

Seeking Justice after a False Arrest

California Civil Rights Attorneys at Burriss Nisenbaum Curry Lacy Explain False Arrest

OAKLAND, CALIFORNIA, UNITED STATES, March 1, 2023 /EINPresswire.com/ -- With attorney [John Burriss](#) at the helm, Burriss Nisenbaum Curry & Lacy (BNCL) is a California-based civil rights law firm with a mission to uphold civil and constitutional rights. With [police misconduct](#) cases increasingly making headlines in the United States, the attorneys at BNCL believe it is also increasingly important that the public understand what their rights are so they can identify when those rights have been violated.

BNCL believes that part of the process to safeguard civil rights in the United States is holding violators of those rights accountable. They take on civil rights cases where the police and other government actors or agencies have violated someone's civil or constitutional rights. A false arrest is a civil rights violation. This type of violation is more common than what people think, and here, BNCL provides an outline of what it is and what to do about it.

What is a False Arrest?

A false arrest, also known as a wrongful arrest, occurs when an individual is unlawfully detained by a law enforcement officer, private security guard, or another individual who claims the legal authority to make an arrest. In other words, it is an unlawful restraint of a person's freedom of movement. In California, a false arrest is a violation of both state law and the Fourth Amendment of the U.S. Constitution, which protects citizens against unreasonable searches and seizures.

To understand false arrests, BNCL notes it is important to understand what constitutes lawful arrests. Under the U.S. Constitution, an arrest is lawful when the law enforcement agent either has a valid arrest warrant or probable cause that a crime was committed. Probable cause is a reasonable belief that a crime has been committed based on the facts and circumstances known to the officer at the time of the arrest.

Similarly, in California, arrests are lawful if made with a valid warrant or, pursuant to PEN § 836, when the officer has probable cause to believe the arrestee committed:

- A misdemeanor or felony in the officer's presence
- A felony even though not committed in the officer's presence
- A felony even though a felony has not in fact been committed

When a warrant is invalid or one of the above situations does not apply, a person may be the victim of a false arrest.

Consequences of False Arrests

False arrests in many jurisdictions have criminal and civil consequences when certain conditions exist. In California, individuals who have been falsely arrested may seek both criminal and civil remedies for their unlawful detention.

Criminal Remedies of a False Arrest

Criminal consequences are rare but do occur, especially when malice or bad faith to commit a false arrest exists. Under California law, an officer can face charges for kidnapping or false imprisonment. The same is true for private security guards or private citizens (like business owners).

In criminal cases, the prosecutor must prove beyond a reasonable doubt that the defendant committed the crime. The defendant can raise a defense, but if they do, they must prove it by a preponderance of the evidence, a lower standard than the reasonable doubt standard but still significant.

If successfully prosecuted, the defendant can face at least a year in jail or prison and hundreds or thousands of dollars in fines. The criminal penalties depend on the severity of the crime and whether it is charged as a misdemeanor or felony.

Civil Remedies of a False Arrest

Civil consequences are the most likely result of a false arrest in California. Victims of a false arrest must file a claim against the arresting person(s) and/or agency or business. A successful false arrest claim must satisfy the following three elements:

- 1) The defendant (typically, the police officer) intentionally detained or restrained the plaintiff (typically, the victim of the false arrest);
- 2) The defendant lacked legal authority to make the arrest; and
- 3) The plaintiff was harmed as a result of the arrest. (California Jury Instructions (CACI) No. 1402).

Upon proof of the above three elements, the burden shifts from the plaintiff to the defendant. The officer has an affirmative defense if they can show probable cause existed for the arrest. (CACI No. 1403).

The burden of proof in these cases is by a preponderance of the evidence. This means, BNCL

explains, that the plaintiff was more likely than not falsely arrested and subsequently harmed because of the false arrest. The burden remains the same when it shifts to the defendant, meaning the defendant must prove that more likely than not a reasonable officer would have had probable cause to arrest the person.

Civil claims based on false arrests can be filed in federal or state court. If filed in a federal court, the claim will likely be pursuant to 42 U.S.C. § 1983, also known as Section 1983 claims.

Civil lawsuits can provide relief in the form of monetary damages and an injunction. Monetary damages may include past and future economic losses (lost wages, lost profits, and medical expenses) and non-economic damages for physical pain and mental suffering. An injunction can require the police department to fire the offending officer(s), retrain officers, and/or change policies.

Examples of False Arrests

BNCL likes to provide examples of false arrests to help the public better understand what they are and when they occur. Common examples include:

- An officer lying to obtain an arrest warrant, which negates the validity of the warrant
- An officer arresting a person based on racial profiling
- An officer arresting a person to cover up misconduct
- An officer arresting a person to punish them for another reason unrelated to the arrest
- An officer arresting a person for personal vendetta and to harm the arrested person's reputation
- An officer arresting a person for some kind of personal gain
- An officer planting contraband on a person to arrest them

In any of the above situations, the same unlawful detainment of a person may be conducted by a private person or organization.

The attorneys at BNCL stress that false arrests are a violation of an individual's constitutional rights and are a serious matter in California and elsewhere in the United States. If a person believes they are a victim of a false arrest, it is important to consult with an experienced attorney to explore legal options and to seek compensation for any harm suffered as a result of the unlawful detention.

About Burriss Nisenbaum Curry & Lacy

Over the years, John Burriss, Benjamin Nisenbaum, Ayana Curry, DeWitt Lacy, and associated counsel have represented everyday people and victims of police misconduct whose names became synonymous with police reform, such as Rodney King, Oscar Grant, and Theresa Sheehan. The firm's attorneys have also represented several public officials and high-profile clients, including Earl Sanders, the former Chief of Police of San Francisco, the late recording artist Tupac Shakur, actor Del Roy Lindo, NFL player Keyshawn Johnson, NBA players Gary Payton

and Jason Kidd, and Aaron Goodwin (former sports agent for NBA star LeBron James).

Burriss Nisenbaum Curry & Lacy has been and will continue to be instrumental in social reforms of police policy, governing racial profiling, asphyxiation, canines, deadly force, tasers, in-custody deaths, and other inhumane practices. Their work has also changed police department protocols for crowd control tactics and handling the mentally impaired. Burriss Nisenbaum Curry & Lacy has also been successful in identifying and rooting out police corruption and sexual abuse, including the Allen v. City of Oakland Federal Civil Lawsuit, U.S. District Court for the Northern District of California Case No. 3:00-cv-04599, an infamous civil rights lawsuit also known widely as the "Oakland Riders" case.

Burriss Nisenbaum Curry & Lacy is recognized as a national leader in the area of civil rights law along with other related areas of law. Committed to serving the rights of all people, Burriss Nisenbaum Curry & Lacy continues to grow and expand its impact nationwide. The firm has offices in Los Angeles, California, and Oakland, California, but serves clients throughout the United States and worldwide.

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