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Civil Liability for the Use of Handcuffs: Part I – Handcuffs as Excessive Force

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Introduction

One piece of equipment that officers use very frequently in connection with arrests and also often in connection with investigatory stops is handcuffs.

The use of handcuffs is a use of restraint and force, subject to the constitutional objective reasonableness standard of the Fourth Amendment. When is the use of handcuffs itself an excessive use of force?

A number of cases have found excessiveness when handcuffs are unnecessarily tightened, when they caused significant pain or injury, when they are applied in a particular manner to persons who are already injured or have certain medical conditions or recent surgeries, or when there is little or no justification for their use. Some such cases have resulted in significant awards of damages against individual officers or their departments. On the other hand, some cases have found that even handcuffing which causes significant injury can be justified under particular circumstances.

Other cases have addressed the issue of the use of force against persons who have already been restrained through the use of handcuffs. What kind of force is excessive against persons so restrained, and what kind of circumstance justifies such continued use of force against a handcuffed person?

This article focuses on the use of handcuffs and does not discuss the use of other kinds of restraints. Part I concentrates on cases in which the claim was that the use of the handcuffs, or the manner in which they were applied, constituted an

excessive use of force. Part II, appearing next month in this publication, will discuss cases in which claims were asserted concerning the use of force against individuals after they were already restrained through the use of handcuffs. At the conclusion of the article, there is a brief list of helpful resources.

Use of Handcuffs as Excessive Force

The U.S. Supreme Court, in [Graham v. Conner](#), #87-6571, 490 U.S. 386 (1989), held that claims that officers have used excessive force in the course of an arrest, investigatory stop, or other “seizures” of a person are properly analyzed under the Fourth Amendment’s “objective reasonableness” standard. The right to make an arrest or investigatory stop, the Court noted, necessarily carries with it “the right to use some degree of physical coercion or threat thereof to effect it.” All the law requires is that it be a reasonable amount of force.

The use of handcuffs as a form of restraint is often necessary to secure an arrestee or the subject of an investigatory stop, for the protection of the officer or others, particularly when the individual has resisted the arrest or investigation, refusing to cooperate. There are no cases stating that handcuffing, by itself, is unreasonable or excessive, as it most often is eminently reasonable.

The focus of most of the cases that have addressed claims that handcuffing constituted an excessive use of force has been the excessive tightening of handcuffs in a manner causing extreme pain or significant injury.

In [Wall v. County of Orange](#), #02-56032, 364 F.3d 1107 (9th Cir. 2004, for instance, a federal appeals court found that a trial judge, in granting qualified immunity to a deputy on a dentist’s claim that he was arrested without probable cause, and wrongfully subjected to handcuffing so tight that the injuries required him to leave his profession, improperly acted “as a jury” in choosing to believe the deputy’s version of the incident rather than the plaintiff’s. The court also finds that it is “well-established” law that overly tight handcuffing can constitute excessive force.

In this case, a dentist became involved in a dispute with a car wash/oil change business that insisted on having his home address and phone number, which he did not wish to disclose, after work had begun on his car. The business owner summoned deputy sheriffs, who told the dentist twice to leave, which he refused to do without his car, telling the deputies in an “agitated” voice that the business owner had assaulted him in the office.

He claimed that one of the deputies then suddenly “physically attacked” him from behind, despite his compliance then with the order to leave. The deputy allegedly grabbed him by his right wrist, bending and twisting his arm, causing

pain, and forcing him "face first down" into a car, smashing his face, chest and glasses, and handcuffing his hands "extremely tight" behind his back.

The deputy then allegedly picked him up by his handcuffed arms and threw him "upside down" and head first into the patrol car. The deputy allegedly declined, despite several requests to loosen the cuffs on the way to the station, to do so. While the dentist was initially charged with interfering with a business by refusing to leave and resisting an officer, these charges were dropped. The arrestee allegedly suffered an injury to his right medial nerve as a result of the incident, forcing him to give up the profession of dentistry.

The dentist sued the deputy and the county for violation of his civil rights, and the trial court granted summary judgment on the basis of qualified immunity for the deputy.

A federal appeals court found that the trial judge wrongfully relied solely on the facts as recited by the deputy, who claimed that the plaintiff had interfered with the ability of the business to function by swearing, and that others present feared for their safety, and that the dentist refused to leave the business and refused to obey the deputy's orders. He had also claimed that he could not recall being asked to loosen the handcuffs and that the dentist had never told him that they were too tight.

In doing so, the appeals court noted, the trial court basically "became a jury."

If the dentist's version of the incident were believed, however, he was arrested without probable cause, and the arrest "was accomplished by violence" in violation of the [Fourth Amendment](#). Additionally, if the dentist were believed, a reasonable officer would have known that an arrest was unlawful under circumstances where the dentist was obeying an order to leave by beginning to walk away, and where any alleged "intimidation or obstruction" of the business did not take place in the officer's presence.

