

tl;dr – Criminal Justice Reform: Ending Qualified Immunity to Restore the Constitutional Balance

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[Ben Sperry](#)

“Qualified immunity” is a doctrine that protects government officials, such as police officers, from civil rights lawsuits when they are acting in their official capacity. Criminal justice reform efforts should focus on ending qualified immunity and restoring the constitutional balance between empowering officers to protect the public while also deterring violations of civil liberties.

The Debate:

In an age of unrest due to recorded police misconduct, there are calls for criminal justice reform. The debate has primarily focused on slogans, such as Black Lives Matter versus Blue Lives Matter, or Defund the Police versus Defend the Police. While there have been many proposals for outlawing particular police practices and increasing training, one of the most important aspects of holding police accountable for misconduct has received more limited attention: civil rights litigation.

But... civil rights lawsuits have limited ability to hold officers accountable due to the doctrine of qualified immunity. In a civil rights lawsuit, the goal is to make the victim (or their families) of a rights violation whole by awarding monetary damages. But in many cases, qualified immunity protects police from liability by imposing nearly insurmountable procedural hurdles. This protects a large swath of police misconduct from accountability by civil rights lawsuits.

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