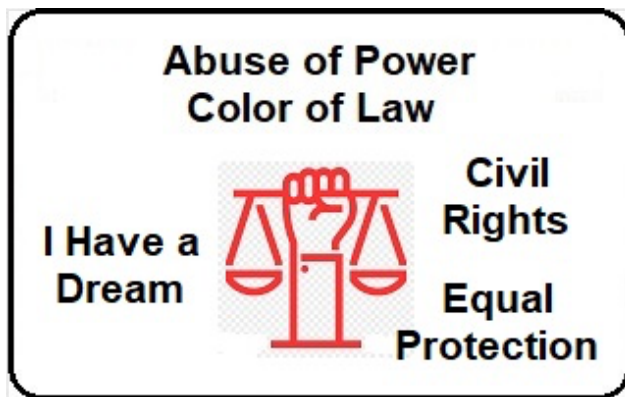


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## Abuse of Power, Color of Law

April 19, 2015 Constitution, Court Cases, Federal Law, Legal Terms Jerry Lucas



### ABUSE OF POWER, COLOR OF LAW

**Abuse of power** by a **government official** or employee may occur under the **color of law**.

Some officials may exceed their legal power or **authority** for personal or political gain, or to feel more important, superior, dominant or powerful, or to seek revenge.

Officials sometimes subject a person or business within their jurisdiction to **abuse of power** by threats, intimidation, or misuse of authority to **deprive**, or conspire to deprive, the citizen of **rights, privileges, or immunities** secured by the **Constitution** and laws.

Use of the **color of law** for abuse of power or authority may occur at the local, state, or national level, by elected or appointed officials, government employees, judges, regulators, or law enforcement, while **purporting** or **pretending** to act in the performance of **official duties**.

### LIMITS OF AUTHORITY PRESCRIBED BY LAW

The **limits of authority** are prescribed by statutes, laws, and ordinances, written by a **legislature**, where the public has an opportunity for input to their **elected representatives**. Citizens may express support or opposition for proposed **legislation** by sending letters or email. Citizens may **vote** for candidates that best represent their community, values, vision, and interests. In some cases, elected officials may be **recalled** from office or **impeached**.

**Rules** and **regulations**, written by a **government agency**, often have little or no input from the community or citizens. The **U.S. Constitution** does not empower **Congress** to delegate **legislation** to agencies operated by **non-elected bureaucrats**. An agency may **overreach** and seek to expand its power and dominion, and **abuse of power**, under the **color of law**.

## **ABUSE OF POWER, FEDERAL LAW**

Several federal criminal laws deal with violations of **civil rights**. Federal law, **18 USC 242**, defines the federal crime of "**Deprivation of Rights Under Color of Law**".

This statute makes it a crime for any person acting under the **color of law**, statute, ordinance, regulation, or custom to willfully **deprive** or cause to be deprived from any person those **rights, privileges, or immunities** secured or protected by the **Constitution** and laws of the U.S.

**Punishment** varies from a **fine** or **imprisonment** of up to one year or both. In cases involving bodily injury, or use of a dangerous weapon, fine or imprisonment of up to ten years, or both. In cases involving death, kidnapping, or sexual abuse, fine or imprisonment for any term of years, or for life, or both, or a possible death sentence.

The **Conspiracy Against Rights** statute, **18 USC 241**, makes it unlawful for two or more persons to conspire to **injure, oppress, threaten, or intimidate** any person of any state, territory or district in the free exercise or enjoyment of any **right** or **privilege** secured to him/her by the **Constitution** or the laws of the United States, (or because of his/her having exercised the same).

## **ABUSE OF POWER COURT CASES**

**Court cases** and other laws involving **abuse of power** under **color of law** include:

*"Acting under color of [state] law is a misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law."* Thompson v. Zirkle, 2007 US Dist LEXIS 77654 (ND Ind Oct 17, 2007)

*"Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law."* United States v. Classic, 313 US 299, 326 (1941)

*"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 . . ."* 42 USC 1983 (1988)

Citizens should read the **Constitution** and **Bill of Rights** and know their **civil rights**. Keep written notes, evidence, logs, photos, and videos of potential violations. Citizens deserve to be respected and served by ethical **public officials** who administer the law without using the **color of law** to abuse or overstep their lawful authority.

## **FOR THE PEOPLE**

As President **Abraham Lincoln** said in his famous **Gettysburg Address** in 1863, public servants must support the government ***of the people, by the people and for the people***, not for their personal agendas or abuse of power.

Disclaimer: This information is not legal advice. For legal advice, contact a licensed, competent attorney.

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