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COMPELLED SPEECH: YOU CAN'T MAKE ME SAY THAT



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The First Amendment unreservedly protects the individual's freedom to speak, among other prerogatives. But it equally girds the right to refrain from expressing messages with which one disagrees--whether in the form of a schoolroom pledge, a license plate slogan, an oath of office, or elsewhere.
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REMOVING AND BANNING INDIVIDUALS FROM PUBLIC PROPERTY
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EDITOR'S NOTE



BY: **ERICH EISELT**
IMLA Assistant General Counsel and Director of Legal Advocacy

Meet Your New Paralegal

"Legal futurists have long anticipated technology's transformation of the legal industry, though the impact to date can best be described as evolutionary rather than revolutionary. The release of ChatGPT by OpenAI on November 30, 2022, may herald the beginning of the revolution." So says Andrew Perlman, in his article "Implications of ChatGPT for Legal Services and Society," appearing in the March-April 2023 issue of *The Practice,* published by the Harvard Law School Center on the Legal Profession.

Those whose law school memories include poring over stacks of reporters and shuffling through the pages of Shepards may well view the advent of Westlaw and Lexis as unsurpassingly revolutionary. But Perlman, who is Dean of the Suffolk University Law School and played a major role in updating the ABA Model Rules of Professional Conduct to reflect changes in technology, sees the prospect for a much greater evolutionary leap in our profession: "For the legal industry, ChatGPT may portend an even more momentous shift than the advent of the internet."

Whether Dean Perlman's assessment that ChatGPT could be more impactful than the net itself remains to be seen. But preliminary results are remarkable. Below is what ChatGPT delivered in about three seconds when I asked it to "describe the pros and cons of qualified immunity."

> Qualified immunity is a legal doctrine that shields government officials, including law enforcement officers, from civil liability for actions taken in the course of their official duties, provided that those actions do not violate "clearly established" constitutional or statutory rights.
>
> Here are some potential pros and cons of qualified immunity:
> Pros:
> 1. Protection for Government Officials: Qualified immunity provides protection for government officials, including law enforcement officers, who are carrying out their duties in good faith. This protection can help to prevent frivolous lawsuits and ensure that officials are not deterred from taking necessary actions to carry out their duties.
> 2. Balance of Interests: Qualified immunity helps to balance the interests of public officials and individuals who may have been harmed by official actions. It ensures that officials are not held personally liable for actions taken in the course of their duties unless they have violated clearly established constitutional or statutory rights.
> 3. Judicial Efficiency: Qualified immunity can help to promote judicial efficiency by preventing the court system from being bogged down by frivolous or meritless lawsuits against government officials.
>
> Cons:
> 1. Lack of Accountability: Critics of qualified immunity argue that it can shield government officials, including law enforcement officers, from accountability for unconstitutional or unlawful actions. This lack of accountability can undermine public trust in government and law enforcement, and may lead to a culture of impunity.
> 2. Narrow Interpretation of "Clearly Established" Rights: The standard for determining whether a constitutional or statutory right is "clearly established" can be narrow, making it difficult for plaintiffs to prevail in lawsuits against government officials. This can result in situations where officials who have violated constitutional rights are shielded from liability.
> 3. Disproportionate Impact on Marginalized Communities: Critics argue that qualified immunity can have a disproportionate impact on marginalized communities, who may be more likely to experience police brutality or other forms of official misconduct. This can exacerbate existing inequalities and undermine efforts to promote equal justice under the law.
>
> Overall, the debate over qualified immunity is complex and multifaceted. While it provides important protections for government officials, it may also undermine accountability and disproportionately impact marginalized communities. Policymakers and legal scholars are actively debating the merits and drawbacks of qualified immunity, and potential reforms to the doctrine are being explored.

The promise of generative AI and ChatGPT--in locating relevant caselaw, in editing and cite checking, and in researching and writing highly relevant text including pleadings, seems undeniable. But notwithstanding those benefits, your editor wishes to confirm that all other words in this issue, to the very best of management's knowledge, are the work product of sentient beings. We sincerely thank our contributors and hope you enjoy the May-June 2023 *Municipal Lawyer*.

Best regards,
Erich Eiselt