

# Understanding the Two Legal Shields ICE Agents May Claim

Federal agents who shoot civilians can invoke two different legal protections, and understanding the difference matters for covering what happened in Minneapolis.

The first protection is called Supremacy Clause immunity. This shields federal officers from state criminal prosecution. The second is qualified immunity, which protects them from civil lawsuits seeking money damages. These are separate doctrines with different standards, and an agent might win one while losing the other.

## Supremacy Clause Immunity: The Criminal Defense

When a state like Minnesota tries to prosecute a federal agent, the agent can claim Supremacy Clause immunity. The doctrine comes from Article VI of the Constitution, which establishes federal law as supreme over state law. The underlying principle is straightforward. A federal agent doing an authorized job in a reasonable way should not face state criminal charges for it.

To claim this immunity, the agent must prove two things. First, the agent was performing an act authorized by federal law. Second, the agent honestly and reasonably believed the conduct was necessary and proper under the circumstances. That second element has both a subjective and an objective component. The agent must have actually believed the action was justified, and that belief must be one a reasonable officer would have held.

Courts have applied this immunity to federal agents who shot people while performing their duties. In the Ruby Ridge case, the Ninth Circuit initially granted immunity to an FBI sniper whose shot killed a woman holding a baby. The court found the agent's belief was objectively reasonable given what he knew at the time about armed suspects who had already killed a deputy marshal. In another case, a DEA agent who shot an unarmed drug dealer during a struggle also received immunity because his perception that the suspect was reaching for a gun was objectively reasonable given the tense circumstances.

But this immunity has real limits. Courts have denied it when agents acted from personal animus, misrepresented facts to supervisors, or engaged in patterns of misconduct. In the Ruby Ridge case itself, a later appeal with a fuller factual record actually reversed the immunity finding, holding that material disputes remained about whether the shooting was objectively reasonable. The Ninth Circuit emphasized that even federal agents in high-stakes operations must satisfy the objective reasonableness standard.

## Qualified Immunity: The Civil Defense

Qualified immunity operates differently. It protects federal agents from paying money damages when someone sues them for violating constitutional rights. The standard here focuses on whether the agent violated clearly established law.

Courts ask two questions. Did the agent violate a constitutional right? And was that right clearly established at the time, such that a reasonable officer would have known the conduct was unlawful?

The critical point for journalists is that qualified immunity does not require the agent to have acted reasonably in any general sense. It only requires that no clearly established law put the agent on notice that the specific conduct was unconstitutional.

## **Why This Matters for Obstruction Shootings**

Here is where the Minneapolis situation becomes legally significant. Since 1985, the Supreme Court has clearly established that officers cannot use deadly force against someone who poses no immediate threat of death or serious physical injury. This rule from *Tennessee versus Garner* has been consistently applied for nearly four decades.

Obstruction of an immigration operation, even active physical obstruction, does not inherently pose a deadly threat. Someone blocking an agent's path, refusing to move, or even pushing and shoving is not the same as someone brandishing a weapon or attempting to seriously harm the officer.

Courts have denied immunity to immigration agents who used force against non-threatening individuals. The Ninth Circuit denied qualified immunity to a Border Patrol agent who shot a teenage boy in Mexico who was simply walking down the street and posed no threat whatsoever. A Kansas federal court denied immunity to ICE agents who used force against someone during an immigration investigation when the person posed no immediate threat and was not resisting.

The *Graham versus Connor* factors that courts use to evaluate force are severity of the crime, whether the suspect poses an immediate threat, and whether the suspect is actively resisting. Applied to someone obstructing an immigration operation, all three factors weigh against deadly force. Obstruction is not a violent felony. Mere obstruction does not pose an immediate threat of death. And while obstruction may constitute resistance, courts distinguish between minor noncompliance and violent resistance justifying deadly force.

## **The Bottom Line**

An ICE agent who shoots someone for obstructing an immigration operation faces significant problems under both immunity doctrines unless the obstruction created an immediate threat of death or serious physical injury.

If the person shot was armed, physically attacking the agent in a way threatening serious injury, or attempting to take the agent's weapon, the analysis changes. Under those circumstances, both immunities might apply.

But if the person was simply blocking, refusing to move, or even pushing without creating a genuine threat of deadly harm, then shooting that person violates nearly forty years of clearly established constitutional law. Both immunity defenses are likely to fail. The agent could face both state criminal prosecution and civil liability for the shooting.