Further, if the officer acted as the dentist claimed, he used excessive force under clearly established law.

"The Fourth Amendment's requirement that a seizure be reasonable prohibits more than the unnecessary strike of a nightstick, sting of a bullet, and thud of a boot." It is well-established that overly tight handcuffing can constitute excessive force.

See also [Vondrak v. City of Las Cruces](#), No. 07-2148, 535 F.3d 1198 (10th Cir. 2008), finding that officers were not entitled to qualified immunity on claims that they used excessive force in unduly tightening an arrestee's handcuffs.

Similarly, in [Turek v. Saluga](#), #01-3986, 01-4018, 47 Fed. Appx. 746 (Unpub. 6th Cir. 2002), a federal appeals court found that a deputy sheriff's alleged action in handcuffing an arrestee "too tightly" and refusing to loosen the handcuffs after learning that the arrestee had preexisting arm and shoulder injuries would, if true, have violated clearly established law.

By the time the cuffs were ultimately removed, both his hands were allegedly "completely numb," and the feeling in his right hand allegedly did not return even after several weeks. A neurologist later indicated that the cuffs had caused "a new neurological injury to the ulnar nerve" of the arrestee's right wrist, resulting in the loss of function to his right hand.

The court found that the arrestee posed no threat to the officer's safety, and made no attempt to resist the arrest. Additionally, while the deputy told the arrestee that it was against departmental policy to handcuff arrestees in the front, as he requested because of his pre-existing injuries, the county sheriff's policy manual contained an exception: "Where the health and safety of the suspect might be compromised, the suspect may be handcuffed with the hands in front."

On the other hand, in [Rodriguez v. Farrell](#), #00-13147, 294 F.3d 1276 (11th Cir. 2002), a court found that the mere fact that an arrestee claimed that his arm was injured did not mean that the arrestee officer necessarily used excessive force in handcuffing him. An officer "need not credit everything a suspect tells him," and, in this case, the arrestee displayed no obvious signs of physical injury.

When the tightening of handcuffs causes significant injury, some cases have resulted in huge awards of damages. In [Gousse v. City of Los Angeles](#), No. BC252804, Superior Court of Los Angeles County, filed June 21, 2001, jury award, November 19, 2003, reported in the *Los Angeles Times*, November 20, 2003, for instance, a surgeon was initially awarded \$33 million in damages for permanent nerve damage to hand, resulting in inability to perform surgery unassisted, following tight handcuffing when he detained by Los Angeles police officers who mistakenly believed that the rental car he was driving was stolen. The police department was held responsible for \$14.2 million of the award, with the rental car firm that placed license plates on a car, which were reported stolen, being ordered to pay \$18.8 million.

The case involved a surgeon from Miami who was visiting Los Angeles, California, rented a car. The car rental company placed license plates on the car that belonged to a car that had been reported stolen. As a result, police officers stopped the vehicle and handcuffed the doctor.

While the doctor complained that the handcuffs were too tight, officers allegedly declined to loosen them. Subsequently, the doctor claimed, he suffered permanent nerve damage to his hands. It was subsequently also argued that the

officers failed to lock the cuffs, which might have prevented the cuffs from ratcheting tighter when he moved. The doctor was also allegedly forced to lie face down on the ground while handcuffed.

The doctor's injuries allegedly prevent him from performing surgery unassisted. He is an associate professor of clinical urology at the University of Miami School of Medicine, and urological reconstructive surgery is his specialty. He sued both the police department and the car rental agency, claiming that the injuries had essentially destroyed his practice, and that the defendants acted negligently.

A state court jury awarded a total of \$31 million to the plaintiff doctor, including damages for pain and suffering, loss of future earnings, and past and future medical costs. It also awarded his wife \$2 million for loss of consortium. Ultimately, however, in February of 2004, the trial judge threw out the jury verdict, agreeing that the officers were negligent when they handcuffed the plaintiff and injured his wrist, but finding the amount awarded excessive.

The mere fact that an injury results from the use of handcuffs, however, does not, by itself, result in liability. In [Housley v. City of Edina](#), No. 07-1330, 2008 U.S. App. Lexis 3799 (Unpub, 8th Cir.), the court concluded by rejecting a man's argument that officers used excessive force in handcuffing him, injuring his wrists, while placing him in a squad car during their execution of a search warrant on a building he occupied.

Even brief handcuffing may not be pleasant, and may cause some discomfort or pain, but that does not necessarily mean that it constitutes an excessive use of force, particularly when the pain, discomfort, or injury is very slight. See [Segura v. Jones](#), No. 07-1013, 2007 U.S. App. Lexis 29231 (Unpub. 10th Cir.), finding that officers did not use excessive force against a woman detained on suspicion of shoplifting or in allegedly pushing her into a wall. She was only handcuffed for five minutes, the court noted, and any marks on her wrists from the handcuffs vanished within a day.

