

Ferguson, Mo.: Federal Investigation of Possible Civil Rights Violations, There and Elsewhere

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On August 9, a police officer shot and killed a teenager, Michael Brown, in Ferguson, Missouri. Police officers may use force and sometimes lethal force under certain limited circumstances. When they exceed their authority, they face the prospect of state and/or federal prosecution. Local authorities are investigating the incident in Ferguson, and the Federal Bureau of Investigation (FBI) has [reportedly](#) opened an inquiry into possible civil rights violations.

As a matter of state law, assaulting or killing another person, without legal justification, is a crime in every state in the Union. [Self-defense](#) and [law enforcement authority](#) may supply two legal justifications. An individual, including a police officer, may defend himself or herself against an unprovoked assailant. Self-defense permits a defending individual to kill such an aggressor when it is reasonably thought necessary to preserve the defending individual's life or the life of another. State retreat or stand your ground laws will color the determination of whether a killing was reasonably considered necessary, and the prerogative may extend to the prevention of certain violent felonies. The unreasonable use of deadly force is either [murder or manslaughter](#), depending upon the facts involved.

Again as a matter of state law with some variation, [law enforcement authority](#) permits an officer to use such force as is reasonably necessary to make an arrest, including the use of deadly force. An officer who uses excessive force is guilty of [murder or manslaughter](#), depending upon the facts involved.

There are no general federal murder or manslaughter statutes. Murder and manslaughter are federal crimes only when committed under narrow circumstances. Nevertheless, [18 U.S.C. 242](#) makes it a federal crime for a state or federal law enforcement officer to willfully deprive another of a right protected by the Constitution or other federal law. This [applies](#) to an officer who subjects an individual to a Fourth Amendment unreasonable "seizure" by killing him.

The [FBI](#) has authority to investigate the possibility that a federal crime, such as a violation of §242, may have occurred. The [Attorney General](#), acting through the various U.S. Attorneys' offices and with the assistance of the Justice Department's Civil Rights Division, has the discretion to initiate a federal prosecution. Whether prosecutors elect to do so turns upon a number of [factors](#), not the least of which is whether they believe they have evidence sufficient to convince a jury that the accused is guilty beyond a reasonable doubt.

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