, conducts interviews and helps submit Freedom of Information Requests (FOIA).

Police Complaint Center

1220 L St. NW, Suite 100-164 Washington D.C., 20005 (202) 359-6406

http://www.police_abuse.com