

Quality of Life Survey

There are two sets of questions in the survey. In the first set of questions, we want to better understand changes to your quality of life since becoming housed. The second set of questions we want to understand how certain behaviors in your life may have changed since becoming housed. Please be honest. Nothing you say will negatively impact the supports you receive in housing, nor will it result in you being evicted or losing your supports. This survey is only one page long and takes only 5-10 minutes to complete.

Compared to when you were homeless, since you have been housed has:	Improved	Stayed the same	Gotten worse
The amount you sleep...	+	=	-
Your stress level...	+	=	-
Your outlook on life...	+	=	-
Your physical health...	+	=	-
The amount of food you eat...	+	=	-
The quality of food you eat...	+	=	-
Your friendships or relationships with family...	+	=	-
The quality of food you eat...	+	=	-
Your overall mental health...	+	=	-
How you feel about the future...	+	=	-
Your happiness...	+	=	-
Your safety...	+	=	-

The next questions are about certain behaviors, comparing when you were homeless to now that you are housed.

Circle **N/A** if it didn't happen when you were homeless and it hasn't happened since you were housed.

Compared to when you were homeless, since you have been housed has:	Gone down	Stayed the same	Gone up	N/A
The number of interactions with police...	-	=	+	N/A
The number of ambulance rides to hospital...	-	=	+	N/A
The number of visits to the emergency room at the hospital...	-	=	+	N/A
The amount that you drink...	-	=	+	N/A
The number of nights in jail...	-	=	+	N/A
The amount of drugs that you use...	-	=	+	N/A
How frequently you get high...	-	=	+	N/A
The number of different admissions in hospital...	-	=	+	N/A
The length of time spent in hospital...	-	=	+	N/A

EXCELLENCE IN HOUSING:

Crisis Plan

OrgCode Consulting, Inc. is pleased to share this document as part of a collection of the most requested resources from our **Excellence in Housing** training series. These documents are intended for professionals who have been properly trained on these tools and practices.

For more information about this resource, training, or other available resources, please visit us online at:

www.orgcode.com

Acknowledgements:

OrgCode Consulting, Inc. wishes to thank Mary Ellen Copeland, PhD and the “WRAP” approach as the inspiration for this tool.

Disclaimer:

OrgCode Consulting Inc. assumes no responsibility for how these tools are used or the validity of the assessments that are made by frontline workers when using the tools. OrgCode Consulting Inc. assumes no responsibility for harm to or from clients, workers or the community stemming from the use of these tools directly or indirectly – up to and including death.

The use of these tools and its consequences are independent of OrgCode Consulting, Inc. Workers and organizations assume all risk associated with or as a result of the use of the tools. By downloading and making use of these tools, in whole or in part, you agree to indemnify and save harmless, OrgCode Consulting, Inc., its owners, employees, associates, and families of all employees. It is further recommended that individuals should receive training in the use of the tools.



Crisis Plan Sample

Client: Frank	Version: 1	Date: August 4
----------------------	-------------------	-----------------------

About Me

Name:	Francis McNeill
Date of Birth:	June, 1968
Address:	8 Fairview Ave.
Health Card Number/Version:	555-555-1234

Emergency/Medical Contacts

Role	Name	Telephone Number
Emergency	Emergency Services	9-1-1
Contact this person 1st	Erica McNeill (sister)	555-555-9876
Contact this person 2nd	Rob Samborski (boss)	555-555-1111
Contact this person 3rd	Melissa Harken	555-555-2468
Support Worker	Rodrigo Nuñez	555-555-4321
Support Worker Back-up or Team Leader	Rachel Domino	555-555-8787

Depending on the situation, I may also use these community resources when in crisis:

Name of Community Resource	Telephone Number
Gamblers Anonymous	555-555-0005
Mental health hotline	555-555-3434

Understanding & Managing a Crisis

My definition of a crisis is: **Gambling, when I blow all my savings and go into huge debt and then get evicted and end up on the streets again.**

Things that cause me to go into crisis are: **When Melissa's mad at me, I want to buy her things to make her feel better. Or unexpected bills, whenever I feel stressed about money.**

Crisis Plan Sample

Client: **Frank**

Version: **1**

Date: **August 4**

The **signs** that I am **about to go into crisis** are: Money is tight and I start watching poker online. I start talking about my system.

The **signs** that I am **in crisis** are: I ask people for money and make up lame stories about why I need it. I disappear for hours and don't tell anyone where I've been. I talk to Ivan for any reason.

If you notice I am **doing** and/or **saying** talking about how gambling is bad for me, then **give me space**.

In the past, **to deal with a crisis effectively**, I have: Gone to meetings. Also just finding something else to do, maybe movies or a long walk (as long as I don't bring any money with me).

If I am in crisis, it is best to **contact these people**: Erica, because she can usually talk sense into me. My boss because I might totally flake out on work. Melissa, because sometimes it's her fault.

If I am about to be in crisis or I am in crisis, these are the **special arrangements** or things I need to have taken care of for me: Call my boss and tell him I'm sick. Erica has power of attorney so she can put a freeze on my bank accounts. Pay the landlord next month's rent immediately so I don't get evicted.

In the event of a crisis I would like my crisis plan shared with my support network, as deemed appropriate by my worker.

Yes No

Client

Frank McNeill

Signature

August 4, 2014

Date

Intensive Case Manager

Rodrigo Nuñez

Signature

August 4, 2014

Date

Crisis Plan

Client:	Version:	Date:
----------------	-----------------	--------------

About Me

Name:	
Date of Birth:	
Address:	
Health Card Number/Version:	

Emergency/Medical Contacts

Role	Name	Telephone Number
Emergency	Emergency Services	9-1-1
Contact this person 1st		
Contact this person 2nd		
Contact this person 3rd		
Support Worker		
Support Worker Back-up or Team Leader		

Depending on the situation, I may also use these community resources when in crisis:

Name of Community Resource	Telephone Number

Understanding & Managing a Crisis

My **definition** of a crisis is: _____

Things that **cause** me to go into crisis are: _____

Crisis Plan

Client: _____	Version: _____	Date: _____
----------------------	-----------------------	--------------------

The **signs** that I am **about to go into crisis** are: _____

The **signs** that I am **in crisis** are: _____

If you notice I am **doing** and/or **saying** _____
_____, then **give me space**.

In the past, **to deal with a crisis effectively**, I have: _____

If I am in crisis, it is best to **contact these people**: _____

If I am about to be in crisis or I am in crisis, these are the **special arrangements** or things I need to have taken care of for me: _____

In the event of a crisis I would like my crisis plan shared with my support network, as deemed appropriate by my worker.

Yes No

Client

Signature

Date

Intensive Case Manager

Signature

Date

EXCELLENCE IN HOUSING:

The Honest Monthly Budget

OrgCode Consulting, Inc. is pleased to share this document as part of a collection of the most requested resources from our **Excellence in Housing** training series. These documents are intended for professionals who have been properly trained on these tools and practices.

For more information about this resource, training, or other available resources, please visit us online at:

www.orgcode.com

Disclaimer:

OrgCode Consulting Inc. assumes no responsibility for how these tools are used or the validity of the assessments that are made by frontline workers when using the tools. OrgCode Consulting Inc. assumes no responsibility for harm to or from clients, workers or the community stemming from the use of these tools directly or indirectly – up to and including death.

The use of these tools and its consequences are independent of OrgCode Consulting, Inc. Workers and organizations assume all risk associated with or as a result of the use of the tools. By downloading and making use of these tools, in whole or in part, you agree to indemnify and save harmless, OrgCode Consulting, Inc., its owners, employees, associates, and families of all employees. It is further recommended that individuals should receive training in the use of the tools.



The Honest Monthly Budget Sample

Client: Chris	Version: 1	Date: February 6
----------------------	-------------------	-------------------------

Things that I have to spend money on:		Formal ways I get money:	
Rent	\$604	Job	\$0
Utilities	\$0	General Welfare	\$731
Food	\$100	Disability	\$0
Arrears	\$300	Pension	\$0
Repairs	\$0	Inheritance	\$0
TOTAL	\$1004	TOTAL	\$731

Other money that comes in goes toward:		Informal ways I get money:	
Child Support	\$0	Binning/Bottle Collecting	\$100
Debts	\$50	Odd Jobs	\$75
Cigarettes	\$100	Treasure Hunting	\$0
Coffee	\$0	Baby Sitting	\$50
Alcohol	\$200	Sex Work	\$0
Other Drugs	\$0	Drug Running/Dealing	\$0
Health Stuff	\$30	Day Labour	\$200
Household Supplies	\$60	Theft/Pawning	\$150
Girlfriend/Boyfriend	\$0	Friends/Family	\$0
Kids	\$0	Selling Prescription	\$0
Other Friends	\$50	Gambling	\$0
Cable	\$0	Medical Research	\$0
Socializing/Partying/Night Out	\$20	Panhandling	\$60
Sex	\$0	Selling Crafts	\$0
Bus	\$10	Busking/Street Entertainment	\$0
Taxis	\$0	Honorariums	\$0
Gambling	\$0	Non-Medical Research	\$0
Legal Stuff/Fines	\$0	Other	\$0
Other Bills	\$0		
TOTAL	\$520	TOTAL	\$635

All the Ways I Spend Money:		All the Ways I Make Money:	
GRAND TOTAL	\$1524	GRAND TOTAL	\$1366

Difference Between What I Spend and What I Make:	-\$158
---	---------------

The Honest Monthly Budget

Client:	Version:	Date:
----------------	-----------------	--------------

Things that I have to spend money on:		Formal ways I get money:	
Rent		Job	
Utilities		General Welfare	
Food		Disability	
Arrears		Pension	
Repairs		Inheritance	
TOTAL		TOTAL	

Other money that comes in goes toward:		Informal ways I get money:	
Child Support		Binning/Bottle Collecting	
Debts		Odd Jobs	
Cigarettes		Treasure Hunting	
Coffee		Baby Sitting	
Alcohol		Sex Work	
Other Drugs		Drug Running/Dealing	
Health Stuff		Day Labour	
Household Supplies		Theft/Pawning	
Girlfriend/Boyfriend		Friends/Family	
Kids		Selling Prescription	
Other Friends		Gambling	
Cable		Medical Research	
Socializing/Partying/Night Out		Panhandling	
Sex		Selling Crafts	
Bus		Busking/Street Entertainment	
Taxis		Honorariums	
Gambling		Non-Medical Research	
Legal Stuff/Fines		Other	
Other Bills			
TOTAL		TOTAL	

All the Ways I Spend Money:	All the Ways I Make Money:
GRAND TOTAL	GRAND TOTAL

Difference Between What I Spend and What I Make:	
---	--

EXCELLENCE IN HOUSING:

Readiness Ruler

OrgCode Consulting, Inc. is pleased to share this document as part of a collection of the most requested resources from our **Excellence in Housing** training series. These documents are intended for professionals who have been properly trained on these tools and practices.

For more information about this resource, training, or other available resources, please visit us online at:

www.orgcode.com

Acknowledgements:

OrgCode Consulting, Inc. wishes to thank the Centre for Addiction and Mental Health and Toronto Public Health as the inspiration for this tool.

Disclaimer:

OrgCode Consulting Inc. assumes no responsibility for how these tools are used or the validity of the assessments that are made by frontline workers when using the tools. OrgCode Consulting Inc. assumes no responsibility for harm to or from clients, workers or the community stemming from the use of these tools directly or indirectly – up to and including death.

