



THE UNITED STATES

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INVESTIGATIONS AND PROSECUTIONS

The Department of Justice ("The Department") vigorously investigates and, where the evidence permits, prosecutes allegations of Constitutional violations by law enforcement officers. The Department's investigations most often involve alleged uses of excessive force, but also include sexual misconduct, theft, false arrest, and deliberate indifference to serious medical needs or a substantial risk of harm to a person in custody. These cases typically involve police officers, jailers, correctional officers, probation officers, prosecutors, judges, and other federal, state, or local law enforcement officials. The Department's authority extends to all law enforcement conduct, regardless of whether an officer is on or off duty, so long as he/she is acting, or claiming to act, in his/her official capacity.

In addition to Constitutional violations, the Department prosecutes law enforcement officers for related instances of obstruction of justice. This includes attempting to prevent a victim or witnesses from reporting the misconduct, lying to federal, state, or local officials during the course of an investigation into the potential misconduct, writing a false report to conceal misconduct, or fabricating evidence.

The principles of federal prosecution, set forth in the United States Attorneys' Manual ("USAM"), require federal prosecutors to meet two standards in order to seek an indictment.

First, the government must be convinced that the potential defendant committed a federal crime. Second, the government must also conclude that the government would be likely to prevail at trial, where the government must prove the charges beyond a reasonable doubt. See USAM § 9-27.220.^[1]

^[1] The USAM provides only internal Department of Justice guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. Nor are any limitations hereby placed on otherwise lawful litigative prerogatives of the Department of Justice.

ABOUT THE LAW ENFORCEMENT MISCONDUCT STATUTE

The federal criminal statute that enforces Constitutional limits on conduct by law enforcement officers is 18 U.S.C. § 242. Section 242 provides in relevant part:

"Whoever, under color of any law, ...willfully subjects any person...to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States [shall be guilty of a crime]."

Section 242 is intended to "protect all persons in the United States in their civil rights, and furnish the means of their vindication." *Screws v. United States*, 325 U.S. 91, 98 (1945) (quoting legislative history).