



OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
TRAINING BULLETIN 028
UPDATE ON QUALIFIED/OFFICIAL IMMUNITY FOR
TEXAS PEACE OFFICERS
June 25, 2020



I. Purpose - Given the current national dialogue regarding immunity for law enforcement officers, the announced intentions of some state legislative bodies to remove such protections and the multiple appeals before the US Supreme Court to do the same, the Office of Director of Police requested an update from the Office of General Counsel (UT System) to provide UT System Police officers with a legal update regarding this issue. The information that follows is current as of the date of this training bulletin.

II. Definitions - As denoted below

If a person is aggrieved by the actions of a UTSP officer, the person can sue the officer's institution or the officer himself/herself.

If the plaintiff sues an individual officer in federal court, the officer is entitled to **qualified immunity** for actions he/she took in a law enforcement capacity.

Qualified immunity shields an officer from being sued and from being held individually liable for his/her **discretionary** actions.

An officer is entitled to qualified immunity unless:

his/her act violated laws (e.g., statutes or caselaw) that were "**clearly established**" at the time of the alleged act; and

at the time of the act, a **reasonable person** would have known it was unlawful.

The philosophical idea behind qualified immunity: officers should be on notice that certain conduct is unlawful before they are held individually liable for it.

If the plaintiff decides to sue an individual officer in a Texas state court, the officer is entitled to **official immunity** for actions he/she takes in a law enforcement capacity.

Official immunity absolutely shields an officer from being held individually liable for his/her discretionary actions.

An officer is entitled to official immunity for performing **discretionary duties** (i.e., duties that the law gives permission for) if those duties were performed in **good faith** within his/her **scope of authority**.

Recently, some activists have suggested that **qualified immunity** for police officers should be abolished.

In addition, 12 different parties recently asked the U.S. Supreme Court to hear appeals that could have limited or abolished qualified immunity for police officers.

On June 22, 2020, the Supreme Court declined to hear any of those appeals, so qualified immunity remains the law.