An arrestee's resistance to an officer may also justify the use of handcuffs, even in a manner that may be painful. In [Marvin v. City of Taylor](#), No. 06-2008, 509 F.3d 234 (6th Cir. 2007), the court found that police did not act in an objectively unreasonable manner by handcuffing a 78-year-old motorist with his arms behind his back, despite his claim that it was painful for him to place his arms there. The motorist had rear-ended an officer's vehicle stopped at an intersection. The officers took the extra precaution of handcuffing him in this manner because of the plaintiff's intoxication and resulting unpredictability, and forced his arm behind his back only after he twice refused to obey a command to put it there.

Similarly, in [Minor v. City of Chesterfield, Mo.](#), No. 4:05CV00586, 2007 U.S. Dist. Lexis 39990 (E.D. Mo.), a court found that an officer acted reasonably in handcuffing an arrestee behind his back even though he claimed to have told the officer that he recently had back surgery. The court found that the arrestee did not show any objective indication of injury which would inform the officer that handcuffing him in this manner might aggravate pre-existing injuries. Additionally, the arrestee failed, following the handcuffing, to complain to the officer about back pain or discomfort.

In [Freeman v. Gore](#), No. 05-41684, 483 F.3d 404 (5th Cir. 2007), the court stated that an arrestee's excessive force claim, based on allegations that her handcuffs were applied too tightly, was not meritorious when her only injury was bruising on her wrists and arms. Leaving her in a patrol car for, at most, 30 to 45 minutes with tight handcuffs was not excessive force.

Also see, [Cortez v. McCauley](#), No. 04-2062, 478 F.3d 1108 (10th Cir. 2007), holding that red marks which arrestee had on his hands from handcuffs he claimed were too tight did not constitute a significant injury to support a claim for excessive use of force, and [Montes v. Ransom](#), No. 05-11206, 2007 U.S. App. Lexis 3837 (Unpub. 5th Cir.), concluding that an arrestee's claim that officers handcuffed him too tightly, by itself, was insufficient to assert a valid claim for excessive use of force. Photos of his arms that the plaintiff presented showed only minor red marks, and may have shown a modest amount of swelling. These injuries were too minimal to support a constitutional claim.

Some lawsuits have involved claims from disabled persons or minors raising the possibility that there are special concerns with the use of handcuffs on them. See [Calvi v. Knox County](#), No. 06-1843, 2006 U.S. App. Lexis 30276 (1st Cir.), in which a disabled arrestee failed to show that an officer used excessive force against her in handcuffing her, and the failure to show that any officer violated her rights was found to bar any claim against the city for alleged inadequate training as to how to handcuff disabled arrestees.

In [Tekle v. U.S.](#), No. 04-55026, 457 F.3d 1088 (9th Cir. 2006), a federal appeals court stated that keeping an eleven-year-old unarmed boy in handcuffs for 15 minutes, and pointing a gun at his head, while search and arrest warrants were served on his parents' home, if true, could be found to be an excessive use of force, and that federal agents were not entitled to qualified immunity for allegedly doing so.

The opinion found that the facts, as alleged by the plaintiff showed a violation of his constitutional rights, and that, at the time of the incident, a reasonable officer knew or should have known that it was excessive to use the level of force

employed and use the handcuffs for the time period alleged against an unarmed eleven-year-old boy when he was not resisting the officers' orders.

In [Hanig v. Lee](#), No. 04-2758, 415 F.3d 822 (8th Cir. 2005), a police officer whose improper application of handcuffs to an arrested 16-year-old allegedly caused a 1.3% permanent impairment was held not entitled to a directed verdict in an excessive force lawsuit. The court ruled that the plaintiff was properly awarded \$153,000 in damages and \$51,692.15 in attorneys' fees.

The court found that the evidence was clear, from the testimony of a senior officer present at the scene of the arrest, that the officer improperly applied the handcuffs, causing the arrestee significant pain and severe bruising.

The court noted that there was testimony from the boy's treating orthopedic surgeon that he suffered a 1.3% permanent impairment of his upper right extremity, as well as testimony from a vocational rehabilitation expert that the plaintiff suffered a 13% vocational disability. The plaintiff also presented an economist to establish that his lifetime economic loss from the injury suffered was \$180,063.

In [Kopec v. Tate](#), No. 02-4188, 361 F.3d 772 (3d Cir. 2004), the court stated that an officer was improperly granted summary judgment on the basis of qualified immunity on claim that he used excessive force in the course of handcuffing a suspect arrested under "rather benign circumstances," when a reasonable officer would know that this violates the Fourth Amendment. The arrest was for disorderly conduct after refusing to supply an officer with his name and address for a report that the officer wanted to file in lieu of charging him and his girlfriend with trespassing on a frozen lake at an apartment complex.