The use of these tools and its consequences are independent of OrgCode Consulting, Inc. Workers and organizations assume all risk associated with or as a result of the use of the tools. By downloading and making use of these tools, in whole or in part, you agree to indemnify and save harmless, OrgCode Consulting, Inc., its owners, employees, associates, and families of all employees. It is further recommended that individuals should receive training in the use of the tools.



Readiness Ruler

Instructions for Intensive Case Managers

The Readiness Rulers are a visual tool to assist your client in thinking about and making change related to specific areas of their case plan.

Using This Tool

There are two approaches to using the Readiness Rulers.

You can ask your client which area of their case plan they would like to talk about, and insert that into the line above the first ruler. An example might be quit smoking. Most often the areas of the case plan named are the over-arching or impact goals.

You can arrive at a home visit and suggest in the conversation that you think it would be a good idea if they spent some time talking about (insert a goal where the client does not seem to have made much change). If the client agrees to talk about it, use the Readiness Rulers to frame that conversation.

In subsequent interactions with clients you can use the Readiness Rulers again for the same area of change. You can track progress over time on the rulers. There is no right or wrong answer in how your client marks himself/herself on the Readiness Rulers. It is a self-assessment. Once the client has completed the Readiness Rulers, the visual tool provides opportunity for you to explore how they have plotted on the rulers.

Readiness Ruler

Conversation Prompts

Prompts to consider using the first time a client is using the Readiness Ruler for a particular area of their case plan:

When they have marked between 0-3:

- Why did you mark yourself there?
- Why did you not mark yourself higher?
- Why did you not mark yourself lower? (assumes they have not ranked themselves zero)
- How will you know that it is time to think about changing?
- Is there anything we can set up for you that may help you think about changing?

When they have marked between 4-7:

- Why did you mark yourself there?
- Why did you not mark yourself higher?
- Why did you not mark yourself lower? (assumes they have not ranked themselves zero)
- What would be good about taking steps more towards feeling like a 10?
- What is preventing you from being more towards a 10?
- How will you know you are ready to take the next step towards a 10?
- Is there anything we can set up for you that will help you take the next step?

When they have marked between 8-10:

- Why did you mark yourself there?
- Why did you not mark yourself higher?
- Why did you not mark yourself lower? (assumes they have not ranked themselves zero)

- What is one thing you can do to help you feel like a 10? (assumes they marked 8 or 9)
- Prompts to consider when using the Readiness Ruler for a second, third, fourth time (etc) relative to their previous completion of the Readiness Ruler.

If the person has moved to the right on the ruler (though not quite at 10 yet):

- What has happened that made you take this step forward?
- What else could help you keep going towards feeling like a 10?
- What is one thing you can work on that will help you make that step? (Name it and specify a date for completion.)

If the person has achieved a 10:

- What helped you get all the way to 10?
- How do you feel now that you are at 10?
- What can you do to stay at the 10?
- What is the next thing you need to do to make sure the change sticks?

If the person has moved backwards on the ruler:

- Change is hard. What do you need to do to move in the other direction again?
- What was working for a while? What has changed?
- What have you learned about yourself?
- How can you use what you have learned to give it another try?

Readiness Ruler

Client:	Version:	Date:
---------	----------	-------

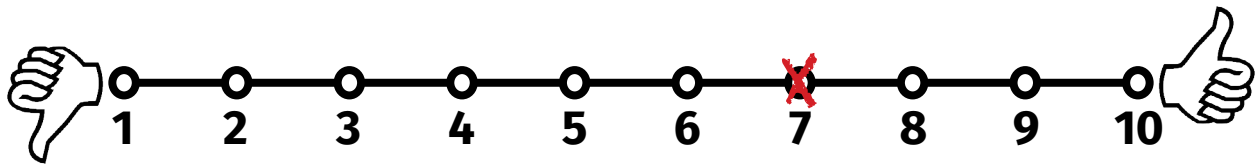
Readiness Ruler Worksheet *Sample*

I would like to make changes to the following area of my life:

I want to eat healthier

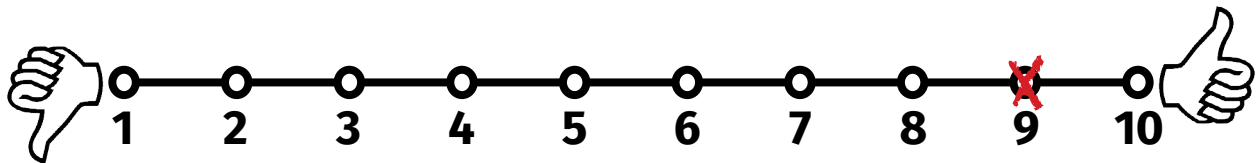
Importance

On a scale of 1 to 10, with 1 meaning “not important at all”, and 10 meaning “couldn’t be more important,” here’s how important making these changes are to me:



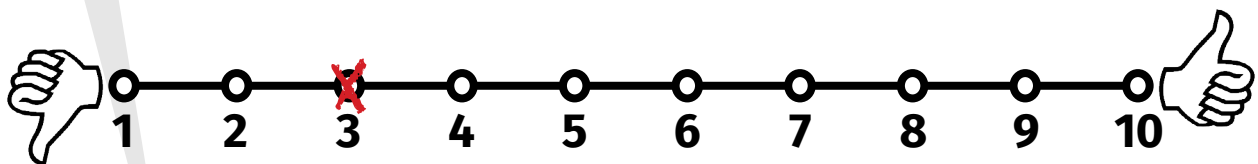
Readiness

On a scale of 1 to 10, with 1 meaning “not ready at all”, and 10 meaning “couldn’t be more ready,” here’s how ready I am to start making these changes:



Confidence

On a scale of 1 to 10, with 1 meaning “not confident at all”, and 10 meaning “couldn’t be more confident” here’s how confident I am that I can make these changes:



Readiness Ruler

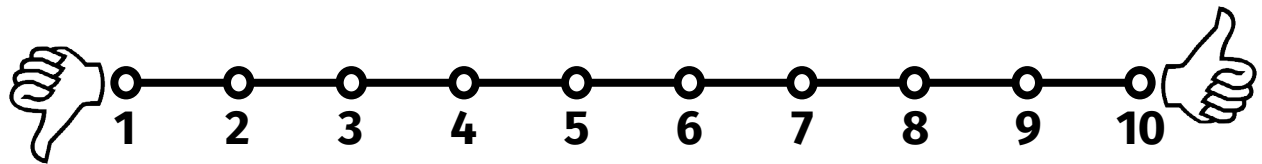
Client:	Version:	Date:
---------	----------	-------

Readiness Ruler Worksheet

I would like to make changes to the following area of my life:

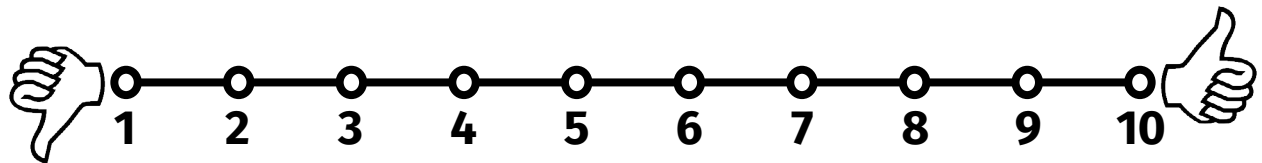
Importance

On a scale of 1 to 10, with 1 meaning "not important at all", and 10 meaning "couldn't be more important," here's how important making these changes are to me:



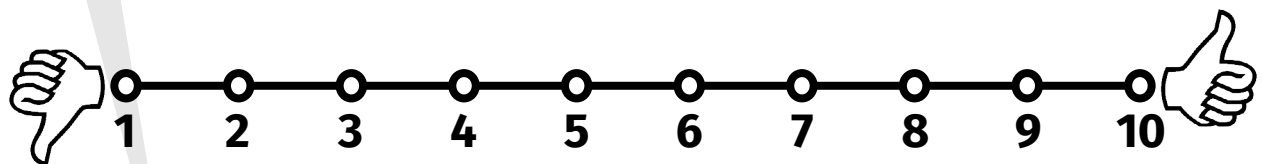
Readiness

On a scale of 1 to 10, with 1 meaning "not ready at all", and 10 meaning "couldn't be more ready," here's how ready I am to start making these changes:



Confidence

On a scale of 1 to 10, with 1 meaning "not confident at all", and 10 meaning "couldn't be more confident" here's how confident I am that I can make these changes:



EXCELLENCE IN HOUSING:

Guest Policy

OrgCode Consulting, Inc. is pleased to share this document as part of a collection of the most requested resources from our **Excellence in Housing** training series. These documents are intended for professionals who have been properly trained on these tools and practices.

For more information about this resource, training, or other available resources, please visit us online at:

www.orgcode.com

Disclaimer:

OrgCode Consulting Inc. assumes no responsibility for how these tools are used or the validity of the assessments that are made by frontline workers when using the tools. OrgCode Consulting Inc. assumes no responsibility for harm to or from clients, workers or the community stemming from the use of these tools directly or indirectly – up to and including death.

The use of these tools and its consequences are independent of OrgCode Consulting, Inc. Workers and organizations assume all risk associated with or as a result of the use of the tools. By downloading and making use of these tools, in whole or in part, you agree to indemnify and save harmless, OrgCode Consulting, Inc., its owners, employees, associates, and families of all employees. It is further recommended that individuals should receive training in the use of the tools.



Guest Policy

Personal Guest Policy

About the Personal Guest Policy

This tool is intended to help the client define who can visit, when, and who is responsible for the actions of guests. As with many of our tools, this tool is intended to give the client a voice in their living situation, and clients should be encouraged to take ownership of their guest policy.

The idea should be introduced during the housing search, discussed during the move-in, and completed during the first two home visits.

Make sure that the following questions are answered

- During what times of the day will you allow friends and family to come over?
- Is there anybody that you do not want coming over? (even if you might like to hang out with them somewhere else)
- Is there anyone you'd only invite over on certain days or certain times?
- What are your house rules? (e.g., don't yell; only people I know can come to my home; be respectful in the hallways; if you dirty it, clean it; take off your shoes. etc.)
- How will you manage guests that get out of hand?
- What's the best part about having your own place that you don't want guests to screw up on you?

Some additional questions to discuss

- If someone comes over with a friend, and you don't know the person, is that alright with you?
- If a guest damages something in the building who is responsible?
- Are there any activities, language or other things that you do not want happening in your apartment?
- If people want to crash on your floor or couch, is that cool with you? What if doing so is against your lease?
- If people want to smoke drugs in your apartment, how will you make sure that doesn't result in you getting evicted?
- If a buddy wants to "borrow" your apartment for a couple hours to have a date with his girlfriend, is that okay with you?
- If people get in a fight - including a fight with you - how will you respond to that and not lose your housing?
- Can people eat your food or use your things?
- What can you do to make sure there are no noise complaints?

Guest Policy Sample

Client: Fiona	Version: 1	Date: Jan 4, 2015
---	--	---

My Personal Guest Policy

In general, my visiting hours are:

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Guests ARE allowed	9-9	9-9	11-9	9-9	after 9am	all day	
Guests are NOT allowed	after 9pm	after 9pm	after 9pm	after 9pm			all day

I make exceptions for the following people:

Name	Is allowed to visit...
<u>Sheila (mom)</u>	<input checked="" type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
<u>Frank (dad)</u>	<input type="checkbox"/> Always <input type="checkbox"/> Never <input checked="" type="checkbox"/> Other: only on weekends
<u>Candy</u>	<input checked="" type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
<u>Eric</u>	<input type="checkbox"/> Always <input checked="" type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____

These are my house rules:

No drugs in my apartment! Don't bring people over that I don't know, and no one can be in my apartment when I'm not home. TV volume doesn't go up past 40, and if you're being louder than that, you're too loud.

