

A Police Misconduct Victim's Guide

Courtesy of the National Police Misconduct Statistics and Reporting Project (NPMSRP)¹

There is no shortage of advice out there about what you should do when you are forced to interact with the police. Just do a search and you'll find a multitude of sites devoted to explaining what your rights are when dealing with law enforcement and how you should go about asserting those rights...

But, strangely enough, there is an absolute lack of advice available out there about what you should do once a police officer violates those rights... and there will be no shortage of questions you'll have once it happens to you. I know this because there is no shortage of people who write me asking those questions when they become victims of police misconduct.

So, I've compiled a general guide for victims of police misconduct that gives some general guidelines that, hopefully, answer a lot of those questions you'll have once you become a victim of police misconduct... and I do hope that you'll never have to follow this advice.

First, I must make it clear that I am not a lawyer, please keep this in mind. The following advice is based on my experiences as a victim of police misconduct, an advocate for other victims, and a researcher studying the issues of police misconduct. Therefore, the following tips should not be considered as legal advice and are merely general recommendations that may or may not apply equally in all states or localities.

So, before I even start, let me give one piece of advice, talk to an attorney in your area that has experience with civil rights and police misconduct litigation before doing anything.

With that out of the way... Let's get started.

¹ www.injusticeeverywhere.com

Step 1 – Remember Your Most Important Right

Generally, once your rights have been violated by a police officer, whether it was an issue of excessive use of force, a false arrest, or any other of the multitudes of types of misconduct out there, you'll more likely than not be arrested, even if only as a means to cover for the original rights violation. So, first things first, the right to be silent is your best friend.

Do not start mouthing off that you are going to sue, don't say anything except that you need medical attention if you were injured during the incident. Once you make the claim that you believe your rights were violated, the officer(s) in question will begin to operate in cover-up mode and start to build their defense immediately.

So, the best thing you can do is wait and answer only the questions that you absolutely have to answer, like your name. If you're lucky, the police won't go into CYA mode right off the bat, which increases your chances that they'll not be as diligent about covering themselves in their report or lawyer-up with help from their union right off the bat.

But, while you're doing that you also need to start with step 2 right away.

Step 2 – Document EVERYTHING

One of the most common problems in cases of police misconduct come about when the narrative is cloudy or when victims cannot describe clearly or remember the details of what happened to them. So, while you are enforcing your right to remain silent, also begin to make all the mental notes that you possibly can and, as soon as you have a chance, start writing all of it down.

Becoming a victim of police misconduct is a very overwhelming experience and shock will set in at some point or another, in one form or another. One of the most common symptoms of this sense of shock and/or post traumatic stress is disorganized thoughts and memory problems, this will be especially pronounced if the incident involved physical violence.

So, the sooner you start documenting everything the better. Even if

it's all a jumble at first, at least if you have everything noted down you can organize it later with help... but you can't organize what you don't remember. So, document everything ASAP before you forget something important.

Some important details to document:

- A precise time line of events along with your best guess at when each event occurred.
- Where each event happened within the time line.
- Who witnessed each event, if you don't know names then write down descriptions with as much detail as possible.
- Who did what, when did they do it, in front of whom, and what was said.

Documentation is important not only for the victim, but for any witnesses of police misconduct as well. If you see police misconduct, immediately write down exactly what happened as soon as you can, before you call anyone.

Step 3 – Take Care of You Before You Take On The System

Before you even start thinking about a civil lawsuit or filing a complaint, deal with the important stuff first. If you were arrested, get a criminal defense lawyer and start focusing on dealing with the criminal charges. If you were hurt, get medical attention as soon as you possibly can. If you are denied medical care in custody then the very first place you should visit after your release should be a doctor or hospital.

Not only is it important for your own well-being to get that important stuff taken care of, it's also important for any shot you might have at filing a lawsuit later. Again, continue to document everything, like how much that lawyer cost, how much that time off you had to take cost, how much the calls from the jail cost, medical bills, etc...

Now, I'm not saying you shouldn't start looking for a civil rights lawyer while your criminal case is pending, but make sure you've got your defense in place first because a civil lawsuit won't do you much good while you're sitting in prison or dead because you didn't get medical care.

Step 4 – Organize Your Thoughts and Build Your Case

So, you've been documenting everything, you took care of your medical and criminal defense needs, and you've had a chance to clear your head a little bit... Now it's time to start organizing your notes and your thoughts before you do anything else...

