Just wanted to let you know that any attempt to limit, restrict, or modify the abilities of all law enforcement officers in CT does not set well with us! I come from a long line of police officers, including my nephew who recently graduated from the State Police academy.

I'm appalled that more people have not challenged the knee-jerk reaction that is now occurring in our state and throughout the nation regarding the rewriting of history, and are abandoning the importance of ALL people's lives. We must proceed judicially and cautiously with balanced intentions. Furthermore, if this initiative moves forward successfully, our deep fear is that we shall face reverse discrimination, more hostilities between people, and turn fall into a lawless, free-for-all state, both locally and nationally. I also question the legality of doing away with or amending as the following indicates to the contrary:

Qualified immunity

Primary tabs

Overview

Qualified immunity is a type of legal immunity. "Qualified immunity balances 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." *Pearson v. Callahan* .

Specifically, 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. When determining whether or not a right was "clearly established," courts consider whether a hypothetical reasonable official would have known that the defendant's conduct violated the plaintiff's rights. Courts conducting this analysis apply the law that was in force at the time of the alleged violation, not the law in effect when the court considers the case.

Qualified immunity is not immunity from having to pay money damages, but rather immunity from having to go through the costs of a trial at all. Accordingly, courts must resolve qualified immunity issues as early in a case as possible, preferably before discovery.

Qualified immunity only applies to suits against government officials as individuals, not suits against the government for damages caused by the officials' actions. Although qualified immunity frequently appears in cases involving police officers, it also applies to most other executive branch officials. While judges, prosecutors, legislators, and some other government officials do not receive qualified immunity, most are protected by other immunity doctrines.

Illustrative Caselaw in Chronological Order

Harlow v. Fitzgerald

In Harlow v. Fitzgerald, 457 U.S. 800 (1982), the Supreme Court held that federal government officials are entitled to qualified immunity. The Court reasoned that "the need to protect officials who are required to exercise discretion and the related public interest in encouraging the vigorous exercise of official authority." With regard to certain government officials, including the President, prosecutors, and similar officials, the Court upheld absolute immunity. This doctrine shields those individuals from criminal prosecution and lawsuits, as long as their actions in question were within the scope of their jobs. For all other federal officials, the Court also held that federal officials who are trying to qualify for absolute immunity have the burden to prove "that public policy requires an exemption of that scope." For government officials trying to qualify for absolute immunity, the Court also established a 2-part test that the official must satisfy:

1. First, the official must show that his position's responsibilities had such a sensitive function that it requires absolute immunity
2. Second, the official must demonstrate that he was discharging the protected function of the position when performing the in question

Malley v. Briggs

In Malley v. Briggs, 457 U.S. 335 (1986), the Supreme Court examined immunity for police officers with regard to acting on the basis of a faulty warrant. The Court held that qualified immunity does not apply to a police officer when the office wrongfully arrests someone on the basis of a warrant, if the officer who could not reasonably believe that there was probable cause for the warrant. Reasonability is determined by the action that an objectively reasonable officer would take.

Anderson v. Creighton

In Anderson v. Creighton, 483 U.S. 635 (1987), the Supreme Court held that when an officer of the law (in this case, an FBI officer) conducts a search which violates the Fourth Amendment, that officer is entitled to qualified immunity if the officer proves that a reasonable officer could have believed that the search constitutionally complied with the Fourth Amendment. The relevant question that a court should ask is whether a reasonable officer could have believed the warrantless search to be lawful, considering clearly established law and the information which the officer possessed. The Supreme Court also held that "subjective beliefs about the search are irrelevant."

Saucier v. Katz

In Saucier v. Katz, 533 U.S. 194 (2001), the Supreme Court held that a ruling on a qualified immunity defense must be made early in the trial court's proceeding, because qualified immunity is a defense to stand trial, not merely a defense from liability. When there is a summary judgment motion for qualified immunity, the court should rule on the motion, even if a material issue of fact remains on the

underlying claim. The also Court elaborated a 2-part test for whether a government official is entitled to qualified immunity:

1. First, a court must look at whether the facts indicate that a constitutional right has been violated,
2. If so, a court must then look at whether that right was clearly established at the time of the alleged conduct

Under the *Saucier* test, qualified immunity applies unless the official's conduct violated such a right.

Pearson v. Callahan

In Pearson v. Callahan, 555 U.S. 223 (2009), the Supreme Court held that while the *Saucier* test is helpful, it does not need to be applied in qualified immunity claims. Rather, a trial court should have more discretion in whether it should apply *Saucier*. The Court also held that "[a]n officer conducting a search is entitled to qualified immunity where clearly established law does not show that the search violated the Fourth Amendment."

Safford v. Redding

In Safford Unified School Dist. #1 v. Redding, 129 S.Ct. 2633 (2009), the Supreme Court held that even when an individual's Fourth Amendment right to be safe from unreasonable search and seizure is violated, the person performing the search may still be immune under qualified immunity, if "clearly established law does not show that the search violated the Fourth Amendment." However, this holding was in the context of a school official conducting a search of a student for illicit items. The Supreme Court has historically given more deference to searches performed on students while in school, so this holding is more narrow than previous qualified immunity decisions.

Given this information, and your status as a legislators, if this initiative moves forward, I'll lobby for the same changes legislators implement for the police in this state also become applicable to legislators, the governor, and other public servants. Seems only fair, right? How can you circumvent the above cited legislation and laws?

Please do all that you can to ensure the well-being of all citizens of Connecticut, and help advance the ideology that this 'systemic' imbalance is a societal problem and one that must evolve, be inclusive, and above all protect the rights of law enforcement agents. Absent anything less than this, more chaos will ensue and more lives will end.

Sadly, we're living in a "perfect storm" situation so that if qualified immunity disappears, there is no hope for any law-biding citizen that their safety and that of their family are protected. As a former educator, I can recommend that the training program, including curricula undergo a comprehensive review as well as policies and required interventions. Like any other profession, if management, administrators, etc. can identify that an employee needs to be counseled out or urged to retire or find another job, then why doesn't that employee receive the needed assistance? Is it fair to jeopardize young people who enter law enforcement to fear for

their lives, and future livelihoods? According to someone who recently graduated from the training received at the State Police Academy, these extreme tactics are not enforced or used in our state's program.

Thank you for your time, consideration.
Let's take a moderate approach based on facts.
Maureen Eberly
John Eberly
North Granby, CT.