Here's how I will deal with things if someone breaks my house rules:

First, I will remind them of the rule, and suggest that they stop or leave. If that doesn't work, I will suggest that we all leave. If that still doesn't work, I will call the security desk. The next day, I will speak to my neighbours/landlord if necessary.

Here's why having and following a guest policy is important to me:

Last time I got evicted was because Eric was shooting up in my bathroom when the cops showed up. Now I know that I can be held responsible for what my friends do in my place.

Guest Policy

Client:	Version:	Date:
----------------	-----------------	--------------

My Personal Guest Policy

In general, my visiting hours are:

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Guests ARE allowed							
Guests are NOT allowed							

I make exceptions for the following people:

Name	Is allowed to visit...
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____
_____	<input type="checkbox"/> Always <input type="checkbox"/> Never <input type="checkbox"/> Other: _____

These are my house rules:

Here's how I will deal with things if someone breaks my house rules:

Here's why having and following a guest policy is important to me:

Supporting People who Use Substances -
Agency Practices Harm Reduction Worksheet

Negative Practices:				
Practice, rule or policy:	We do this sometimes:	We do this routinely:	Comments:	I plan to address this in the next 3 months:
We believe homeless or formally homeless people should not drink alcohol or use substances, and we work to eradicate drinking and use among our clients.				
We limit access to services or sites if someone is suspected to be under the influence of alcohol or substances				
We use breathalyzers, urine tests, “sniff tests,” or other formal or informal sobriety tests as a requirement for entering or remaining in services or spaces				
We sponsor, or require external toxicology screening, or support requirements for it by employers, law enforcement, or others.				
We require people to enter detox programs, 12 step groups, substance treatment, or other abstinence-based services as a requirement to enter or remain in our services or spaces.				
We do not offer referrals or linkages for injection or use supplies, supported withdrawal, or other Harm Reduction services.				
We punish possession or use of alcohol, substances or drug-related supplies at program sites and even in people’s homes or personal living spaces.				
We confiscate and /or dispose of people’s substances and use equipment.				
We report illegal substance use activity to the police or to probation or parole officers.				
Other practices we engage in which are aimed at eradicating use:				

Productive or Positive Practices:				
Practice, rule or policy:	We do this sometimes:	We do this routinely:	Comments:	I plan to address this in the next 3 months:
We evaluate and address the safety of someone's behavior , regardless of their sobriety, intoxication, mental status, or any other factor.				
We use person-first language to refer to people who use substances.				
We make sure all staff and volunteers who interact with clients understand the tenets of Harm Reduction and are able to provide non-judgmental support, supplies and referrals.				
We provide or encourage robust training in Harm Reduction philosophy, practice and skills for our staff.				
Staff have overdose prevention and intervention training, and can provide this to clients.				
We provide naloxone and safer use supplies for our staff to distribute to clients.				
We embrace whatever a client's goal is for their own use, and provide linkages to a wide array of support for medication assisted detox, moderation management, etc. based on the client's needs and choices.				
We have sharps containers in our public spaces in our programs, and provide them for people's homes or personal living spaces as needed.				
We work to combat profiling and stigma related to drug use, and contribute to positive narratives about our clients and about people who use substances.				
We have posters and other public notifications in our offices and service spaces to indicate that we are a stigma-free zone and embrace Harm Reduction.				
We indicate on our promotional materials that we practice and endorse Harm Reduction and do not require sobriety or substance treatment.				
Other practices we engage in which are aimed at reducing drug-related harm:				

Hoarding Rating Scale

Please use the following scale when answering items below:

- 0** = no problem
2 = mild problem, occasionally (less than weekly) acquires items not needed, or acquires a few unneeded items
4 = moderate, regularly (once or twice weekly) acquires items not needed, or acquires some unneeded items
6 = severe, frequently (several times per week) acquires items not needed, or acquires many unneeded items
8 = extreme, very often (daily) acquires items not needed, or acquires large numbers of unneeded items

1. Because of the clutter or number of possessions, how difficult is it for you to use the rooms in your home?

0	1	2	3	4	5	6	7	8
Not at all Difficult		Mild		Moderate		Severe		Extremely Difficult

2. To what extent do you have difficulty discarding (or recycling, selling, giving away) ordinary things that other people would get rid of?

0	1	2	3	4	5	6	7	8
No difficulty		Mild		Moderate		Severe		Extreme Difficulty

3. To what extent do you currently have a problem with collecting free things or buying more things than you need or can use or can afford?

0	1	2	3	4	5	6	7	8
None		Mild		Moderate		Severe		Extreme

4. To what extent do you experience emotional distress because of clutter, difficulty discarding or problems with buying or acquiring things?

0	1	2	3	4	5	6	7	8
None/ Not at all		Mild		Moderate		Severe		Extreme

5. To what extent do you experience impairment in your life (daily routine, job / school, social activities, family activities, financial difficulties) because of clutter, difficulty discarding, or problems with buying or acquiring things?

0	1	2	3	4	5	6	7	8
None/ Not at all		Mild		Moderate		Severe		Extreme

Interpretation of HRS Total Scores (Tolin et al., 2010)

Mean for Nonclinical samples: HRS Total = 3.34; standard deviation = 4.97.

Mean for people with hoarding problems: HRS Total = 24.22; standard deviation = 5.67.

Analysis of sensitivity and specificity suggest an HRS Total clinical cutoff score of 14.

Criteria for Clinically Significant Hoarding: (Tolin et al., 2008)

A score of 4 or greater on questions 1 and 2, and a score of 4 or greater on either question 4 or question 5.

Tolin, D.F., Frost, R.O., Steketee, G., Gray, K.D., & Fitch, K.E. (2008). The economic and social burden of compulsive hoarding. *Psychiatry Research, 160*, 200-211.

Tolin, D.F., Frost, R.O., & Steketee, G. (2010). A brief interview for assessing compulsive hoarding: The Hoarding Rating Scale-Interview. *Psychiatry Research, 178*, 147-152.

Holistic Engagement and Meaningful Activities Worksheet

Use this worksheet to think about all the areas of a person’s life, and to identify needs, interests, and opportunities for each area.

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Basic Needs	Safety, protection from violence or exploitation			
	Clothing that fits my size and style and feels good			
	Yummy and nutritious food			
	Warm and stable housing			
	Transportation			
	Dignity and self-confidence			
	Rest			
	Getting IDs			
	Other basic needs:			
Physical health and well-being	Learning about and caring for pain or illness			
	Getting medical insurance			
	Finding a doctor I like and trust			
	Getting a check-up or tests			
	Fitness and exercise at home or at a gym or fitness center			
	Immunizations and wellness			
	LGBTQQI+ Care			
	Dental Care			
	Training and supplies for safer sex and relationships or family planning			

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Physical health and well-being (continued)	Feeling good about my body			
	Getting outside, going to parks or forests			
	Going for walks			
	Other physical or medical needs:			
Mental and emotional health and well-being	Healing from trauma			
	Find a therapist or counselor I like and trust			
	Learning about my thoughts, feelings, and emotions			
	Learning coping and grounding skills			
	Managing crisis			
	Changing my use of alcohol or substances, going to 12 step groups, etc.			
	Getting harm reduction or safer use supplies			
	Have a pet or plants			
	Participate in community gardening			
	Other mental or emotional needs:			
Intellectual health and learning	Learning about things I'm interested in			
	Improving reading and research skills			
	Reading books or articles I like			
	Other intellectual or learning needs:			

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Spiritual health and well-being	Feeling connected with God, an Eternal Source or Higher Power			
	Having hope for the future			
	Understanding the meaning of my life			
	Understanding and following my personal values			
	Finding a faith community or house of worship			
	Learning or practicing prayer or meditation			
	Daily faith or mindfulness practice			
	Other spiritual needs:			
Vocational or job well-being	Having a job or career I like and feel good about			
	Learning new job or career skills			
	Learning how to get and keep a job			
	Other vocational or job needs:			
Legal well-being	Expunging or sealing my legal records			
	Solving a legal problem I'm in, getting legal aid and support			
	Finishing parole or probation			
	Resolving custody, guardianship or relationship legal matters			
	Changing my name or gender marker			
	Other legal needs:			

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Identity	Knowing about and celebrating my racial, ethnic, sexual or gender identity and heritage			
	Understanding my personality, preferences and needs			
	Researching my ancestry			
	Celebrating holidays or special occasions			
	Other identity needs:			
Social life and relationships	Connecting or reconnecting with family members (whoever I call my family)			
	Connecting or reconnecting with friends			
	Meeting more people and making more friends			
	Dating or finding a partner			
	Finding a posse or crew or group of people I belong in			
	Caring for or helping out others			
	Learning and practicing communication skills			
	Resolving a disagreement			
	Other social needs:			
Financial	Saving up money			
	Getting rid of debt			
	Cleaning up my credit record			
	Settling up my taxes			
	Getting my affairs in order for the end of life			

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Financial (continued)	Making an honest budget that works for me			
	Getting a bank account			
	Getting help with medical or other bills			
	Other financial needs:			
Household management	Learning how to clean up and take care of my living space			
	Doing more cooking or baking			
	Sorting, organizing or getting rid of belongings I don't want or need anymore			
	Getting along with my landlord			
	Getting along with neighbors			
	Learning my way around my neighborhood			
	Learning how to repair things in my home			
	Managing visitors and guests			
	Knowing what to do in a household emergency			
	Other household skills needs:			
Leadership and Civic engagement	Volunteer my time for a cause or issue I care about			
	Learn about political candidates or elected officials			
	Register to vote, vote			
	Tell my elected officials what I need or care about			
	Develop my leadership skills			

Area of life:	Kinds of possible activities:	I have needs or interests in this area: (check if yes)	Ideas for meaningful activities:	I want to work on this in the next 3 months: (check if yes)
Leadership and Civic engagement	Be a peer staff			
	Serve on an advisory board			
	Other leadership needs or interests:			
Art, music, and self-expression	Learn to play an instrument			
	Find and listen to music I like			
	Go see live music or plays			
	Work on craft or hobby projects			
	Start journaling or spend time journaling			
	Write poetry or stories			
	Find an open mic or other place to perform			
	Other self-expression interests or needs:			
Other kinds of needs or interests				

Fair Housing Protections for People with Serious Mental Illness, Substance Use Disorder, and Co-occurring Disorders

AUGUST 2022

INTRODUCTION: People experiencing or at risk of homelessness with mental illness or substance use disorder (SUD) often have a difficult time obtaining housing and may face discrimination because of their conditions. There are federal laws that protect people from this type of discrimination and ensure equal access and opportunity to enjoy housing that suits their needs.

Fair Housing Law Overview

Fair housing laws guarantee that people have equal access to housing and can exercise choice in where they want to live. Fair housing laws make it illegal to discriminate in housing transactions based on the following:

- Disability, including serious mental illness (SMI), SUD, and co-occurring disorders (COD)
- Race
- Color
- National origin
- Sex, including gender identity and sexual orientation
- Religion
- Family status

These protections are guaranteed by several federal civil rights laws, including the Fair Housing Act and its amendments, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.

In addition, many states and local jurisdictions have further protections for additional protected classes. Attributes that define these classes may include age, source of income, and marital status, among others. You can contact your local tenants' rights or legal aid organizations for more information on local protections.

