

Qualified Immunity: An Obstacle to Police Accountability

By Dr. Byron A. Ellis – June 21, 2021



According to [Cornell Law School](#), “Qualified immunity is a type of legal immunity.” They note that qualified immunity protects a government official from lawsuits alleging that the official violated a plaintiff’s rights, only allowing suits where officials violated a “clearly established” statutory or constitutional right.

[Nathaniel Sobel](#) notes that “Qualified immunity is a judicially created doctrine that shields government officials from being held personally liable for constitutional violations—like the right to be free from excessive police force—for money damages under federal law so long as the officials did not violate “clearly established” law.”

Sobel argues that qualified immunity is one of many structural factors that make it difficult to hold police officers accountable for wrongdoing. He points to [Harlow v. Fitzgerald \(1982\)](#), where the plaintiff could overcome qualified immunity only by showing that the defendant’s conduct “violate[d] established statutory or constitutional rights of which a reasonable person would have known.”

Thus, police officers generally do not suffer any out-of-pocket cost or imprisonment when they violate the rights of citizens or when they kill without cause. And, often police departments do not release bodycam footage that might show police misconduct.

An out-of-pocket cost is something that the biased police would have to pay themselves. However, if they behaved without bias they would avoid any such costs.

Qualified immunity is a barrier to reducing police misconduct, it provides biased cops with extrajudicial means to spread hatred and violence without accountability. Moreover, it requires citizens ensnared in police biases to overcome high legal barriers favorable to government officials. Therefore, qualified immunity makes it difficult to control biased police behaviors.

When police officials suffer no costs for their biased behaviors, their unconstrained biases lead to evidence fabrication.

In March of 2020, the [Baltimore Sun](#) reported body-camera footage showing Officer Richard Pinheiro Jr. placing drugs in a vacant lot and then acting as if he’d just discovered them. A year later, Pinheiro was convicted of fabricating evidence and misconduct in office, a decision upheld by a state appeals court.

[Adam Beam](#) from the Associated Press reported that a Tennessee man, William Anderson, said he spent five years in jail for a murder he did not commit because a state police detective and a former Kentucky sheriff lied. Anderson, 37, was subsequently acquitted of all charges.

Natasha Lennard of [The Intercept](#) reported that “Two NYPD cops coerced Anna Chambers into sex in exchange for her freedom. A judge just gave them no jail time.” Lennard noted that the cops, Eddie Martins and Richard Hall, who resigned after the incident involving the then-18-year-old Chambers, were sentenced to five years of probation after they pleaded guilty to 11 charges, including bribery and misconduct. Both men admitted to having sex with the teenage girl while she was held in their custody in 2017; the pleas and the light sentences were handed down in a secretive court hearing.

The evidence is clear, qualified immunity is a legal procedure that protects unlawful cops, and it should be rescinded.

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