The officer handcuffed the arrestee behind his back, and approximately ten seconds later, the arrestee allegedly began to lose feeling in his right hand and asked the officer to loosen the handcuffs. The officer allegedly did not do so and did not reply to the arrestee's question whether this is what he does "when people don't give him information."

Denying the officer qualified immunity, the appeals court stated that he was "not, after all, in the midst of a dangerous situation involving a serious crime or armed criminals. Accordingly, this opinion should not be over-read, as we do not intend to open the floodgates to a torrent of handcuff claims. Thus, if [the] Officer had been engaged in apprehending other persons or other imperative matters when [the arrestee] asked him to loosen the handcuffs our result might be different."

Other cases of interest on the subject of use of handcuffs as excessive use of force include:

* [Bradley v. McAllister](#), No. 2004-CA-01657, 929 So. 2d 377 (Miss. App. 2006), ruling that a Mississippi police officer did not act in a reckless manner in failing to adjust handcuffs on an arrestee who complained that the cuffs were too tight. He could not, therefore, be held liable for the arrestee's subsequent injuries under state law.

* [Robbins v. Lappin](#), No. 05-2569, 170 Fed. Appx. 962 (Unpub. 7th Cir. 2006), which a court ruled that a detective did not use excessive force in applying handcuffs to detainee when the detainee failed to complain that they were too tight.

* [Liiv v. City of Coeur d'Alene](#), No. 03-35821, 130 Fed. Appx. 848 (Unpub. 9th Cir. 2005), another case in which the court ruled that an officer's alleged over-tightening of an arrestee's handcuffs did not constitute excessive force when the arrestee failed to complain that they were too tight at the time, and no physical injury occurred.

* [Solomon v. Auburn Hills Police Dept.](#), No. 03-1707 389 F.3d 167 (6th Cir. 2004), in which the court stated that "the objective facts are that an officer with a heavy build was legally trying to handcuff a person of slighter build who was physically trying not to be handcuffed. The precise amount of force needed to accomplish this without injury in the circumstances of this case is so obviously a difficult determination that the mere fact that injury occurred does not amount to evidence of unreasonable force."

* [Seaman v. Karr](#), #27935-5-II, 59 P.3d 701 (Wash. App. 2002), ruling that officers were not entitled to qualified immunity on a claim that they kept two apartment occupants handcuffed for two hours while their apartment was being searched under a warrant. The complaint alleged that they were kept handcuffed long after the officers had reason to believe that they were not connected with persons sought in connection with a shooting.

* [Istvanik v. Rogge](#), #01-3395, 01-3536, 50 Fed. Appx. 533 (Unpub. 3rd Cir. 2002), in which the court found that an arrestee, who was "thoroughly uncooperative" and allegedly intoxicated, did not have a "clearly established" Fourth Amendment right not to be tightly handcuffed, since various federal trial and appeals courts disagreed on the issue. "Quite frankly," the appeals court stated, "if the various circuit courts of appeals and the district courts disagree on the question, we can hardly fault" the officer, especially "since it is apparent that he was dealing with a thoroughly uncooperative person who had been arrested for drunk driving."

* [Nelson v. City of Wichita](#), 217 F. Supp. 2d 1179 (D. Kan. 2002), ruling that a city could not be held responsible for arrestee's injuries from officer's alleged excessive use of force while arresting and handcuffing motorist when the officer's

actions, if they occurred, would have clearly violated the city's policies and training that officers received regarding the use of force. The possibility that the officer was not taught a particular procedure for taking a handcuffed suspect to the ground did not alter the result, particularly when there was no evidence of other similar incidents.

Resources

The following are some useful resources on the general topic covered by this series of articles.

- [National Institute of Justice Standard for Metallic Handcuffs](#), NIJ Standard 0307.01. March 1982.
- IACP Training Key 267 on the Use of Handcuffs, available for purchase from the IACP. <http://www.theiacp.org>
- [Detaining Individuals at the Scene of a Search](#), by Carl A. Benoit J.D. *FBI Law Enforcement Bulletin*, 75, 12, December 2006, 16 to 25.
- Handcuffs and Restraints, by L. Pilant, *Police Chief*, Volume 63, Issue 1 (January 1996).
- “[Tight Handcuffs. A Fourth Amendment Violation?](#)” by Laura L. Scarry, *Law Officer*, Volume 3, Issue 12 (December 1, 2007).
- Missouri Highway Patrol [General Order on Restraints](#).

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Bernard J. Farber

Civil Liability Law Editor

P.O. Box 75401

Chicago, IL 60675-5401 USA

E-mail: bernfarber@aol.com

Tel. 1-800-763-2802

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