

CLIENT BULLETIN

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U.S. Supreme Court Strengthens Qualified Immunity Protections

Ruling last week in a controversial pursuit case involving a Texas public safety officer who killed a fleeing felon while trying to shoot his car, the U.S. Supreme Court has reinforced qualified immunity protections for peace officers nationwide.

The case, *Mullenix v. Luna*, was a civil rights claim alleging the officer used excessive force to stop the pursuit. The suspect had led police on a high-speed chase and twice threatened to shoot them if they did not stop the pursuit. Believing the suspect would try to hit or shoot at officers manning a spike strip, Mullenix fired six rifle shots from an overpass, intending to hit the vehicle but killing the driver instead. He was not trained in shooting at cars and had been told to wait to see if the spike strip would stop the car.

Here are the **key points** from the case:

- Peace officers should not have to engage in complex legal analysis before deciding whether a use of force is appropriate during a vehicle pursuit
- Any use of force, even when the officer's actions may "fall . . . in the hazy border between excessive and acceptable force", will continue to be judged by whether the officer's actions were objectively reasonable under the circumstances
- Qualified immunity, or protection of a peace officer from personal liability in a civil rights lawsuit, will be granted unless prior court decisions have established the statutory or constitutional violation of which the officer is being accused is "beyond debate"
- "Put simply, qualified immunity protects all but the plainly incompetent or those who knowingly violate the law"

The *Mullenix* decision should reduce the legal second-guessing that inevitably follows any high-profile use of force. *Mullenix* tells us qualified immunity will protect an officer from liability unless the violation of a statutory or constitutional right has been made so clear through a prior court decision as to be beyond dispute. Very few enforcement actions will fall into that category.