

CIVIL RIGHTS ACTIONS
UNDER
42 USC SECTION 1983

Danielle I. Foster-Smith
West Des Moines, Iowa

TABLE OF CONTENTS

History of the Civil Rights Statute	2	
Modern Purpose of the Statute	3	
Limitation Period		4
Jurisdiction		4
Common Actions Under Section 1983	4	
Cases in the Employment Arena	4	
Police Cases		6
Prisoner Cases		7
Affirmative Defenses	8	
Damages and Attorneys Fees	8	
Additional Resources	9	

42 USC § 1983 Actions

Civil action for deprivation of rights

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.” 42 U.S.C. 1983.

History of the Civil Rights Statute

42 U.S.C. Section 1983 has its basis in race discrimination and post Civil War legislation.

“The Civil Rights Act of 1871 was passed for express purpose of enforcing provisions of the Fourteenth Amendment.” Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922 (1982). “The main goal of this section was to override the corrupting influence of the Ku Klux Klan and its sympathizers on the government and law enforcement agencies of the southern states and one strong motive behind its enactment was great Congressional concern that the state courts had been deficient in protecting federal rights.” Allen v. McMurray, 449 U.S. 90 (1980).

Modern Purpose of the Statute

The “underlying purpose of Congressional scheme for protection of constitutional rights are to permit victims of constitutional violations to obtain redress, to provide for federal criminal prosecutions of serious constitutional violations when state criminal proceedings are ineffective for purpose of deterring violations, and to strike appropriate balance between protection of individual rights from state infringement and protection of state and local governments from unnecessary federal interference.” U.S. v. City of Philadelphia, 644 F.2d 187 (3rd Cir. 1980).

Section 1983 provides a remedy to parties who have been deprived or had a violation of their rights under the United States Constitution by a state official's abuse of his or her position while acting under color of state law. If there is no violation of a federal right, there is no basis for a civil rights action under the statute. Haines v. Fisher, 82 F.3d 1503 (10th Cir. 1996).

This section establishes a federal cause of action for damages against state and local officials who have caused individuals to suffer constitutional deprivation was designed to protect individuals against a misuse of power made possible only because the wrongdoer is clothed with the authority of state law. Duschene v. Sugarman, 566 F.2d 817 (2d Cir. 1977).

“ To successfully bring a § 1983 claim, [the plaintiff] must establish the “deprivation of a constitutional right by an individual acting under ‘color of state law’.” Gonzales-Perez v. Harper, 241 F.3d 633 (8th Cir 2001)(citing Woodis v. Westark Cmty. Coll., 160 F.3d 435, 437 (8th Cir. 1998)).

Limitation Period

In actions under Section 1983, a court must ascertain the analogous underlying cause of action under Iowa law and apply the applicable statute of limitations (generally two years). There is no requirement to file with the EEOC or administrative agencies before instituting a Section 1983 action in court. However, some actions, such as those alleging a violation of Title VII, will also have to satisfy the exhaustion of administrative remedies. Filings must be within the limitations period set forth by the administrative agencies.

Jurisdiction

The federal courts have jurisdiction over Section 1983 actions pursuant to 28 U.S.C. Section 1343 and 1331; State Courts have concurrent jurisdiction. In order to state a claim under Section 1983, a plaintiff must allege a violation of rights secured by the Constitution or laws of the United States, and that such violation was committed by a person acting under the color of state law.

Common Actions under Section 1983

A number of actions may be pursued under these claims. The following outlines some common actions under which a plaintiff may claim a “violation” under section 1983.

I. Cases in the Employment Arena:

These cases include actions which also allege a violation of Title VII, or FMLA for example. While 1983 alone has no requirements for an exhaustion of administrative remedies, certain employment discrimination filings require an exhaustion of the administrative procedures before proceeding to court. (See Knussman v State of Maryland, 16 F. Supp.2d 601 (D. Md. 1998)(Family Medical Leave Act is available for Section 1983 suits)).

The equal protection, and due process clauses of the 14th and 5th Amendment are applicable in some employment cases. Additionally the violation of a right under a federal employment statute by a government actor is the basis of the Section 1983 action. The prima facie case under section 1983 employment discrimination action is the same as the prima facie case under the applicable statute, and is subject to the same analysis. See generally McDonnell Douglas Corp v. Green, 411 U.S. 792 (1973)(inferential evidence of discriminatory treatment); Teamsters v. United States, 431 U.S. 324 (1977) (disparate treatment--pattern and practice of discrimination); Price Waterhouse v. Hopkins, 490 U.S. 228 (1989) (direct evidence of discriminatory intent)).

