



Qualified Immunity Explained

Constitutional rights were guaranteed to all citizens in 1871

On April 20, 1871, President Ulysses S. Grant signed the Third Ku Klux Klan Act which enforced the 14th Amendment by guaranteeing all citizens of the United States the rights afforded by the Constitution and providing legal protection under the law.



Frank Leslie's Illustrated print shows Grant with Secretary of the Navy George M. Robeson and presidential advisor General Horace Porter signing the Act

Common law immunities were extended to officials sued under Section 1983. Thus, it is a judicial doctrine, but a very long-standing practice.





What is it

- Government official
- Acting under color of state law
- For reasonable actions
- The illegality of which is not clearly established
- Immunity from lawsuit

Qualified immunity balances
two important interests—

the need to hold
government officials
accountable when they
exercise power
irresponsibly

the need to shield
officials from
harassment,
distraction, and
liability when they
perform their duties
reasonably.



Balancing the Interests

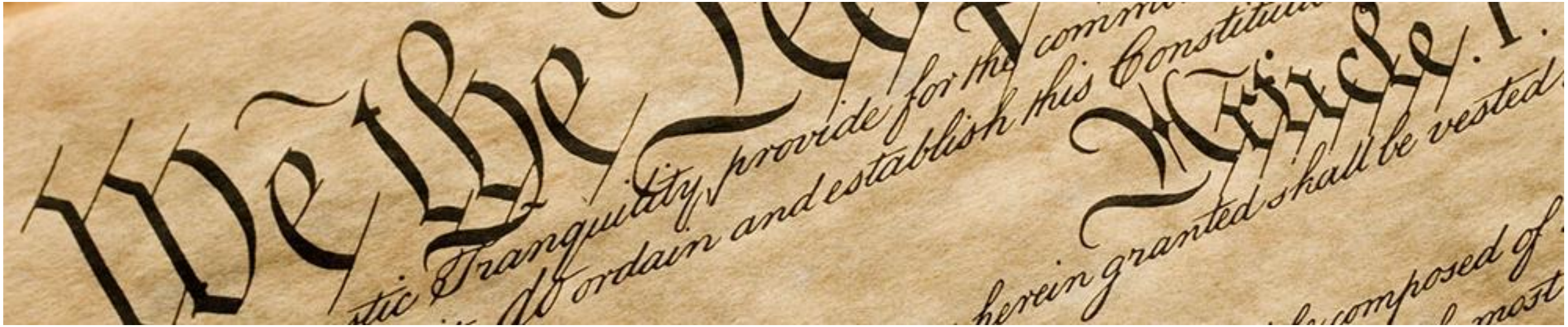


- Police officers are often forced to make split-second decisions in circumstances that are tense, uncertain, and rapidly evolving.



- Currently, the Court views the officer's actions objectively, using the perspective of a reasonable officer on the scene, without regard to underlying intent.

Two types of Immunity:



- **Absolute Immunity** under Section 1983 is enjoyed by the President, legislators, prosecutors, judges and witnesses

- **Qualified Immunity** is available for all other government officials whose job relies mainly on the use of discretion, when acting under color of law and in good faith. The actions are judged under an objective standard.

Immunity allows government officials who rely on their own discretion the ability to do their jobs



Prison officials

Procunier v Navarette, 434 U.S. 555 (1978)



Social services workers

Gomes v Wood, 451 F.3d 1122 (10th Circ. 2006)



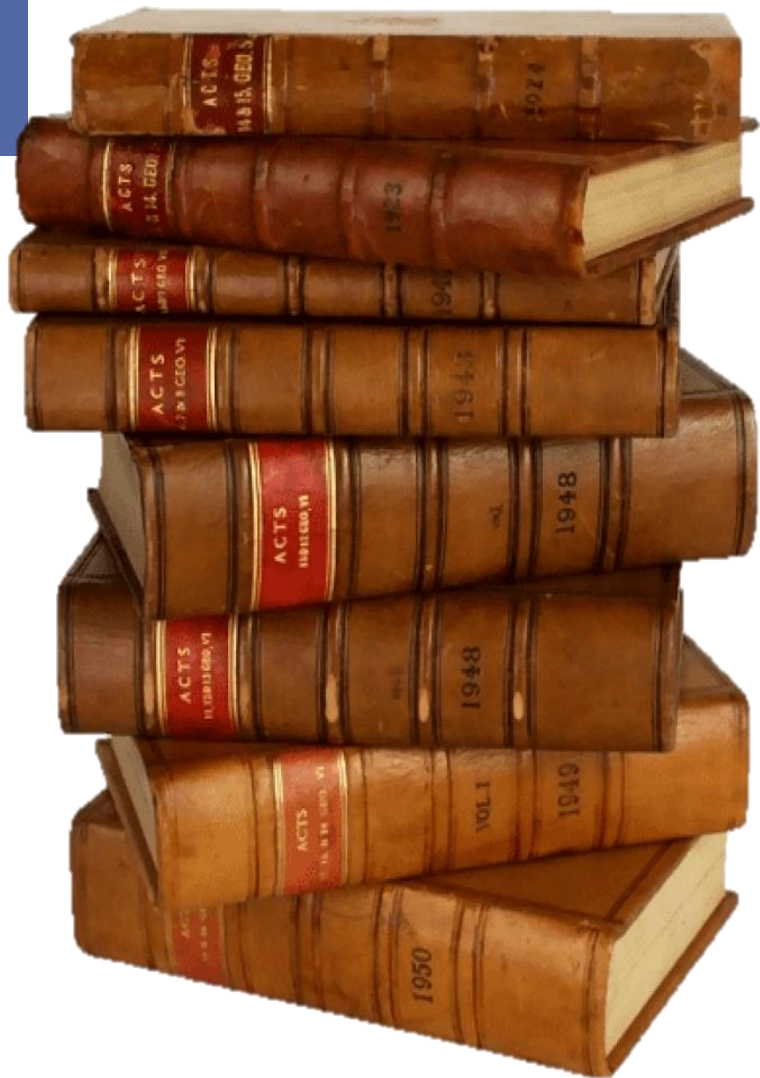
Dispatchers

Estate of Reat v Rodriguez, 824 F.3d 960 (10th Circ. 2016)



Emergency Medical Services providers

Potts v Bd of Cnty Comm of Leavenworth Co, 39 Kan.App.2d 71 (2008)



Both the Civil Rights Act and qualified immunity are part of a vast body of federal law. The direct power to change qualified immunity lies with Congress; the Supreme Court can also change the direction of qualified immunity.



**QI simply cannot be eliminated
at the municipal level**