

IACP Position

The IACP strongly supports the doctrine of qualified immunity and opposes efforts that would limit, reduce, or eliminate this essential protection for police officers.

Issue Overview

The doctrine of qualified immunity is grounded in the recognition that certain government officials, including police officers, must make discretionary decisions as part of their job functions and sometimes do not have clear guidance as to what actions may be unconstitutional. The principle of qualified immunity provides legal protection to government employees in the event that their decisions were not unconstitutional at the time they occurred. It is simply unjust to hold police officers liable when they are not on notice that what they are doing may be unconstitutional.

Significantly, qualified immunity protections **do not apply** to any situation that a “reasonable person would have known” was a constitutional violation. In the great majority of instances, the rules set out by the courts are clear. It is only when the rules are in flux that individual officers are entitled to this protection. In addition, qualified immunity does not protect government employees from criminal negligence or criminal acts.

Qualified immunity allows police officers to respond to incidents without pause, make critical split-second decisions, and rely on their training and the current state of the law in making those decisions.

Limiting or eliminating qualified immunity protections would most certainly have a far-reaching, negative impact on the policing profession’s ability to serve and protect communities.

Policy Implications

- The loss of qualified immunity protection would have a profoundly chilling effect on police officers and would limit their ability and willingness to respond to both critical incidents and routine calls for service without hesitation.
- Abolishing qualified immunity would likely result in a higher cost of government due to financial risks, vicarious liability, and litigation costs.
- Loss of qualified immunity will further hinder efforts to enhance the hiring and retention of police officers.

Qualified Immunity

IACP Policy Fact Sheet

Key Points

- Unlike elected officials, judges, and prosecutors, police officers do not have absolute immunity, and they can be held liable when they knowingly violate a clearly established constitutional right.
- Qualified immunity only applies when the constitutional right was not clear at the time the officer acted.
- It is unfair to hold an officer liable for violating a right that a reasonable officer could not have known existed.
- This protection is essential because it ensures that officers' good faith actions, based on their understanding of the law at the time of the action, will not later be found to be unconstitutional.
- Qualified immunity does not provide protection of an officer from charges of criminal negligence.
- Qualified immunity does not provide civil liability protection for an officer who knowingly violated constitutional rights.
- If qualified immunity is eliminated, officers will be less likely to initiate encounters with community members because of the potential for personal liability.
- All government employees are protected by qualified immunity—not just law enforcement. This includes teachers, social workers, and mental health clinicians.