

Police Immunity Issue Pending at Supreme Court

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The brutal death of George Floyd at the hands of Minneapolis police has re-energized a debate over misconduct by law enforcement officials that the Supreme Court may re-enter, reports USA Today. The justices could announce as early as Monday that they will consider if law enforcement and other officials deserve “qualified immunity” that protects them from being sued for official actions. The high court established that protection in decisions dating back several decades, letting police off the hook unless their behavior violated “clearly established” laws or constitutional rights. Lower courts have used that standard to uphold almost any actions not specifically forbidden.

Judges and scholars on both the left and right have questioned that legal doctrine for creating a nearly impossible standard for victims to meet and a nearly blanket immunity for those accused of misconduct. The justices have reviewed a dozen cases involving public officials’ invocation of qualified immunity. If they move ahead, it would indicate that at least some justices want to cut back on such immunity. The timing of the review after Floyd’s death is coincidental. “It’s a vivid and tragic example of our culture of near-zero accountability for police officers,” says Jay Schweikert of the libertarian Cato Institute, one advocacy group seeking to limit qualified immunity. “People understand that officers are rarely held to account.” In one case the high court is reviewing, a Tennessee man was bitten by a police dog unleashed on him while he was sitting with his hands in the air. In another, a 10-year-old Georgia boy was shot in his backyard by police pursuing an unarmed suspect. In a third, police in California seeking a gang member used tear-gas grenades rather than a house key given to them by his ex-girlfriend.