Violations of contract or rights of civil service employees and local school board employees have rights to due process before termination under the 14th amendment due process clause. Claims under 14th Amendment include violations of the following provisions:

A. Equal protection clause. Denial of equal protection, must show intentional discrimination. (examples: race or age discrimination).

B. Due process:

- i. Substantive. Government conduct that is arbitrary or capricious.
- ii. Procedural. "A state infringes an employee's liberty interest when in terminating him [or her], it makes charges 'that might seriously damages his standing and associations in his community' or it 'imposes on him a stigma or other disability that foreclosed his freedom to take advantage of other employment opportunities.'" Morciglio v. New York City Fire Dept., 628 F.Supp. 134, 137 (E.D. New York 1986) *citing* Bd. Of Regents v. Roth, 408 U.S. 564, 573, 92 S.Ct. 2701, 2707, 33 L.Ed.2d 548 (1972).

The state must also publicize the stigmatizing reasons for its termination in order to have infringed upon the liberty interest. Morciglio at 137.

Section 1983 permits victims of employment discrimination to obtain a jury trial at which both equitable and injunctive relief, including compensatory and, under certain circumstances, punitive damages may be awarded.

II. Police cases

A. Excessive force

- i. 4th amendment applies to excessive force during an arrest. The 4th amendment of the U. S. Constitution prohibits unreasonable searches and seizures. Assuming there is probable cause for the 'seizure,' this also addresses *how* the seizure of the person is carried out. Tennessee v. Garner, 475 U.S. 1 (1985)(prohibiting deadly force to apprehend unarmed fleeing felons).
- ii. 8th amendment --excessive force for convicted prisoners discussed below.
- iii. Substantive due process of the 14th amendment applies to those individuals who are pre-trial detainees. (Under arrest, but not convicted of a crime).

B. False arrest. Actions under Section 1983 must allege and prove that the arrest or imprisonment was without probable cause.

C. Unreasonable searches. Actions under Section 1983 must show that the search was without probable cause. The search must be limited to what is described in the warrant.

III. Prisoner Cases. Actions under Section 1983 alleging cruel and unusual punishment—a violation of the 8th amendment, must show that the prison official's conduct was 'deliberately indifferent.' See Wilson v. Seiter, 111 S.Ct. 2324 (1991)

A. Failure to protect. Prisoners can claim a section 1983 action for deliberate indifference to their security.

B. Lack of medical care. The plaintiff must show that the defendant was "deliberately indifferent to their medical needs. The conduct must be intentional or nearly intentional. This standard is higher than negligence or medical malpractice.

C. Prison excessive force. Applicable to convicted prisoners. The 8th Amendment of the U.S. Constitution prohibits cruel and unusual punishment. The prisoner must show that the deprivation was sufficiently serious and that the prison official acted with a sufficiently culpable state of mind. Wilson v. Seiter, 111 S.Ct. 2321 (1991).

Affirmative Defenses

A. Absolute Immunity. If the governmental official performs a judicial, quasi-judicial, prosecutorial, or a legislative function, absolute immunity shields the official from having to pay damages for the constitutional violation. Buckley v. Fitzsimmons, 113 S.Ct. 2606, 2613 (1993). Absolute immunity does not bar injunctive relief. Pulliam v. Allen, 466 U.S. 522 (1984).

B. Qualified Immunity. Most officials are entitled only to qualified immunity. Buckley v. Fitzsimmons, 113 S.Ct. 2606, 2613 (1993). “Government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” Harlow v. Fitzgerald, 547 U.S. 800 (1982).

Damages

Should the plaintiff prevail he or she is entitled to all compensatory damages, as well as attorneys fees under Section 1988. The plaintiff may recover actual damages, front pay and back pay, emotional distress, pre-judgment interest, and in certain cases, punitive damages.

ADDITIONAL RESOURCES

42 U.S.C.A § 1983

Derrick Bell, *Race, Racism, and American Law*, Aspen Publishers, 3rd ed (1992).

Steven Steinglas, *Section 1983 Litigation in State Courts*, Clark, Boardman, Callaghan, New York, N.Y.(1993).

Websites:

www.findlaw.com
www.eeoc.gov