Protections for People with Disabilities

Many people with SMI, SUD, and COD are considered to have a disability under fair housing laws. You are protected in your housing if the following are true of you:

- You have a physical or mental impairment that substantially limits one or more major life activities
 - ↘ Physical or mental impairments may include, but are not limited to, chronic mental illness; hearing, mobility, and visual impairments; cancer; HIV/AIDS; mental development challenges; addiction to alcohol; or *past* substance use
 - ↘ Major life activities may include functions such as caring for yourself, walking, seeing, hearing, speaking, learning, and working
- You have a history of an impairment
 - ↘ For example, a history of hospitalization for mental illness, even if you don't have a current diagnosis or are in recovery from SUD
- You are regarded as having a substantially limiting impairment, even if you do not
 - ↘ For example, you have an impairing mental illness, but while it does not substantially limit one or more major life activities, you are regarded as though it does; alternatively, you have no impairment but are treated as though you do

It is important to note that federal fair housing laws **do not** protect people who currently engage in the use of illegal drugs, even if that drug use would otherwise meet the qualifications of substantially limiting a major life activity.

Whether or not a person has a disability under these criteria is often decided on a case-by-case basis. The determination of a disability is not directly tied to whether they have a documented disability for purposes of federal assistance, such as Social Security Disability Insurance or Supplemental Security Income.

Identifying When Someone May Be Discriminating Against You

You are protected in many types of housing, including houses, apartments, condos, mobile homes, dorm rooms, nursing homes/assisted living facilities, public housing, and other federally funded housing.

Discrimination can happen at different stages in the process of finding or maintaining housing. If someone does the following ***because of your disability***, it is illegal!

Fair Housing Violations and Potential Signs of Discrimination

Fair Housing Violations at Different Points in Housing Process	Potential Signs of Discrimination
Refusing to rent or sell you housing	Saying a unit is not available for rent when it is Refusing to respond to housing applications or show a unit despite having vacancies
Otherwise making housing unavailable	Restricting people with disabilities to certain units or sections of a building
Setting different terms, conditions, or privileges for sale or rental of a dwelling	Setting a higher rent or security deposit than for others in similar units
Providing different housing services or facilities	Not allowing tenants with disabilities to access onsite facilities (e.g., recreation spaces, laundry room)
Denying request for a reasonable accommodation or reasonable modification without justification	Refusing request even though it is related to a disability and does not cause an undue burden
Evicting or terminating a lease	Refusing to make a reasonable accommodation that would prevent eviction

Sometimes these actions may be lawful, but they could also be discrimination based on your disability.

Making Reasonable Accommodation or Modification Requests

You can request reasonable accommodation or modification to your housing to allow you an equal opportunity for access to and enjoyment of your home.

Differences between Reasonable Accommodations and Reasonable Modifications

Reasonable Accommodation	Reasonable Modification
<p>Reasonable accommodations are changes in the rules or how things are normally done</p>	<p>Reasonable modifications are physical changes to your home or common areas</p>
<p>There must be a connection between the requested accommodation and the disability</p>	<p>The requested modification must be related to the person's disability</p>
<p>Examples:</p> <ul style="list-style-type: none"> • Allowing a service animal • Allowing flexible application procedures • Changing rent due date to coincide with receipt of disability income • Allowing a tenant additional time to comply with building rules 	<p>Examples:</p> <ul style="list-style-type: none"> • Making physical changes to make a unit quieter, such as putting in carpet or acoustic tiles • Installing graphic signs in addition to written signs
<p>The landlord cannot charge any fees related to providing the requested accommodation</p>	<p>In most circumstances, the landlord can require the tenant to pay for the cost of the modification</p> <ul style="list-style-type: none"> • Exceptions include if the building receives federal financial assistance or if the building was built for occupancy after 1991 and the modification is covered under construction requirements in effect since that year • The tenant may also be required to restore the unit to pre-modification condition at the end of their tenancy

How to Request a Reasonable Accommodation or Reasonable Modification

Tell your landlord you need a change.

- You can talk to your landlord, use a form they provide, or write a letter with your request
 - ↳ You are not required to make your request in writing, but doing so helps make your accommodation or modification needs clear and ensures you have a record in the event your request is denied or ignored
- If you need help, someone can assist you in making the request or do it for you

Make sure to tell your landlord the following:

- That you have a disability
 - ↳ But you do not have to tell the nature of your disability or give them details
- The rule, policy, or physical barrier that needs to change
- How that rule, policy, or physical barrier is making it hard for you to use or enjoy your home
- How you want the rule, policy, or physical barrier changed
 - ↳ You can ask for more than one change if you need it!

Your landlord can ask you for a doctor's note or other proof of a disability if it is not obvious. But they cannot ask you about the nature of or details about your disability.

Does the Landlord Have to Make the Change I Request?

A landlord can only deny your request if one or more of the following are true:

- It is not related to a disability
- It causes a large financial or administrative burden
- It fundamentally alters the housing or services
- It is a direct threat to the health or safety of others
- It causes substantial physical damage to the property of others

What to Do if You Think You Experienced Housing Discrimination

You can file a fair housing complaint **at no cost** to you with federal, state, or local agencies.

There are time limits on filing your complaint (typically one year), so don't wait!

You can contact the U.S. Department of Housing and Urban Development's (HUD) [Office of Fair Housing and Equal Opportunity](#) in your area to assist you in filing your complaint. You can file your complaint online, email or mail a complaint form, or call 1-800-669-9777 or 1-800-877-8339. HUD provides accommodations and assistance for people with disabilities, including auxiliary aids and services.

There may also be a [Fair Housing Assistance Program](#) in your state that can assist you.



Learn More

[Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act \[PDF\] | HUD and U.S. Department of Justice](#)

[Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Modifications Under the Fair Housing Act \[PDF\] | HUD and U.S. Department of Justice](#)

[Fair Housing for Individuals with Mental Health, Intellectual, or Developmental Disabilities: A Guide for Housing Providers \[PDF\] | HUD](#)

[Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act \[PDF\] | HUD](#)

[Assistance Animals | HUD](#)

Disclaimer: This resource was supported by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services (HHS) under grant 1H79SM083003-01. The contents are those of the authors and do not necessarily represent the official views of, nor an endorsement by, SAMHSA/HHS, or the U.S. Government. The Homeless and Housing Resource Center (HHRC) would like to thank Homebase for the contribution of their expertise to the development of this resource.

Suggested Citation: Homeless and Housing Resource Center, *Fair Housing Protections for People with Serious Mental Illness, Substance Use Disorder, and Co-occurring Disorders*, August 2022, <https://hhrctraining.org/knowledge-resources>.



Learn More about the Homeless and Housing Resource Center

Providing high-quality, no-cost training for health and housing professionals in evidence-based practices that contributes to housing stability, recovery, and an end to homelessness.

Contact Us:

- hhrctraining.org
- info@hhrctraining.org



Enforce Your Rights Manual:

What to know if you think police violated your rights and you want to sue



1-800-LAW-REP4
[1-800-529-7374]

INTRODUCTION

In Chicago and many other places, members of the public often experience injustices at the hands of the police. In some places, abuse like illegal searches and seizures and excessive force are everyday affairs. First Defense Legal Aid, which for 24 years represented persons in custody at police stations free and 24/7, has compiled a manual designed to assist the public in enforcing their civil rights when they have been violated. Police misconduct lawsuits play a vital role in the struggle for a healthy and just society—even lawsuits that seek the correction of a single wrong done by a police officer can strengthen the public’s claims to live freely and without state interference and help prevent future wrongs.

Based on interviews with local attorneys, legal workers, and FDLA attorneys’ own research and experience litigating civil rights cases, this guide will explain the basics of police misconduct litigation—litigation refers to the process of suing or being sued—including common legal terms, types of police misconduct lawsuits, factors attorneys consider when taking and pursuing a case, what to expect during this kind of litigation, general “dos and don’ts,” and steps you can take to protect yourself when you feel police have violated your civil rights.

Not every police misconduct case is the same, and, unfortunately, not every violation of your civil rights is a viable case that a lawyer will want to take. This guide is not a substitute for a lawyer, but it does give you some ground rules for what to do and what to expect in police misconduct cases.

There is a glossary of common legal terms at the end of this guide, and those terms are highlighted the first time they appear in the manual. Don’t hesitate to refer to the glossary if something isn’t clear.

Disclaimer: this guide is informational and not legal advice. Before filing a suit or giving a statement to the police about an incident, speak with an experienced civil rights attorney ASAP after you experience police misconduct.

FDLA CONTACT INFORMATION

OFFICE

First Defense Legal Aid	E-Mail: fdlegalaid@gmail.com
601 S. California Ave.	Website: https://www.first-defense.org
Chicago, Illinois 60612	Phone: (708) 797-3066

TABLE OF CONTENTS

Introduction to FDLA’s Enforce Your Rights Manual	ii
FDLA Contact Information	iii
Table of Contents	iii
General Details About Police Misconduct Lawsuits	1
A Complaint, Service, and Answer: The Early Stage of a Police Misconduct Lawsuit	2
Where Do I Sue: Federal and State Court Considerations	3
Common Police Misconduct Causes of Action	5
False Arrest.....	6
Excessive Force.....	6
Wrongful Death.....	7
Malicious Prosecution.....	7
<i>Manuel</i> /Unlawful Pretrial Detention.....	7
Battery.....	8
Intentional Infliction of Emotional Distress	8
Class Actions vs. Individual Suits.....	8
Discovery—the Fact-finding Stage of a Lawsuit	8
Common Motions	10
Motion to Dismiss.....	10
Motion for Summary Judgment.....	11
What are my Damages?	11
Investigating and Documenting the Incident	13
Recording Important Details	13
Obtaining Public Records.....	13
Copwatching.....	14
Dos and Don’ts	16
Roadblocks to Bringing a Lawsuit	17
The Process of Finding a Lawyer for a Civil Rights Claim	18
Appendix A – Glossary of Legal Terms	20

GENERAL DETAILS ABOUT POLICE MISCONDUCT LAWSUITS

Police misconduct lawsuits are **civil**, not **criminal**—this means you are suing public officers and public bodies, not the other way around. Unlike a criminal case, where a state’s attorney must prove guilt beyond a reasonable doubt, a civil case places the **burden** on you, but at a lower difficulty level—you must prove that it is more likely than not that your account of the events is accurate and that these events represent a violation of your **rights**. Even if it initially seems like it’s simply your word against the police’s word, there is room built in to the **litigation** process for you to investigate and back up your assertions, as well as a chance to ask police officers questions and explore any inconsistencies in their stories. Finally, because it is a civil, and not a criminal case, a police misconduct lawsuit will not directly result in a police officer or other public official being sent to prison.

Answering the question “who can I sue?” in cases for police misconduct can sometimes be tricky. Typically, a suit will proceed against a city or municipality as well as individual police officers. But, for example, you may not know the names of the officer or officers who you believe violated your rights. In those cases, it is possible to sue “John/Jane Doe” and work to reveal the identities of officers later in the legal process.

Police misconduct cases often take years to resolve, so if you bring a suit, you shouldn’t expect to see it decided quickly. This is in part because a given **judge** has many cases at the same time, because there may be multiple disagreements that the court will have to rule on before the matter is ready to be **heard** in full, and because investigating your case is a process that may take considerable time. Typically, courts set time frames for specific parts of the legal process, but these deadlines are routinely extended when requested. Finally, if one **party** believes a decision was made wrongly, they may **appeal** the decision to a higher court, delaying the outcome and further lengthening the process.

