G | P
Grand Park Law Group
A Professional Corporation

Westside Towers
11835 W. Olympic Boulevard #870E
Los Angeles, California 90064

O:+1 888.629.4754
F: +1 310.900.0805

PRACTICE GUIDE · CIVIL RIGHTS

Federal § 1983 — The Core Cause of Action

Grand Park Law Group · 2026



A.

Elements and "Color of Law"

Section 1983 of Title 42 provides the federal civil remedy for the deprivation of any "rights, privileges, or immunities secured by the Constitution and laws" by a person acting "under color of" state law. *See* 42 U.S.C. § 1983. The elements are deceptively simple:

1. **Conduct by a "person"** within the meaning of § 1983;
2. **Acting under color of state law**;
3. That **deprived the plaintiff** of a right secured by the Constitution or federal law;
4. And **caused** the plaintiff's injury.

A "person" includes individual state and local officers, and (post-*Monell*) municipalities and local government entities — but **not** states themselves or state agencies, which retain Eleventh Amendment immunity. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978).

"Color of law" is generally satisfied whenever the defendant is exercising power "possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." Off-duty officers who flash a badge, identify themselves as police, or invoke their authority routinely satisfy this element; purely private conduct (a personal dispute with no invocation of authority) does not.

The most common constitutional hooks are:

- **Fourth Amendment** — unreasonable seizure (excessive force, false arrest, unlawful entry). The governing standard for force is *Graham v. Connor*, 490 U.S. 386, 396 (1989), which

requires "objective reasonableness" judged from the perspective of a reasonable officer on the scene, considering severity of the crime, threat posed, and active resistance or flight.

- **Deadly force** specifically is governed by *Tennessee v. Garner*, 471 U.S. 1, 11 (1985): an officer may not use deadly force to prevent escape unless the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury.
- **Fourteenth Amendment** — substantive due process (deliberate indifference to medical needs of pretrial detainees), procedural due process, equal protection.
- **Eighth Amendment** — cruel and unusual punishment (post-conviction prison conditions, deliberate indifference to serious medical needs).
- **First Amendment** — retaliation for protected speech or association.

B. Monell Municipal Liability

A municipality is liable under § 1983 only when "execution of a government's policy or custom" inflicts the injury. *Monell*, 436 U.S. at 694. There is no respondeat superior — the city is not automatically on the hook for an officer's misconduct.

Plaintiffs typically prove *Monell* liability through one of four theories:

1. **An official policy** — a formally adopted rule (e.g., a use-of-force directive that authorizes unconstitutional conduct).
2. **A widespread custom or practice** — a course of conduct so persistent that it has the force of law, even if not formally adopted.
3. **A decision by a final policymaker** — a single act by an official with final policymaking authority for the relevant subject matter.
4. **Failure to train, supervise, or discipline** — the most common theory, but the most difficult. Under *Connick v. Thompson*, 563 U.S. 51, 61 (2011), the plaintiff must show "deliberate indifference," ordinarily through "a pattern of similar constitutional violations by untrained employees." A single incident generally will not suffice unless the need for training is "obvious."

In practice, *Monell* claims demand pre-suit investigation: prior civil rights lawsuits against the agency, IA records (where obtainable under Cal. Penal Code § 832.7 and SB 1421/SB 16 disclosure regimes), DOJ pattern-or-practice findings, news reporting, and federal consent decrees.

C. Qualified Immunity (Pearson Two-Step)

Qualified immunity is the most important — and most contested — defense in § 1983 litigation. It shields individual officers from damages unless: (1) the facts show a violation of a constitutional right, **and** (2) the right was "clearly established" at the time. *See Saucier v. Katz*, 533 U.S. 194, 201 (2001).

In *Pearson v. Callahan*, 555 U.S. 223, 236 (2009), the Supreme Court held that courts may take the two prongs in either order, and may grant immunity on prong two without deciding the constitutional question. This has accelerated the development of "qualified immunity loops" in

| Beverly Hills • San Francisco • San Diego • Chicago |
| Main: (888) 629-GPLG (4754) • Fax: (310) 900-0805 • www.GrandParkLawGroup.com |

which courts repeatedly grant immunity without ever clarifying the law, leaving the next plaintiff with no "clearly established" precedent.

The Supreme Court has emphasized that "clearly established" must be defined "at a high degree of particularity." *Brosseau v. Haugen*, 543 U.S. 194, 199 (2004) (per curiam). It is not enough that *Graham* establishes a general reasonableness standard; the plaintiff must point to a case with materially similar facts that put every reasonable officer on notice that the specific conduct was unlawful.

For plaintiffs, the working strategy is:

- Identify circuit precedent (Ninth Circuit and Supreme Court) factually closest to the case.
- Plead "obvious" violations as a backstop — courts occasionally hold that some conduct is so plainly unconstitutional that no prior case is needed (e.g., an officer who shoots a clearly compliant, unarmed person posing no threat).
- Pair every § 1983 claim with a Bane Act claim, because qualified immunity does **not** apply to the Bane Act (see § II.D below).

D. Statute of Limitations and Accrual

Section 1983 has no statute of limitations of its own; federal courts borrow the forum state's personal-injury statute. In California, that is **two years** under Cal. Code Civ. Proc. § 335.1.

Accrual is governed by federal law. Under *Wallace v. Kato*, 549 U.S. 384, 388–89 (2007), a Fourth Amendment false-arrest claim accrues when the false imprisonment ends — typically when the plaintiff is arraigned or held pursuant to legal process — not when the underlying criminal proceedings terminate. Malicious-prosecution claims, by contrast, accrue when the criminal proceeding terminates favorably to the plaintiff.

A separate doctrine, *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994), bars a § 1983 claim that would "necessarily imply the invalidity" of an outstanding criminal conviction. The plaintiff must first secure reversal, expungement, or habeas relief. *Heck* commonly intersects with excessive-force claims where the plaintiff was convicted of resisting arrest under Penal Code § 148(a) — careful pleading of the temporal scope of the force is critical to avoid *Heck* preclusion.

Finally, prospective injunctive relief in civil rights cases is constrained by *City of Los Angeles v. Lyons*, 461 U.S. 95, 105–06 (1983): a plaintiff seeking an injunction must show a real and immediate threat of future injury. Past harm alone is insufficient. This is a major hurdle in pattern-and-practice individual cases.

Practice	Civil Rights
Topics	Section 1983 · Monell · Qualified Immunity · Statute of Limitations
Publication	Practice guide · Chapter I · 2026

Available online at civilrights.grandparklawgroup.com/articles/federal-1983-the-core-cause-of-action. This publication is provided for general information and is not legal advice.
© 2026 Grand Park Law Group, A.P.C. Attorney Advertising.