Why? Again, as a person who has received a lot of letters from police misconduct victims seeking help, 9 out of 10 times they are writing while still in a state of shock and what they write barely makes sense, is missing a lot of necessary information, and is not going to help them find a lawyer who will want to take their case. Usually, it's all a confusing jumble, but that's mostly a symptom of the trauma and shock caused by the incident, so it's understandable, but it can cripple their chances at finding help.

So, it's important to take time to organize your thoughts, especially when you're a victim of police misconduct. Take time to write a more refined summary of the important items and details that you documented so far, and then use that to craft the letter that you can later use to make your case to a lawyer because, believe it or not, odds are you'll have to work hard to sell your case. Especially if you've already gone broke defending yourself against criminal charges and paying medical bills for what happened and need to find a lawyer who will take your case without payment up front.

If possible, don't do this alone. Get the help of family or friends who believe what happened to you and can be trusted to help without talking about it. Have them read what you wrote or talk to them about what happened until you feel comfortable with how you describe it and they can tell you that it'll make sense to someone who wasn't there.

By the time you're done you need to have two things:

- A detailed and organized set of notes that describe what happened in a clear chronological order. This should also include a list of any potential witnesses along with any contact information you can find.
- A brief summary of the important details that is no more than two short paragraphs which will serve as your introductory pitch to lawyers you contact. This will include the basics of what happened, who it happened to, when it happened, where it happened, and

what the status of any criminal charges are at this time.

Why a short pitch? Because nothing puts off a prospective lawyer more than a long run-on paragraph that is so jumbled that they can't make sense of it. Anything that takes a lawyer more than a couple minutes to read or listen to during your first contact will more than likely be ignored out of hand.

The detailed chronological notes are only for after a lawyer takes your case or if you're asked for more details.

Once that's done, then you're ready for the next step...

Step 5 – Find A Lawyer, But It's Harder Than You Think

So, you believe your civil rights have been violated... now you want justice and so you've started to look for a lawyer to consider your case in that pursuit. Odds are you're going to soon find that it is much more difficult than you were led to believe.

Sure, you were probably told that the ACLU takes any case they hear about or that lawyers would be crawling out of the woodwork to take your case... Well, you were misled. The ACLU only takes a fraction of cases, usually based on whether the case will make precedent or make a lot of headlines, they are very selective about what they take and not helpful otherwise.

Lawyers don't like to take on police misconduct cases either. They are difficult to win and take a lot of time to build... and most police misconduct victims don't have the money to pay them up front. So, when lawyers aren't being paid upfront lawyers have to gauge the risks involved in taking your case against how likely it is they would win and if what they would stand to win would pay for all that time and expense they'd spend on your case. Don't feel bad if they turn you down, it's all business since they have to make a living too.

So, you must be prepared to sell your case and be ready for a lot of rejection in the process. This is why I recommend that victims contact as many lawyers as possible about their case and have their brief pitch ready. Each time you talk to a lawyer, write down what they ask and use that to prepare for the next call from another lawyer so you have

answers ready.

Even if one says yes, make sure you feel comfortable with that lawyer before signing anything and keep trying if you don't. Sure, it's not fair that you have to do all this work after being victimized already, but if you want justice, it's what you have to do. Don't be discouraged and don't get mad, just keep using each attempt to make your case stronger, don't give up... but also make sure you know what your statute of limitations are in your state, don't waste time.

Step 6 – Be Patient

If you do get a lawyer, be prepared to wait and understand that the process you're about to go through is very slow and somewhat torturous. Most cases take years, not months, and some can drag on for over 5 years after appeals.

So don't expect the government to call as soon as you file and offer a settlement out of fear... they usually don't and lately there's been a big push in a lot of cities to fight every single case... and the government doesn't have any problem victimizing you a second time by dragging you through the mud in the press and in the court. Be ready for it.

Follow your lawyer's advice, don't talk to anyone without talking to your lawyer first, and keep documenting everything that is related to your case if any new bills come up or you get a call from the police.

...also, you might have noticed that at no point did I recommend that you file a complaint with the police. Well, like I said, don't do anything without talking to your lawyer first, that includes filing a complaint with the police department about your mistreatment.

Why?