KEY POINTS – GENERAL DETAILS ABOUT POLICE MISCONDUCT LAWSUITS

- ✓ **There is a difference between civil suits and criminal suits—police misconduct suits are civil, meaning no one will go to jail at the end of it.**
- ✓ **You and your lawyer will have the opportunity to prove your story during a lawsuit.**
- ✓ **Even if you don't know the names of the officers you encountered, you may still be able to sue, but make sure you leave yourself enough time to identify them.**

A COMPLAINT, SERVICE, AND ANSWER: The Early Stage of a Police Misconduct Lawsuit

A civil rights lawsuit is typically initiated by filing a document called a **complaint**. A complaint, which is a type of legal document known as a “pleading,” outlines the factual and legal basis for a lawsuit. It will indicate who the people involved in the case are—who you are and who you are suing—as well as explain to a court why the lawsuit is being **filed** in the proper place and why that court has the power to hear it. A person initiating the complaint is called the **plaintiff**, while the persons and governmental agencies or city you are suing are the **defendants**.

The bulk of a complaint typically consists of a set of statements in which an attorney explains the factual basis underlying your **claim(s)**, followed by a brief outline of the specific “**causes of action**” your suit rests upon. Causes of action—the **laws** you are arguing the person you are suing broke, sometimes also referred to as your “claims” or your “legal claims”—might include false arrest, excessive force, battery, or malicious prosecution, all of which will be explained later in this guide. Finally, a complaint contains short statements of what you are seeking from the court, whether money to compensate you for the injustice you experienced or “injunctive **relief**” (an **injunction** is an **order** from a court that a defendant do or not do something).

Following your complaint, which may be “**served**,” or delivered in an official way, on the defendant(s) by a variety of methods, a defendant has a short period of time to either file their **answer** (in which they accept or **deny** the allegations of your complaint and outline legal **defenses** to your legal claims) or to file a **motion**

to dismiss the suit outright because they believe, for example, that you failed to state a legal claim or that the court does not have the ability to hear your legal claim.

KEY POINTS – THE EARLY STAGE OF A POLICE MISCONDUCT LAWSUIT

- ✓ **Lawsuits begin with the filing of your “Complaint,” which outlines the factual and legal basis for your lawsuit and what you want. The person may then file an “Answer” or a “Motion to Dismiss,” which admit or deny the facts you allege or attempt to challenge a suit entirely on legal grounds.**
- ✓ **“Legal claims,” also known as “causes of action,” are specific laws you allege police have broken.**

WHERE DO I SUE: STATE AND FEDERAL COURT CONSIDERATIONS

Police misconduct lawsuits can be filed in state or federal court, which will primarily be a decision for your attorney. The federal court covering events in Chicago and nearby places is called the District Court for the Northern District of Illinois, while state police misconduct cases are brought in either the Law, Municipal, or Chancery divisions of the Circuit Court of Cook County, which are located at the Richard J. Daley Center Courthouse, or in another relevant state court for the geographic area where the misconduct occurred.

Some misconduct lawsuits allege violations of state law, while others allege violations of the Constitution, which are considered federal claims. Often, federal and state claims are mixed together and heard at the same time by a court. Where you file may influence the nature of a lawsuit. The federal court system has more resources than the state court system, which some attorneys interviewed believed led to a smoother and more orderly process in a suit. Also, some attorneys noted that the exchange of information following the complaint and answer moved quickly in federal court. But the jury, as they say, is out: a smoother or more orderly process in federal court is not a guarantee, nor is a faster resolution. Some attorneys also believe that federal juries are less likely to be representative of the general public in, for example, the City of Chicago, because they draw from a wider geographic area, making it more difficult to get a jury that represents your community. State and Federal courthouses for Chicago are both located in the Loop. Having a conversation with your attorney about where to file a lawsuit is a wise decision.

Cases brought in Federal court primarily address conduct that violates of the [Constitution](#) or statutes of the United States; most often, in the case of potential police misconduct, this means the 4th [Amendment](#) to the United States Constitution. Essentially, the 4th Amendment protects you against unreasonable searches and seizures, whether that's a warrantless search of your car, a wrongful arrest without probable cause, or the use of excessive force during an arrest. The 4th Amendment may also come into play if you are detained wrongfully after seeing a judge. Some Constitutional claims may involve the 1st, 14th, or other Amendments, as well.

Police misconduct civil rights cases bringing federal claims rely on Title 42, Section 1983 of the United States Code, which is a law passed by Congress during Reconstruction to give federal courts power to address the activities of the Ku Klux Klan and other racist institutions when state courts were unable or unwilling to do so. This statute is often referred to as “section 1983” and cases using it as “1983 cases.” The baseline requirements to bring a case under section 1983 are: 1) that a person was injured by someone acting “under [color of state law](#),” such as a police officer making an arrest or using force while executing their duties as a police officer; and 2) that a person's civil rights—like the 4th Amendment right to be free from unreasonable searches and seizures—were violated.

Sometimes a police officer might have violated your rights because of a pattern of behavior, a practice, or a policy within the police department. In these situations, there is a special type of claim you can file in a section 1983 case called a “*Monell* claim.” *Monell* provides a unique way for a plaintiff to include a local [municipal](#) authority as a defendant in a suit.

Scholars and courts have outlined common ways in which a municipal agency like the City of Chicago may be made a *Monell* defendant in a police misconduct action. These are 1) when there is an official policy that authorizes the illegal misconduct; 2) when there is an informal but longstanding custom or practice authorizing the illegal misconduct; 3) when government units fail to do something that leads to the constitutional violation, such as failing to train officers, discipline officers, supervise officers, and other

failures; and 4) when a policy maker with final authority in a given area acts in a way that is then considered to be the official act of the government unit. *Monell* claims, as opposed to non-*Monell* section 1983 lawsuits, are generally more costly, time-consuming, and difficult to win.

Police misconduct cases, whether including *Monell* claims or not, may also include claims against a city for “indemnification” or “*respondeat superior*,” which are two ways to ensure that a city pays **damages** if you win your case against an individual police officer. If an indemnification or *respondeat superior* claim is successful, the city will pay damages rather than the individual officers, preventing the circumstance where a court awards you money that an individual officer or officers cannot afford to pay.

Federal courts also sometimes hear claims that would otherwise be brought in state court through a process known as supplemental **jurisdiction**; a victim of police misconduct may bring both state and federal claims simultaneously in federal court. Also, state courts in Illinois can hear claims brought under section 1983, but the person you are suing will have the option to “**remove**” the case to federal court if they prefer to litigate in federal rather than state court, a common occurrence.

KEY POINTS – WHERE DO I SUE?

- ✓ **Lawsuits may be filed in either federal or state court—discuss with your lawyer as there may be pros and cons of each.**
- ✓ **The 4th Amendment, protection against unreasonable searches and seizures, is the basis for many police misconduct lawsuits. Section 1983 is the way to sue for 4th Amendment violations.**
- ✓ **A more complex claim called a *Monell* claim may be filed alleging a pattern, practice, policy, or systemic failure by a government body like the Chicago Police Department or City of Chicago.**

COMMON POLICE MISCONDUCT CAUSES OF ACTION

As mentioned, a large portion of the causes of action you will allege in federal court, such as false arrest and excessive force, rely on your proving some violation of the Fourth Amendment. There are also state law claims that have different requirements to prove them, such as malicious prosecution, battery, and intentional infliction of emotional distress.

FALSE ARREST

Police misconduct suits often include a claim for false arrest, a claim that hinges on the allegation that police wrongfully arrested someone without probable cause. Probable cause is present when the facts and circumstances known to a police officer reasonably support a belief that a person is committing, has committed, or is about to commit a crime. Because the law of probable cause depends on whether a reasonable officer would believe that an offense has been committed, a reasonable mistake on the part of a police officer does not mean that probable cause did not exist in a given set of circumstances. Probable cause is often at issue in a false arrest claim—if there was probable cause, your claim will fail. Notably, probable cause does not depend on the officer’s motivation—an officer may have a grudge against you and still prevail to defeat your claim. If you were convicted or pled guilty to a crime related to your arrest, a false arrest claim will also fail.

EXCESSIVE FORCE

Excessive force claims are also approached under the 4th Amendment protection against unreasonable searches and seizures. Courts decide whether the force used in a given arrest or encounter is “reasonable.” This requires balancing the impact of the force on the 4th Amendment rights at issue against the government interests at stake, which are understood to include that police officers have the right to use some physical force, or the threat of physical force, as part of their role as “keepers of the peace” and public order. Courts look at the totality of the facts and circumstances surrounding a given encounter. The severity of the alleged crime, the threat allegedly posed by the suspect, and the actions of the suspect are all considered in these claims, as well as the fact that officers are often forced to make split-second decisions in tense situations. These claims are evaluated from the perspective of a “reasonable officer” on the scene, not with 20/20 hindsight; also, courts have held that the intentions of the officer are irrelevant.

WRONGFUL DEATH

A tragic and too-common type of police misconduct claim may be brought when someone is killed by the police, typically by that person's surviving relatives. Wrongful death actions may proceed under state law, or as an extreme form of "excessive force" under federal law.

MALICIOUS PROSECUTION

Malicious prosecution is a claim brought under Illinois state law. For state law malicious prosecution claims, there must have been a criminal case brought by the defendants against you that ended in a manner favorable to you and there must have been no probable cause for the government to bring the case against you. Additionally, there must be malice on the part of the police officer or government agency that brought the case against you and you must have suffered a physical, mental, emotional, or monetary **injury**. (Malice may be inferred from the absence of probable cause.)

Malicious prosecution claims may arise, for example, when an officer knowingly signs a false criminal complaint against someone that alleges probable cause where none existed and you are taken to **trial** and subsequently are not convicted. Unlike false arrest claims, the statute of limitations for malicious prosecution claims begins at the point that a criminal case is terminated in your favor, not the time of arrest.

MANUEL/UNLAWFUL PRE-TRIAL DETENTION

A *Manuel* claim, or unlawful pre-trial detention claim, is a relatively new federal claim that is similar in ways to a malicious prosecution claim. Analyzed under the 4th Amendment, this claim can only be alleged if someone has been unlawfully detained, after they have been before a judge, without probable cause or based on fabricated probable cause. The statute of limitations for this type of claim begins when a person is released from detention, not at the point of an arrest or original incident.

BATTERY

Battery is a state law **tort** claim that involves an unpermitted touching by another person. In order to prove that a battery occurred, you must show that you were willfully touched by the other person. You may be able to recover money damages if you suffered physical or emotional injury. In addition to defenses generally available to a defendant in a battery suit, such as self-defense or **consent**, police have defenses to battery claims related to their duties and social role, as well.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Another state law you may allege was violated is the intentional infliction of emotional distress. This type of claim, known as IIED, will be successful if you can prove that: 1) a defendant acted in a way that was extreme and outrageous; 2) that defendant intended to **cause** or knew that their actions probably would cause you severe emotional distress; and 3) that you actually suffered severe emotional distress. There is no requirement for physical injury on an IIED claim, but courts will consider physical symptoms of emotional distress.

CLASS ACTIONS VS INDIVIDUAL SUITS

In some official misconduct cases, it may make sense to sue as a group of individuals whose claims are similar from a factual and legal basis. **Class action** lawsuits have involved a group of people who sued because they were wrongfully held at Cook County jail or were wrongfully detained as part of a “stop and frisk” practice. Consult a lawyer to assess your options for a potential class action lawsuit.

