



INSTITUTE FOR JUSTICE

**TRANSCRIPT**  
**U.S. Supreme Court Briefing:**  
***Brownback v. King***

**November 18, 2020**

**Melanie Hildreth (MH):** Good afternoon and welcome to IJ's LIVE call about our recent U.S. Supreme Court case, *Brownback v. King*. We're also going to talk about the broader effort to ensure accountability for government officials who abuse their power and violate constitutional rights. I'm Melanie Hildreth, and I am pleased to introduce the host for our conversation this afternoon IJ's President and General Counsel, Scott Bullock.

[00:00:25] **Scott Bullock (SB):** Thank you, Melanie, well just in January of this year, IJ launched our Project on Immunity and Accountability. Little did we know that less than 11 months later, we would already have our first case before the United States Supreme Court, and this past summer people would be marching in the streets denouncing one of the targets of our project, qualified immunity.

[00:00:49] So a lot has been happening in this area in a very short period of time, and we have a lot to talk about during this call. So, the way call's going to work is we're going to do a recap of the argument we had last week in *King*. We're also going to talk about the landscape for qualified immunity and other government immunity doctrines. Then we're going to end with a discussion of some of our other plans and activities we have in the works on this issue of immunity and accountability. And then Melanie is going to turn to some of the questions that have been submitted to us, and we're going to go over some of the questions during the course of the conversation.

[00:01:25] I'm very pleased that two people are going to be joining us for this call, who are the leaders of our Project on Immunity and Accountability, Patrick Jaicomo, who argued the *King* case just last Monday and Anya Bidwell. Let's open up the conversation with the discussion about the *King* case. I think a lot of people who follow IJ and have read our newsletters are familiar with some of the facts of the *King* case, but Patrick, why don't you just give folks just a quick refresher on what this case is about.

[00:02:00] **Patrick Jaicomo (PJ):** Happy to do it, Scott. So, our client in this case is James King. In 2014, James was a 21-year-old college student who was walking between two summer jobs in Grand Rapids, Michigan, when he was approached by two men he didn't know in street clothes, who put him up against a black SUV, and one of the men took James' wallet out of his back pocket. At that point, he believed he was being mugged, yelled out something to that effect and tried to run away. But before he made it more than a few steps, the men tackled him to the ground, choked him unconscious, and then severely beat him in the head and face when he woke up. Bystanders who saw this happening thought that James was being mugged or maybe even being murdered and called 911.

[00:02:38] So when uniformed officers arrived, James and the bystanders were both very confused when the police arrested James instead of the men who were beating him. And that's because, as it turned out, these two men were actually plain-clothes members of a state-federal task force. One was a local police detective with the Grand Rapids Police Department, and the other was a Special Agent with the FBI who were both looking for a fugitive in Grand Rapids, who was wanted for having broken into his boss's apartment to steal liquor and pop cans.

[00:03:05] James didn't look anything like the wanted fugitive and obviously wasn't the actual fugitive. But even after police realized that, instead of simply apologizing to James and letting him go, they charged him with several serious felonies, and after he'd been transported to a hospital for his injuries, he was then taken to jail. Adding insult to injury, he was prosecuted for those crimes, and over the course of nine months, sat through a jury trial where he rejected a plea deal, and was ultimately found not guilty on all charges related to his beating at the hands of those officers.

[00:03:37] We came in and filed a civil rights lawsuit against the United States as the employer of the task force officers and the officers themselves under the Constitution. The government asked the district court to throw the entire case out citing sovereign immunity for claims against the United States and qualified immunity for claims against the officers.

[00:03:57] The court did throw the case out and we appealed the issue to the 6th Circuit Court of Appeals, which then reversed the district court and said James' case could go forward, that the officers were not entitled to qualified immunity, and sent the case back down to go to trial on the constitutional claims. Before we could get to trial, the United States Solicitor General stepped in and asked the United States Supreme Court to create a new, special protection that would shield all federal officers from accountability.

