

Since the founding of this country, the government has wrestled with how to best preserve public safety while also protecting individual constitutional rights. Peace officers are positioned at the point where these two important societal interests meet. Peace officers are charged with the authority to deprive citizens of liberty when evidence indicates a crime has been committed. The constitutional rights of citizens are extremely important in this exercise of authority. The US Constitution guarantees a number of rights to citizens including the right to remain silent, the right to legal counsel, and prohibitions against unreasonable searches and seizures. Law enforcement in general and our office in particular, take great pains to train peace officers regarding where the courts have drawn lines around the exercise of law enforcement authority. One alarming recent trend in our society has been the willingness of citizens who are being arrested to resist, sometimes with force, because they believe their rights have been violated. Neither our constitution nor our body of law provides for forceful resistance as a remedy for constitutional violations. Rather, our government has provided a number of peaceful ways citizens may obtain relief from a constitutional violation. In fact, Minnesota law makes it a crime to resist a peace officer performing his or her duties. Forceful resistance will always make a situation worse, is dangerous to everyone involved, and will lead to additional serious criminal charges. One possible reason for otherwise peaceful people to make a choice to resort to physical resistance is that they don't know what other avenues are available to them to properly receive relief from what they see as a violation of their rights. The following is a list of three common ways citizens may address what they believe is law enforcement misconduct.

The first logical step for someone who believes misconduct has occurred will likely be making a complaint with the officer's employing agency. All Minnesota law enforcement agencies are required to have a policy concerning the acceptance of allegations of misconduct. This policy, which is available to the public, will detail what the process is in each agency for accepting and processing misconduct allegations. Anyone who believes they have been party to misconduct or witnessed misconduct is encouraged to contact a supervisor of the employing agency and describe the situation in question. Upon receiving the complaint, an agency must investigate the allegations and take any appropriate corrective action. This could include criminal sanctions if the alleged misconduct was a crime or internal discipline actions if the alleged misconduct was found to violate agency policy.

Individuals charged with a crime that is based entirely or partially upon evidence they believe was gathered in an unconstitutional manner have the right to request an omnibus hearing before a judge. In this hearing, the judge will hear testimony concerning the facts present in the investigation and arguments from both the defense and prosecution regarding the constitutionality of the officer's actions. Should the judge agree that evidence was gathered in an unconstitutional manner, that evidence cannot be considered in the criminal case against the defendant.

Finally, both Minnesota law and US law allow citizens to bring a law suit against individual officers or law enforcement agencies for violations of constitutional rights. These laws allow citizens who prevail in court to recover monetary damages for constitutional violations.

There are no people with a perfect understanding of constitutional law. Sometimes investigative actions that an officer believed were proper based on case law are judged by a court to have violated

constitutional requirements. Sometimes well-intentioned officers make mistakes and on rare occasions officers with bad intentions misuse the authority vested in them. Regardless of the cause, law enforcement agencies take seriously our responsibility to look into allegations of misconduct and take appropriate action to ensure citizens' constitutional rights are protected. At the same time, citizens must understand that there is no constitutional right to avoid consequences of illegal actions. Resorting to force or violence during an arrest or search will only make the situation much worse. A well-trained law enforcement officer will know when that officer is required to obtain a search warrant and when they may search without a warrant. A well-trained officer will know when an individual must be read their Miranda rights and how to conduct a constitutionally valid interrogation. Peace officers will pursue those who violate the law to the extent allowed by the constitution and established case law to further the cause of justice and public safety. If you believe that you have been or are being subjected to law enforcement misconduct, your best and safest course is to comply with what is being asked of you at the time and document the incident. If you wish to object to a search or chose not to answer questions, you have the right to make that known and to exercise your rights in a peaceful manner. When appropriate, request the officer's name, badge number, and employing agency. Once the incident has concluded you should consider which remedy you will follow to have your allegation of misconduct pursued in a peaceful and lawful manner.

For more crime prevention information and safety information visit the Benton County Sheriff's Office website at: <https://www.co.benton.mn.us/211/Crime-Prevention>. You can also like and follow us on Facebook and Twitter at @BentonMNSheriff for regular updates and crime prevention messages.