DISCOVERY: THE FACT-FINDING STAGE OF A LAWSUIT

Much of the work prior to a trial consists of assembling facts through an often lengthy process called **discovery, often while simultaneously negotiating with the defendants to see if a settlement is possible**. During discovery, the lawyers for the people in the case exchange sets of written questions and requests for

documents, or may interview you, the police officers, and other **witnesses**. You can help your lawyer during this stage of the case by sharing all of the facts related to the incident with them. It is important to share as much as you can, even if some information seems irrelevant. Being honest during discovery is crucial—failing to do so can get you in trouble. It is also helpful to have the names and contact information for anyone who may have witnessed the incident and the names and contact information of any doctors you may have visited. This information will help your lawyer ask the right questions and interview the right people in the right way. As one Chicago attorney described it, discovery is somewhat akin to searching for buried treasure—the right information (the needle in the haystack) found skillfully, can significantly strengthen your case.

Additionally, during discovery, your attorney may conduct a type of formal interview with a police officer or another witness called a **deposition**. You will also be deposed by the defendants' attorneys. During a deposition, an attorney will ask the witness questions about the incident and other matters related to the case. A unique feature of depositions is that the witness must be sworn to testify truthfully and must testify to the best of their recollection. Another unique feature is that the witness has their **testimony** recorded by a court reporter. Your attorney may conduct multiple depositions over the course of the discovery process. Your attorney's depositions and written questions during discovery may draw out inconsistencies in the stories the police have told about the incident. Deposition transcripts can later be used in court for motions or trial. Depositions can be expensive, however, and the nature of an individual case may determine how many depositions, if any, are taken.

Remember: the people you have sued get to request information from and about you as well, and take your deposition, and it can feel quite intrusive. The scope of discovery is very broad, and, often, very personal information about you will be revealed in discovery. Depending on the nature of your case, and the injuries you allege, this could include opening up your medical records—including information about therapists, psychiatrists, or other medical professionals you may have seen—to scrutiny. It may involve extensive questioning about prior emotional trauma, past hospitalizations, childhood experiences, and other matters that

may seem unrelated to the case. This is particularly true if your case seeks compensation for psychological and emotional injuries. Your perception of an event—and your mental health—may be challenged and called invalid by the defendant or their experts, so be prepared, but don't be discouraged. Having an attorney at your side in this process will be a great value to you.

KEY POINTS - DISCOVERY

- ✓ **Discovery is the official process of exchanging information with the person you are suing during a lawsuit. Your attorney cannot be an effective advocate for you if they have false or incomplete information, so it is important to be honest with your attorney. Don't lie at any point in the process, including at a deposition. Let your lawyer guide the process.**
- ✓ **During discovery, you may expose inconsistencies in the police's stories, and you may even find "buried treasure"—information that totally changes a case. Discovery can also reveal potential problems in your case.**
- ✓ **Discovery may reveal very personal details about your life and otherwise feel very intrusive.**

COMMON MOTIONS

After a complaint is filed and before a case goes to trial, both sides may bring motions that ask the court to do certain things. One commonly filed motion is a motion to ask the court to dismiss the case outright. As you may expect, this type of motion is called a Motion to Dismiss. Another commonly filed motion is a motion that asks the court to rule that, based on the law, one side or the other is entitled to victory without a trial. This type of motion is called a Motion for Summary Judgment.

MOTION TO DISMISS

Motions to dismiss are filed by the person or persons you are suing prior to and are filed instead of an answer to your complaint. Rather than admitting or denying the allegations in your complaint, a person who files a motion to dismiss instead attacks the complaint itself. Motions to dismiss may be brought for a variety of reasons, including: that you failed to state a claim, that your suit was brought in a court that does not have the power to hear the claim, or that some other affirmative matter defeats your claim. Commonly, courts

considering motions to dismiss do not look at the merits of a claim but rather what your lawyer wrote in the complaint itself—did they state facts that could, at a later stage, support a winning case.

MOTION FOR SUMMARY JUDGMENT

Motions for **summary judgment** are typically filed during or after discovery, and can be brought by either you, the people you're suing, or both. In a motion for summary judgment, someone tells the court, in essence, "there is no disagreement about the important facts in the case, and, applying the law to these undisputed facts, I am entitled to win the case." If a side is successful on one of these motions, the court enters an order of summary judgment and the case is essentially decided as if there had been a trial. It will likely still take time to resolve some issues, though, such as the amount of money damages you are entitled to. A motion for summary judgment may also only resolve some of the legal claims you've made, and leave others for trial. Because summary judgment is considered a "drastic" remedy, courts grant the person that does not bring the motion certain advantages, and should not grant these motions unless they believe someone is entitled to win on the law.

WHAT ARE MY DAMAGES?

Most often, civil rights lawsuits are brought with the hope of recovering a monetary amount to compensate you for the physical injuries, pain and suffering, loss of liberty, emotional damage, lost wages, destroyed property, and diminishment of your quality of life experienced as a result of the police's actions. In cases where someone is killed by police, that person's family may sue for loss of expected income, loss of the person's companionship in the future, and other damages. These types of damages are called "compensatory"—they attempt to compensate you for your actual losses. If you can prove that someone's conduct towards you was malicious, or in **reckless** disregard for your safety or rights, you may also be eligible for "punitive" damages, as well. Punitive damages serve to punish the person you are suing rather than

compensate you for your injury, and are used to set an example that warns against similar actions in the future. Putting a dollar figure on these items—compensatory, punitive, or both—is often a major issue in litigation.

There is no way to estimate with certainty how much a given case is “worth,” both because there are no absolute rules for a given incident and because the amounts involved may differ greatly depending on whether a case is settled or goes to a trial. Your attorney can, however, look at the types of injuries you suffered to understand the types of damages you may be able to recover. If you missed work and lost wages as a result of an unlawful arrest, or incurred medical bills after a violent police encounter, these damages will be recoverable if you win. If police illegally damage your property, you should be able to recover the value of that property.

Being illegally held by the police for a longer period of time naturally can lead to more damages than a shorter detention; being severely injured by police should lead to greater damages than an incident that leads to only minor injuries. There is, however, no ironclad rule. Other types of damages are even more difficult to calculate. What is the price, for example, of your emotional well-being, or your physical pain and suffering? What is the price of a person’s life, and the loss of that person’s companionship if they are killed by police? What if you suffered serious emotional trauma, but the attorney for the person you are suing is able to convince a judge or jury that your injury was not a result of the police’s actions? These are difficult questions that are resolved on a case by case basis.

In general, you should trust your lawyer’s experience when attempting to value damages in a case—their estimates of what you are likely to recover are often informed by years of experience with similar cases. Listening to your lawyer on this question and taking their advice seriously will be helpful to you, even though the ultimate decision to accept or decline a **settlement** or to take a case to trial is yours alone.

KEY POINTS – WHAT ARE MY DAMAGES?

- ✓ **Damages—how much money you are entitled to if you win a lawsuit—are a highly disputed part of a case.**
- ✓ **Depending on the situation, if you win, you can receive compensation for lost wages, emotional distress, pain and suffering, and even loss of companionship if someone is killed by police.**
- ✓ **Experienced lawyers will be familiar with “valuing” a case—take their advice seriously.**

INVESTIGATING AND DOCUMENTING THE INCIDENT

Though an experience with police may be traumatic and disorienting, if you act quickly in the aftermath of misconduct you can strengthen a potential legal case.

RECORDING IMPORTANT DETAILS

Attorneys interviewed for the preparation of this resource indicated that documenting the names and contact information of witnesses to the events can be helpful to verify your story and prove your allegations. Attorneys also emphasized documenting all injuries with photographs as soon as possible after an incident as a strategy to improve your prospects in a potential lawsuit. If you are able, visit a doctor soon after an incident of excessive force to create a medical record of the injuries you sustained.

OBTAINING PUBLIC RECORDS

The Illinois Freedom of Information Act (FOIA) is another resource to investigate a case and is available to any person free of charge. Quickly sending FOIA requests for footage from Chicago POD cameras, red light camera footage, and from officer-worn body cameras can help make sure you preserve video of the incident. In general, FOIA requests can be emailed to the relevant city department using the addresses found here: https://www.chicago.gov/city/en/narr/foia/foia_contacts.html. POD camera footage FOIAs should be sent to both the Office of Emergency Management and Communication (OEMC) and the Chicago Police Department, while dash camera, body camera, and arrest report FOIAs should be sent to the Chicago Police Department. FOIAs for 911 calls and dispatch records should be sent to OEMC. FOIAs should

include a specific description of the videos or other records you are requesting. (For an overview of the Illinois Freedom of Information Act, see the Reporters Committee for Freedom of the Press guide, available online at <https://www.rcfp.org/open-government-guide/illinois/>.)

Going to the Records Department of Chicago Police headquarters at 3510 S. Michigan Avenue, Room 1043 from 8am to 3pm and getting a copy of your arrest report, if there is one, is also an option that can assist in your case. (The police will charge money for copies of arrest reports picked up at police headquarters.)

COPWATCHING

If you see police misconduct in progress, you can consider copwatching—watching and documenting police activities from a distance—in a way that does not obstruct the police officers. Copwatching is the practice of documenting police activities in public to serve as a check on misconduct; it has a history dating back to the Black Panther Party’s Panther Patrols in the mid-late 1960s. In Illinois today, members of the public are free to record police officers in public in the course of their duties. If you copwatch, you should narrate any recordings with times, dates, locations, and descriptions of what the police are doing.

Recording a police interaction in public is a legal right, but it also carries risk. If recording a police encounter you are witnessing, obey commands from police officers to move back and give them space. If the police order you to stop filming, it may make sense to do so to protect your personal safety despite the fact that you have the right to make these videos.

It always makes sense to copwatch in pairs—having a partner can make the activity safer for you. One person should film, and the other should stand between the filmer and the police, and at a safe distance. Your partner can also film you watching the police to record additional police interactions. You should always consider risk factors—be aware of your immigration status, potential warrants, and make sure you don’t have any contraband or illegal materials with you when copwatching in case police attempt to search you.

When copwatching, and in any encounter with police, there are basic rights that every person should know. These are: 1) you have the right to leave a police encounter unless you are under arrest or being

detained; 2) you have the right to not consent to a search (though, practically speaking, you should not physically resist the police even if they are conducting an illegal search); 3) you have the right to remain silent in response to an officer's questions; and 4) you have the right to have an attorney present as soon as you are deprived of your liberty by police... i.e., as soon as you are not free to leave an encounter. Exercising these rights can be scary, but it is also very powerful. The more you practice and make them part of your consciousness, the more prepared you will be in the case of an actual encounter.

In an encounter with police while copwatching—or in any other circumstance—when the police attempt to question you, first determine whether you are being detained by asking, “am I free to go?” If police indicate that you are able to leave—even if they discourage you from doing so by saying it makes you look guilty, or tell you innocently that they “just want to ask a few questions”—you are free to walk calmly away from the situation. To protect yourself, this is often a wise decision. If police tell you that you are not free to go and attempt to search you, the next right you can assert is to be free from any unreasonable searches. You should clearly, calmly, and loudly state, “I do not consent to any searches.” It is important to remember that you should not physically resist the police, even if you believe what they are doing is illegal. If police attempt to detain you, search you, or pat you down, do not do anything that could lead to your facing criminal charges such as resisting arrest or aggravated battery to a police officer—simply state that you do not consent to the search without attempting to run or pull away.

You have the right to speak with an attorney as soon as police deprive you of your liberty—as soon as you are not free to go. When detained, you should state, “I will not talk. I want my lawyer.” in response to any questions by police.