Additional Advice and Important Notes

1. Police Complaints

I usually recommend against filing a complaint with a police department over police misconduct unless the case is minor, would not result in a civil suit, or doesn't involve you as a victim. Why? While some departments do honestly make an effort to investigate complaints to determine if misconduct occurred, some also use the

investigation as a method to prepare their defense against police misconduct lawsuits.

When police departments use investigations as a cover for building a defense against legal action it gives them a head start in the civil case you might be planning and, sometimes, it even lets them start intimidating witnesses or manipulating facts involving the case to favor their case. You have to assume the worst and act accordingly. After all, one officer just violated your rights, why wouldn't the others do it while presumably investigating your case?

This is why it is best to rely on your attorney to tell you whether or not to file a complaint. They will have a better idea on the reputation of the department's internal affairs department and have experience with how the city defends itself from civil suits. Again, don't do anything without asking your attorney first.

Of course, if you end up failing in getting an attorney, there is little harm in filing a complaint... but also be mindful of the deadlines your police department may have for filing complaints. If you file late they might still investigate it but even if they do find fault with the officer they can't do anything to discipline the officer if it's past their deadline.

2. Going Public

Again, always talk to your attorney before doing anything. This includes going public and talking to anyone about your case... Including someone like me.

The only time I recommend that someone go public is when they've run out of options and have tried every lawyer they could find with no results. Then it doesn't hurt to go public and, who knows, a lawyer out there that you missed might take up your case once they read about it in a public forum. But again, this is a last resort, don't do it until all other options have run out or your lawyer gives the ok.

Why? Because going public takes some incentive away from the government settling the suit instead of taking it to court and dragging it out. After all, what have they got to gain by keeping you quiet with a settlement if you've already told your story. So, keep quiet until you can't keep quiet anymore.

3. Rebuilding Your Reputation

Many victims of police misconduct had clean records before their fateful encounter with the police. These victims face the additional injustice of the harms done to their reputation via a criminal record. Even if the charges filed against you are dropped, you will now have an arrest on your record and this can affect your ability to find work or even get housing.

It may not seem fair, after all, you weren't found guilty so why should people treat you like you were? Unfortunately, that's just the way people are biased in the US, so you have to be ready for it and why, again, it's important to get the help of a lawyer with experience in expungements, especially if the charges were dropped against you.

Why? Well, even if you did understand enough about the law to get your official record cleared, once your name is in the database your name also goes into private databases all over that are used by background investigation companies and they don't always erase your name once the official record is cleared. So, you'll need a lawyer on hand in case your record follows you even after you clear it.

4. Police Harassment

So, what do you do if you did file a complaint and the investigator starts calling to tell you to drop it? What about if the officer who harmed you comes to visit your workplace or stops you on the street?

Again, document everything, and this includes keeping a video camera or something you can use to record anything that happens in case you are harassed or pressured. Make sure friends or family are with you as much as possible so they can be witnesses if any harassment occurs. Just be prepared before something happens instead of after it happens.

While many departments have policies prohibiting interaction with complainants, that doesn't stop investigators from applying pressure or doesn't help if your department doesn't have such a policy. So best be prepared just in case... it's not paranoia, it's just being better safe than sorry.

Final Thoughts

Hopefully some of this information will help you if you become yet another victim of police misconduct. Understand that you're not alone, that it happens a lot more often than you ever thought, and that there are going to be a lot of people who will judge you because of it. The best way to deal with this isn't to get angry, but to get prepared and do your best to focus on making something positive happen from it.

There are no support groups out there for victims of police misconduct, little research has been done on the unique psychological effects of it even though being a victim of police misconduct is a unique kind of trauma that erodes one's own sense of security in ways unlike other kinds of crimes. So mostly you're going to be on your own and ,from my own experience, I can tell you that this is why it's vitally important that you surround yourself with friends and family that believe you and believe in you. Don't isolate yourself just because others isolate you.

People are going to victimize you afterward, some people might even be hostile to you just because you became a victim of police misconduct. Be prepared for it emotionally, don't be surprised when people you thought were friends suddenly doubt you. As I said, it's important to not waste time with them, stick with people who believe in you and don't waste time with the others. Save your arguments for the court of law, not the court of public opinion.

It's going to be a long road to get back to where you were before this happened. But never give up hope that it'll get better, and keep fighting to find justice for yourself and for other victims too.

...that's what I'm trying to do by putting this advice out there. While I hope that you never have need for my advice... it's there for you in case you do.