

The Value of Qualified Immunity



Peace officers are constantly placing themselves at risk of legal liability every time they respond to a 911 call. Qualified immunity strikes the proper balance between two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction and liability when they perform their duties reasonably. Qualified immunity ensures that, as long as officers and all public employees are acting in accordance with the law, they will not be subjected to lawsuits for carrying out their duties as they seek to serve and keep our families and communities safe.



Why Is Qualified Immunity Important for Peace Officers?

In order to fulfill their oaths to protect and serve in accordance with the expectations we place on officers to run towards and not away from dangerous situations, qualified immunity grants legal protection for officers who, despite acting in accordance with the law and following their training, are constantly opening themselves up to legal liability. This protection allows officers to make critical split-second decisions without having to stop and think about the possible legal ramifications.

What Is Qualified Immunity?

Qualified immunity is **NOT** absolute immunity.

Qualified Immunity is designed to protect a public officer from damages arising from law suits, unless the officer has violated a clearly established constitutional right. “Clearly established” merely means that it would be clear to a reasonable officer that their conduct was unlawful – a desirable outcome for a society that demands our law enforcement respond to all calls, nonviolent or otherwise.

Qualified Immunity only applies to claims for deprivations of Constitutional rights under 42 U.S.C. Section 1983. It does **NOT** apply to any existing state or federal personal injury statutes.

The rationale behind qualified immunity for public employees is three-fold:



Permits public employees – such as teachers, social workers, firefighters and peace officers – to serve their communities without fear of constantly defending themselves against personal liability for unsubstantiated, and in most cases frivolous, claims for damages.



Without qualified immunity, an increase in tax dollars would be needed to defend against lawsuits. Qualified immunity protects the public by limiting a city’s or employing agency’s liability for defending and indemnifying a public employee.



Allows a plaintiff to recover damages when a public employee’s conduct unreasonably violates that person’s constitutional or statutory rights.

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Setting the Record Straight

Peace of Mind for Officers

If we expect our peace officers to continually place themselves in harm's way by engaging with individuals who have committed crimes and who seek to shift blame for their actions, officers must operate with the peace of mind that as long as they are reasonably acting within the law, they will not be penalized for performing their duties.

Proactive Policing Keeps Communities Safe

To erode or otherwise remove an officer's right to qualified immunity would have a significant, chilling effect on the practice of law enforcement, such that officers are disincentivized from responding to calls that may place themselves and others at risk. This will cause hesitation and discourage proactive policing that prevents victimization of members of the public. This will also create situations where fewer officers are patrolling some of the more challenging communities.

Split-Second Decisions Save Lives

Officers perform vital tasks that require split-second decisions under extreme stressors. Without qualified immunity protections, officers will hesitate in crisis situations as they are forced to calculate the possible legal ramifications of their decisions made in good faith — hesitations that could cost innocent lives.

Recruiting Qualified Officers

Eliminating qualified immunity would hinder current officers' ability to do their job and would discourage competent recruits from entering the field — deeming the profession as a risk not worth the reward.

Subjecting Officers & Taxpayers to Frivolous Lawsuits

Qualified immunity is a necessary protection for officers to carry out their day-to-day duties without the constant fear of being exposed to frivolous lawsuits and multimillion-dollar payouts — which taxpayers would foot the bill for. While officers that commit clear and gross misconduct should be held responsible for their actions, qualified immunity serves to protect the many officers who act in good faith when making the difficult decisions the job demands of them.

The Bottom Line

Peace officers serve their communities at the behest of local elected representatives. As long as our local elected officials require that officers place themselves in harm's way when responding to all 911 calls, qualified immunity is a necessary protection. Different communities require different levels of proactive policing. To remove qualified immunity protections would treat all communities — from small towns to big cities — as if their policing needs were exactly the same. As long as officers are expected to serve and protect, we must ensure they have all the tools and protections necessary to do so.