You also have the right to remain silent when police ask you questions. You do not have to share your name, address, telephone number, or other identifying information. (If you are driving a car, however, you must show your license to officers upon request.) Although you are generally not required to provide identifying information to police in Illinois, it may once again lead to a smoother police interaction to share

your name and contact information. Regardless, once you have determined that you are not free to leave a police encounter, remaining silent is one tool you can use to protect yourself.

Knowing these rights will help you if you choose to copwatch an incident of police brutality and even if you don't.

KEY POINTS – INVESTIGATING AND DOCUMENTING THE INCIDENT

- ✓ **Document the police encounter: take photographs of injuries, get contact information of witnesses, and visit a doctor if possible, all as soon as possible after the encounter.**
- ✓ **Sending FOIA requests immediately after an event may allow you to obtain arrest reports, camera footage, and other materials relevant to a case.**
- ✓ **If copwatching, be aware of risk factors like outstanding warrants or immigration status. Know and exercise your rights (but do not physically resist police or disobey police commands).**

DOS AND DON'TS

Beyond speaking with an attorney as soon as possible after an incident occurs, there are steps you can take—and potential traps you can avoid—that will improve your chances of success in a police misconduct suit. Nearly all the attorneys consulted for the preparation of this handbook strongly advised against speaking to the press or posting anything on social media about the incident when you are considering a lawsuit until you talk with an attorney about the pros and cons of making any posts. Statements or messages you share online or with the press can possibly later be used against you by the defendants in a given case. You should also not give statements to the Civilian Office of Police Accountability (COPA, formerly known as IPRA), Chicago Police Department Internal Affairs Division (IAD), or other police investigators about the events surrounding the lawsuit without consulting with your lawyer.

Once you are represented by an attorney, you must be honest with them—giving a selective version of the truth to your legal counsel is a recipe for disaster. Also, make sure you are reliably available to help your attorney as the process moves along—this might include promptly returning phone calls, producing documents your lawyer needs for discovery or for other purposes, attending meetings on time, and generally

making it easy for your lawyer to pursue your lawsuit in the most effective way possible. Some decisions in a lawsuit—such as whether to settle—are ultimately yours, not your lawyer’s, but failing to do things like return phone calls or attend planned meetings can weaken your lawyer’s ability to represent you as well as harm the relationship between you and your counsel. Multiple attorneys interviewed for the preparation of this resource named breakdowns in communication between a client and attorney as a major obstacle they had experienced in their practice.

KEY POINTS – DOS AND DON'TS

- ✓ **Consult with a lawyer before making social media postings or speaking to the press.**
- ✓ **Consult with a lawyer before giving a statement to COPA or other police or prosecutorial body.**
- ✓ **Be honest, forthcoming, and communicative with your lawyer. Try not to miss meetings or calls.**

ROADBLOCKS TO BRINGING A LAWSUIT

Unfortunately, there are many reasons why you might have experienced injustice at the hands of police but still may not be able to achieve a victory in court. Some common reasons are that you are not able to find an attorney or that the law is not on your side despite the unjust actions of police.

One local civil rights lawyer estimated that a complicated civil rights case can take 100s or even 1000s of hours to effectively carry out from its beginning to a **judgment** at trial. Even more simple cases require significant time and energy from an attorney from start to finish. There are often costs associated with the litigation process for expert witnesses, depositions, legal research, copying, and other items. The large energy and sometimes dollar investment an attorney must make on a case poses a problem in certain situations where there was an obvious violation of rights but a relatively small amount of money at issue.

Federal law allows an attorney to recover their fees from the defendant following a successful section 1983 trial. There are no attorney’s fees available for a typical settlement—if a case settles without a trial, which

many police misconduct suits do, the attorney is typically left to take a portion of the settlement amount that may be much smaller than the attorney's costs or value of the amount of work the attorney actually performed.

Another major bar to civil rights suits is the legal “**statute of limitations**,” or SOL, for a given claim. The statute of limitations is the amount of time after your rights have been violated in which you may bring a lawsuit. For different kinds of lawsuits, this number differs, but in Illinois, federal and state civil rights suits typically leave a plaintiff one to two years to bring a claim.

The date at which the SOL starts running depends on the claim you are bringing. This is often a complicated legal question and is one reason that if you experience injustice at the hands of police, it is essential to consult a lawyer as quickly as possible. Failing to reach out for legal assistance as described elsewhere in this guide could mean you miss your chance at some form of justice due to the SOL. You could experience horrible treatment at the hands of police, but unless you file your lawsuit in a timely manner, you may be left with no legal options.

Another roadblock to a successful recovery is a defense available to police known as “**qualified immunity**.” Qualified immunity will defeat a suit even in a case where your rights were violated if it would not have been clear to a reasonable officer that they were violating a right based on established law. Qualified immunity may be available to defendants in a variety of other factual situations and consulting with an attorney on the question is essential to defeating a qualified immunity defense.

KEY POINTS – ROADBLOCKS TO BRINGING A LAWSUIT

- ✓ **Litigation can be expensive and time-consuming. A lawyer may not be able to take a given case.**
- ✓ **The encounter may have occurred too far in the past and the statute of limitations may have run.**
- ✓ **Police may have access to “qualified immunity” or another defense to your claims.**

THE PROCESS OF FINDING A LAWYER FOR A CIVIL RIGHTS CLAIM

There are many ways to look for a lawyer for a civil rights claim, though it is possible that no lawyer will take your case. As a starting point, if you believe the police have abused you or violated your rights, you

can call First Defense Legal Aid at 1-800-LAW-REP4 (1-800-529-7374) and dial the extension indicating that you have experienced police abuse and violations of your rights. FDLA operates a not-for-profit lawyer referral service that will attempt to find you representation with a private law firm. If this effort is unsuccessful, your case may be eligible for representation by FDLA attorneys as part of the organization's Civil Rights Legal Aid Program (CRLAP). Hotline answerers are available 24/7/365.

When you speak with a law office about a civil rights claim, a member of the firm's staff will typically do a brief telephone intake with you and collect the basic details of your situation. If there are no red flags, like an obvious statute of limitations issue, and the firm has capacity, the office may then have you in for an in-person consultation. The office may begin collecting evidence for a potential case before deciding to represent you, which may not always be a speedy process. If the office wants to take your case, you and they will enter into a representation agreement that outlines the responsibilities and rights of the parties. These agreements typically provide for a contingency fee—i.e., you pay nothing up front and the lawyer is reimbursed with a portion of the settlement or if they are awarded fees by the court. If you don't succeed at one firm, don't hesitate to try another. And, finally, there is another free referral service in Cook County called CARPLS that connects lawyers and clients and answers general legal questions. You can reach the CARPLS hotline at (312) 738-9200.

We hope your pursuit of justice in the courts is a successful one.

APPENDIX A

GLOSSARY OF COMMON LEGAL TERMS

Below is a list of legal terms, phrases, and other words that you may come across in this guide or in further research. This list used with permission of its publishers, the Center for Constitutional Rights and the National Lawyers Guild.

Admissible: Evidence that can be used at a trial is known as “admissible” evidence. “Inadmissible” evidence can’t be used at a trial.

Affidavit: A written or printed statement of facts that is made voluntarily by a person who swears to the truth of the statement before a public officer, such as a “notary public.”

Affirm: When the appellate court agrees with the decision of the trial court, the appellate court “affirms” the decision of the trial court. In this case, the party who lost in the trial court and appealed to the appellate court is still the loser in the case.

Allege: To claim or to charge that someone did something, or that something happened, which has not been proven. The thing that you claim happened is called an “allegation.”

Amendment (as in the First Amendment): Any change that is made to a law after it is first passed. In the United States Constitution, an “Amendment” is a law added to the original document that further defines the rights and duties of individuals and the government.

Annotation: A remark, note, or comment on a section of writing which is included to help you understand the passage.

Answer: A formal, written statement by the defendant in a lawsuit which responds to each allegation in the complaint

Appeal: When one party asks a higher court to reverse the judgment of a lower court because the decision was wrong or the lower court made an error. For example, if you lose in the trial court, you may “appeal” to the appellate court.

Brief: A document written by a party in a case that contains a summary of the facts of the case, relevant laws, and an argument of how the law applies to the factual situation. Also called a “memorandum of law.”

Burden of proof: The duty of a party in a trial to convince the judge or jury of a fact or facts at issue. If the party does not fulfill this duty, all or part of his/her case must be dismissed.

Causation: The link between a defendant’s conduct and the plaintiff’s injury or harm. In a civil rights case, the plaintiff must always prove “causation.”

Cause of Action: Authority based on law that allows a plaintiff to file a lawsuit. In this handbook, we explain the “cause of action” called Section 1983.

“Cert” or “Writ of Certiorari”: An order by the Supreme Court stating that it will review a case already decided by the trial court and the appeals court. When the Supreme Court makes this order, it is called “granting cert.” If they decide not to review a case, it is called “denying cert.”

Cf.: An abbreviation used in legal writing to mean “compare.” The word directs the reader to another case or article in order to compare, contrast or explain views or statements.

Circuit Court of Appeals: The United States is divided into federal judicial circuits. Each “circuit” covers a geographical area, and has a court of appeals. This court is called the U.S. Court of Appeals for that particular circuit.

Citation: A written reference to a book, a case, a section of the constitution, or any other source of authority.

Civil (as in “civil case” or “civil action”): In general, all cases or actions which are not criminal. “Civil actions” are brought by a private party to protect a private right.

Claim: A legal demand made about a violation of one’s rights.

Class Action: A lawsuit in which the plaintiffs represent and sue on behalf of all the people who are in the same situation and have the same legal claims as the plaintiffs.

Color of State Law: When a state or local government official is carrying out his/her job, or acting like he/she is carrying out his/her job. Acting “under color of state law” is one of the requirements of a Section 1983 action.

Complaint: The legal document filed in court by the plaintiff that begins a civil lawsuit. A “complaint” sets out the facts and the legal claims in the case, and requests some action by the court.

Consent: Agreement; voluntary acceptance of the wish of another.

Consent Order / Consent Decree: An order for an injunction (to change something the defendant is doing) that is agreed on by the parties in a settlement and given to the court for approval and enforcement.

Constitution: The supreme law of the land. The U.S. Constitution applies to everyone in this country, and each state also has a constitution.

Constitutional law: Law set forth in the Constitution of the United States or a state constitution.

Counsel: A lawyer.

Criminal (as in “criminal case” or “criminal trial”): When the state or federal government charges a person with committing a crime. The burden of proof and the procedural rules in a criminal trial may be different from those in a civil trial.

Cross-examination: At a trial or hearing, the questioning of a witness by the lawyer for the other side. Cross-examination takes place after the party that called the witness has questioned him or her. Each party has a right to “cross-examine” the other party’s witnesses.

Damages: Money awarded by a court to a person who has suffered some sort of loss, injury, or harm.

Declaration: A statement made by a witness under penalty of perjury.

Declaratory Judgment: A court order that sets out the rights of the parties or expresses the opinion of the court about a certain part of the law, without ordering any money damages or other form of relief for either side.

Default judgment: A judgment entered against a party who fails to appear in court or respond to the charges.

Defendant: The person against whom a lawsuit is brought.

Defense: A reason, stated by the defendant, why the plaintiff should lose a claim.

Deliberate Indifference: The level of intent that you must show the defendants’ had in an Eighth Amendment claim. It requires a plaintiff to show that a defendant (1) actually knew of a substantial risk of serious harm, and (2) failed to respond reasonably.

De Minimis: Very small or not big enough. For example, in an Eighth Amendment excessive force claim, you need to prove an injury that is more than de minimis.

