

Section 11 Immunity

Social workers (and other government employees) may be sued for deprivation of civil rights under 42 U.S.C. § 1983 if they are named in their 'official and individual capacity'. *Hafer v. Melo*, (S.Ct. 1991)

State law cannot provide immunity from suit for Federal civil rights violations. State law providing immunity from suit for child abuse investigators has no application to suits under § 1983. *Wallis v. Spencer*, (9th Cir. 1999)

If the law was clearly established at the time the action occurred, a police officer is not entitled to assert the defense of qualified immunity base on good faith since a reasonably competent public official should know the law governing his or her conduct. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)

Immunity is defeated if the official took the complained of action with malicious intention to cause a deprivation of rights, or the official violated clearly established statutory or constitutional rights of which a reasonable person would have known. *McCord v. Maggio*, (5th Cir. 1991)

A defendant in a civil rights case is not entitled to any immunity if he or she gave false information either in support of an application for a search warrant or in presenting evidence to a prosecutor on which the prosecutor based his or her charge against the plaintiff. *Young v. Biggers*, (5th Cir. 1991)

Police officer was not entitled to absolute immunity for her role in procurement of court order placing child in state custody where there was evidence officer spoke with the social worker prior to social worker's conversation with the magistrate and there was evidence that described the collaborative work of the two defendants in creating a "plan of action" to deal with the situation. Officer's acts were investigative and involved more than merely carrying out a judicial order. *Malik v. Arapahoe Cty. Dept. of Social Services*, (10th Cir. 1999)

Individuals aren't immune for the results of their official conduct simply because they were enforcing policies or orders. Where a statute authorizes official conduct, which is patently violation of fundamental constitutional principles, an officer who enforces that statute is not entitled to qualified immunity. *Grossman v. City of Portland*, (9th Cir. (1994)

Social workers were not entitled to absolute immunity for pleadings filed to obtain pick-up order for temporary custody prior to formal petition being filed. Social workers were not entitled to absolute immunity where department policy was for social workers to report findings of neglect or abuse to other authorities for further investigation or initiation of court proceedings. Social workers investigating claims of child abuse are entitled only to qualified immunity. Assisting in the use of information known to be false in order to further an investigation is not subject to absolute immunity. Social workers are not entitled to qualified immunity on claims they deceived judicial officers in obtaining a custody order or deliberately or recklessly incorporated known falsehoods into their reports, criminal complaints and applications. Use of information known to be false is not reasonable, and acts of deliberate falsity or reckless disregard of the truth are not entitled to qualified immunity. No qualified immunity is available for incorporating allegations into the report or application where official had no reasonable basis to assume the allegations were true at the time the document was prepared. *Snell v. Tunnel*, (10 Cir. 1990)

Police officer is not entitled to absolute immunity, only qualified immunity, to claim that he caused plaintiff to be unlawfully arrested by presenting judge with an affidavit that failed to establish probable cause. *Malley v. Briggs*, S.Ct. 1986)

Defendants were not entitled to prosecutorial immunity where complaint was based on failure to investigate, detaining minor child, and an inordinate delay in filing court proceedings, because such actions did not aid in the presentation of a case to the juvenile court. *Whisman v. Rinehart*, (8th Cir. 1997)

Case worker who intentionally or recklessly withheld potentially exculpatory information from an adjudicated delinquent or from the court itself was not entitled to qualified immunity. *Germany v. Vance*, (1st Cir. 1989)

Defendant was not entitled to qualified immunity or summary judgment because he should've investigated further prior to ordering seizure of children based on information he had overheard. *Hurlman v. Rice*, (2nd Cir. 1991)

Defendants were not entitled to qualified immunity for conducting warrantless search of home during a child abuse investigation where exigent circumstances were not present. *Good v. Dauphin County Social Services*, (3rd Cir 1989)

Social workers were not entitled to absolute immunity where no court order commanded them to place plaintiff with particular foster caregivers. *K.H through Murphy v. Morgan*, (7th Cir. 1991)