

Barriers to Civil Rights Lawsuits

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Why Civil Rights Lawsuits?

- Laws are critical to society
- Police enforce laws
- Sometimes police break laws, mistreat innocent people
- Civil rights lawsuits help government remember duties to citizens, decency, Constitution
- Good luck, it's extremely difficult

1) Don't Be Fooled

- Politicians & police take “solemn oath” to defend constitution
- Oaths don't pay bills, misleading political theater
- They won't fix bad laws, processes
- Police take your complaint, seem to care
- Probably even apologize
- Internal result: complaint was not justified

2) No Official Accountability

- Government denies responsibility for police
- Government hires, trains, directs police but not accountable for their actions
- Contrast this with companies being responsible for their driver running over your mailbox
- See *Monell v. New York Social Services*
- Morally bankrupt

3) Must Show a Pattern

- Monell landmark ruling again (Wikipedia)
- "may be sued for constitutional deprivations visited pursuant to governmental 'custom'"
- Very difficult and expensive to prove a pattern of abuse
- Eliminates nearly all civil rights cases

4) Better Be Quick

- SD law 3-21-2 requires notice within 180 days
- "No action for the recovery of damages ... caused by a public entity ... may be maintained ... unless written notice ... is given ... within one hundred eighty days ..."
- Could be in shock, PTSD, or jail for 180 days
- Prosecutors do not file notice of claim
- Violates equal protection under the law
- Law eliminates most lawsuits

5) Hidden Police Evidence

- Can't get police video without a court order
- Can't get a court order without a lawsuit
- Can't file a lawsuit without evidence
- Can't use police video in court
- SDCL 1-27-1.5 “records not open to inspection” hides evidence

6) Police Perjury Protected

- Sometimes government protects lying police
- No penalty for contrived citations
- People that complain are often targeted

7) Dishonest Lawyers

- Say laws mean one thing when they mean the opposite
- Say precedent means white – no it means black
- Cite laws that are not relevant to your case
- Say federal court can not declare state law unconstitutional – they certainly can
- Encourage false testimony under oath

8) Biased Jury Pool

- Jury selection starts with registered voters
- Conveniently excludes most ex-felons
- Registered voters tend to be older, richer, whiter, more conservative, less internet-savvy
- Some licensed drivers added to jury pool, result is still biased

9) Biased Jury Selection

- Jurors can be eliminated for:
- Bad past experience with police or courts
- Being immature
- Lack of respect for authority
- Lack of life experience
- See <https://www.nolo.com/legal-encyclopedia/discrimination-jury-selection.html>
- Many people can't afford low jury pay

10) No Personal Liability

- Government staff protected via “limited immunity”
- Don't bother trying to sue people, sue the government
- Citizens don't have “limited immunity,” only government

11) Disappearing Evidence

- Police dash cam videos not kept very long
- Most officers do not have body cameras
- Hard to record your own video when abused
- Quickly notify city if you may need police videos (hopefully you're not in jail or suffering PTSD before evidence is deleted)

12) No SD Civil Rights Lawyers

- Can't find a civil rights lawyer in SD
- Too hard to win a case
- College debt requires real income
- Reward is too low to live off
- Illegal for law students to help
- Very difficult to represent yourself

Recommendations

- Be nice to other people
- Respect constitutional rights
- Rewrite bad laws
- Overturn unjust rulings
- Pursue “with liberty and justice for all!”
- Government for the common good

Enjoy Spring