Denial: When the court rejects an application or petition. Or, when someone claims that a statement offered is untrue.

Deposition: One of the tools of discovery. It involves a witness giving sworn testimony in response to oral or written questions.

Dictum: An observation or remark made by a judge in his or her opinion, about a question of the law that is not necessary to the court’s actual decision. Future courts do not have to follow the legal analysis found in “dictum.” It is not “binding” because it is not the legal basis for the judge’s decision. Plural: “Dicta”

Direct Examination: At a trial or hearing, the questioning of a witness by the lawyer or party that called the witness. The lawyer conducts “direct examination” and then the lawyer for the other side gets the chance to “cross examine” that same witness.

Discovery: The process of getting information which is relevant to your case in preparation for a trial.

Discretion: The power or authority of a legal body, such as a court, to act or decide a situation one way or the other, where the law does not dictate the decision.

Disposition: The result of a case; how it was decided.

Document Request: One of the tools of discovery, allows one party to a lawsuit to get papers or other evidence from the other party.

Due process: A constitutional right that guarantees everyone in the United States a certain amount of protection for their life, liberty and property.

Element: A fact that one must prove to win a claim.

Enjoining: When a court orders a person to perform a certain act or to stop performing a specific act. The order itself is called an “injunction.”

Evidence: Anything that proves, or helps to prove, the claim of a party. “Evidence” can be presented orally by witnesses, through documents or physical objects or any other way that will help prove a point.

Exclude from evidence: The use of legal means to keep certain evidence from being considered in deciding a case.

Excessive Force: more force than is justified in the situation.

Exhaustion of Administrative Remedies: the requirement that a prisoner use the prison grievance system to make (and appeal) a complaint before filing a lawsuit. One of the requirements of the Prison Litigation Reform Act.

Exhibit: Any paper or thing used as evidence in a lawsuit.

Federal law: A system of courts and rules organized under the United States Constitution and statutes passed by Congress; different than state law.

File: When you officially send or give papers to the court in a certain way, it is called “filing” the papers.

Finding: Formal conclusion by a judge or jury on an issue of fact or law.

Footnote: More information about a subject indicated by a number in the body of a piece of legal writing which corresponds to the same number at the bottom of the page. The information at the bottom of the page is the “footnote.”

Frivolous: Something that is groundless, an obviously losing argument or unbelievable claim.

Grant: To allow or permit. For example, when the court “grants a motion,” it allows what the motion was asking for.

Habeas Corpus (Habeas): An order issued by a court to release a prisoner from prison or jail. For example, a prisoner can petition (or ask) for “habeas” because a conviction was obtained in violation of the law. The “habeas writ” can be sought in both state and federal courts.

Hear: To listen to both sides on a particular issue. For example, when a judge “hears a case,” he or she considers the validity of the case by listening to the evidence and the arguments of the lawyers from both sides in the litigation.

Hearing: A legal proceeding before a judge or judicial officer, in some ways similar to a trial, in which the judge or officer decides an issue of the case, but does not decide the whole case.

Hearsay: Testimony that includes a written or verbal statement that was made out of court that is being offered in court to prove the truth of what was said. Hearsay is often “inadmissible.”

Holding: The decision of a court in a case and the accompanying explanation.

Immunity: When a person or governmental body cannot be sued, they are “immune” from suit.

Impartial: Even-handed or objective; favoring neither side.

Impeach: When one party presents evidence to show that a witness may be lying or unreliable.
Inadmissible evidence: Evidence that cannot legally be introduced at a trial. Opposite of “admissible” evidence.

Injunction: An order by a court that a person or persons should stop doing something, or should begin to do something.

Injury: A harm or wrong done by one person to another person.

Interrogatories: A set of questions in writing. One of the tools of discovery.

Judge: A court officer who is elected or appointed to hear cases and make decisions about them.

Judgment: The final decision or holding of a court that resolves a case and determines the parties’ rights and obligations.

Jurisdiction: The authority of a court to hear a particular case.

Jury: A group of people called to hear a case and decide issues of fact.

Law: Rules and principles of conduct set out by the constitution, the legislature, and past judicial decisions.

Lawsuit: A legal action that involves at least one plaintiff, making one or more claims, against at least one defendant.

Liable: To be held responsible for something. In civil cases, plaintiffs must prove that the defendants were “liable” for unlawful conduct.

Litigate: To participate in a lawsuit. All the parts of a lawsuit are called “litigation” and sometimes lawyers are called “litigators.”

Majority: More than half. For example, an opinion signed by more than half the judges of a court is the “majority opinion” and it establishes the decision of the court.

Material evidence: Evidence that is relevant and important to the legal issues being decided in a lawsuit.

Memorandum of law: A written document that includes a legal argument, also called a “brief.”

Mistrial: If a fundamental error occurs during trial that cannot be corrected, a judge may decide that the trial should not continue and declare a “mistrial.”

Moot: A legal claim that is no longer relevant is “moot” and must be dismissed.

Motion: A request made by a party to a judge for an order or some other action.

Municipality: A city or town.

Negligent or Negligence: To be “negligent” is to do something that a reasonable person would not do, or to not do something that a reasonable person would do. Sometimes a party needs to prove that the opposing party in the suit was “negligent.” For example, if you do not shovel your sidewalks all winter when it snows, you may be negligent.

Notary or Notary Public: A person who is authorized to stamp his or her seal on certain papers in order to verify that a particular person signed the papers. This is known as “notarizing the papers.”

Notice or Notification: “Notice” has several meanings in the law. First, the law often requires that “notice” be given to an individual about a certain fact. For example, if you sue someone, you must give them “notice” through “service of process.” Second, “notice” is used in cases to refer to whether an individual was aware of something.

Objection: During a trial, an attorney or a party who is representing him/herself pro se may disagree with the introduction of a piece of evidence. He or she can voice this disagreement by saying “I object” or “objection.” The judge decides after each objection whether to “sustain” or “overrule” the objection. If the judge sustains an objection it means the judge, based on his or her interpretation of the law, agrees with the attorney raising the objection that the evidence cannot be presented. If an objection is “overruled” it means the judge disagrees with the attorney raising the objection and the evidence can be presented.

Opinion: When a court decides a case, a judge writes an explanation of how the court reached its decision. This is an “opinion.”

Order: The decision by a court to prohibit or require a particular thing.

Oral arguments: Live, verbal arguments made by the parties of a case that a judge may hear before reaching a decision and issuing an opinion.

Overrule: To reverse or reject.

Party: A plaintiff or defendant or some other person who is directly involved in the lawsuit.

Per se: A Latin phrase meaning “by itself” or “in itself.”

Perjury: The criminal offense of making a false statement under oath.

Petition: A written request to the court to take action on a particular matter. The person filing an action in a court or the person who appeals the judgment of a lower court is sometimes called a “petitioner.”

Plaintiff: The person who brings a lawsuit.

Precedent: A case decided by a court that serves as the rule to be followed in similar cases later on. For example, a case decided in the United States Supreme Court is “precedent” for all other courts.

Preponderance of evidence: This is the standard of proof in a civil suit. It means that more than half of the evidence in the case supports your explanation of the facts.

Presumption: Something that the court takes to be true without proof according to the rules of the court or the laws of the jurisdiction. Some presumptions are “rebuttable.” You can overcome a “rebuttable presumption” by offering evidence that it is not true.

Privilege: People may not have to testify about information they know from a specific source if they have a “privilege.” For example, “attorney-client privilege” means that the information exchanged between an attorney and his or her client is confidential, so an attorney may not reveal it without the client’s consent.

Proceeding: A hearing or other occurrence in court that takes place during the course of a dispute or lawsuit.

Pro se: A Latin phrase meaning “for oneself.” Someone who appears in court “pro se” is representing him or herself without a lawyer.

Question of fact: A dispute as to what actually happened. It can be contrasted to a “question of law.”

Qualified Immunity: a doctrine that protects government officials from liability for acts they couldn’t have reasonably known were illegal.

Reckless: To act despite the fact that one is aware of a substantial and unjustifiable risk.

Record (as in the record of the trial): A written account of all the proceedings of a trial, as transcribed by the court reporter.

Regulation: A rule or order that manages or governs a situation. One example is a “prison regulation.”

Relevant / irrelevant: A piece of evidence which tends to make some fact more or less likely or is helpful in the process of determining the truth of a matter is “relevant.” Something that is not at all helpful to determining the truth is “irrelevant.”

Relief: The remedy or award that a plaintiff or petitioner seeks from a court, or a remedy or award given by a court to a plaintiff or petitioner.

Remand: When a case is sent back from the appellate court to the trial court for further action or proceedings.

Remedy: Same as “relief”.

Removal: When a defendant transfers a case from state court to federal court.

Respondent: The person against whom a lawsuit or appeal is brought.

Retain: To hire, usually used when hiring a lawyer.

Reverse: When an appellate court changes the decision of a lower court. The party who lost in the trial court and then appealed to the appellate court is now the winner of the case. When this happens, the case is “reversed.”

Right: A legal entitlement that one possesses. For example, as a prisoner, you have the “right” to be free from cruel and unusual punishment.

Sanction: A penalty the court can impose when a party disobeys a rule or order.

Service, “service of process” or “to serve”: the physical act of handing something over, or delivering something to a person, as in “serving legal papers” on a person.

Settlement: when both parties agree to end the case without a trial.

Shepardizing: Method for determining if a case is still “good law” that can be relied upon.

Standing: A requirement that the plaintiff in a lawsuit has an actual injury that is caused by the defendant’s alleged action and that can be fixed by the court.

Statute: A law passed by the U.S. Congress or a state legislature.

Statute of limitations: A law that sets out time limitations within which different types of lawsuits must be brought. After the “statute of limitations” has run on a particular type of lawsuit, the plaintiff cannot bring that lawsuit.

Stipulation: An agreement between the plaintiff and the defendant as to a particular fact.

Subpoena: An official court document that requires a person to appear in court at a specific time and place. A particular type of “subpoena” requires an individual to produce books, papers and other things.

Summary judgment: A judgment given on the basis of pleadings, affidavits or declarations, and exhibits presented for the record without any need for a trial. It is used when there is no dispute as to the facts of the case and one party is entitled to a judgment as a matter of law.

Suppress: To prevent evidence from being introduced at trial.

Testimony: The written or oral evidence given by a witness under oath. It does not include evidence from documents or objects. When you give testimony, you “testify.”

Tort: A “wrong” or injury done to someone. Someone who destroys your property or injures you may have committed a “tort.”

Trial: A proceeding that takes place before a judge or a judge and a jury. In a trial, both sides present arguments and evidence.

v. or vs. or versus: Means “against,” and is used to indicate opponents in a case, as in “Joe Inmate v. Charles Corrections Officer.”

Vacate: To set aside, as in “vacating the judgment of a court.” An appellate court, if it concludes that the decision of the trial court is wrong, may “vacate” the judgment of the trial court.

Vague: Indefinite, or not easy to understand.

Venue: the specific court where a case can be filed.

Verdict: A conclusion, as to fact or law, that forms the basis for the court’s judgment.

Verify: To confirm the authenticity of a legal paper by affidavit or oath.

Waive or waiver: To give up a certain right. For example, when you “waive” the right to a jury trial or the right to be present at a hearing you give up that right.

Witness: a person who knows something which is relevant to your lawsuit and testifies at trial or in a deposition about it.

Writ: An order written by a judge that requires a specific act to be performed, or gives someone the power to have the act performed. For example, when a court issues a writ of habeas corpus, it demands that the person who is detaining you release you from custody