[00:04:24] **SB:** Yeah. So Jack, in New Mexico, one of the listeners asks about the procedural nature of this case. This is a case where the government, the United States, has filed the petition and like a lot of IJ cases, we have to cut our way through this procedural thicket to get to the substantive issues in this case. There's such doctrines as ripeness, abstention, exhaustion, and many others that we oftentimes don't bore our supporters with talking about in our newsletters, but they're just roadblocks the government throws in our way. That's what happened in this case where the government was trying to create this new layer of protection for agents. So, Patrick if you could just talk a little bit about that, what was the question that was before the Supreme Court and why it matters?

[00:05:13] **PJ:** Sure. So in this case, one of those big roadblocks was qualified immunity, but as I mentioned, the 6th Circuit threw that roadblock out of the way, and with no roadblocks left, the Solicitor General asked the Supreme Court to create another roadblock under a federal statute, and that statute's called the Federal Tort Claims Act.

[00:05:32] Speaking very broadly, what the government was asking was for an additional type of immunity that would exist independent of qualified immunity but would operate in a similar fashion in that it would be another mechanism that all federal officers would have to violate someone's constitutional rights and get away with it without ever having to answer for it in court.

[00:05:51] **SB:** As if qualified immunity wasn't enough of a hurdle, as people know, this added layer of protection was there. So, let's turn to the argument itself, and before we get to

what Patrick had to go through just last week, I want to turn to Anya to talk a little bit about the amici that we had in this case, friends of the court, and in this case, friends of IJ. Patrick from Virginia and Richard from California asked about the ACLU's involvement, and I'm happy to say that they were involved in this case, but they weren't the only ones. Is that right Anya?

[00:06:27] **Anya Bidwell (AB):** Absolutely, they weren't the only ones. We had a wonderful group of cross-ideological amici who stood by James King and supported him. The ACLU, as you mentioned, filed a remarkable brief, and so did Cato together with the National Police Accountability Project. We also had the Law Enforcement Action Partnership, which represents former law enforcement officials—they filed a brief in support of James. There was a congressional amicus brief, a Public Citizen amicus brief, and, of course, a very wonderful brief by Professors Pfander, Sisk, and Clopton, who are the leading minds on this topic in academia. They also come together across the ideological divide; Greg is coming more from the right of center and Jim from the left of center. All these folks also helped prepare Patrick for the oral argument by participating in moot courts.

[00:07:23] As you mentioned, there was a question about the ACLU. Government accountability is indeed one of those issues that enjoys a bipartisan consensus, which is that there are way too many roadblocks to government accountability. Our amicus campaign in *King* very much highlighted this consensus, though it is of course also very telling that the government didn't get even one amicus brief filed in support of its position.

[00:07:53] **SB:** Let's turn a little bit and talk about the argument. Usually when IJ goes to the Supreme Court, we're in the august hall of the Court itself, a quite impressive building. This year that wasn't the case; we were in a conference room around a speakerphone. Talk to us a little bit about that experience, Patrick.

[00:08:17] **PJ:** Yes, so one of the effects of COVID is that the Supreme Court has suspended all in-person arguments, and that began last spring and is continuing now, which meant that I had the honor of being the first Institute for Justice attorney to argue a case over the phone and from the august halls of the Institute for Justice itself. As you can imagine, that made for a much less predictable experience, which is already kind of unpredictable because of how the Supreme Court works.

[00:08:45] For example, in this case, as Scott mentioned, we argued the case over the phone, and the Supreme Court provided its technical specifications for the type of phone that it wanted us to use. Unsurprisingly, that phone was an outdated piece of technology, so when I spoke with our IT department, they said, "Well, we used to have those phones, but we got rid of the last one about three years ago." So, one of the big tasks for them was to track down one of these outdated phones and find it, which they did, and we got to do the phone call exactly as the Court asked us to. But it obviously wasn't your typical Supreme Court case because I was staring at the wall of the conference room instead of the nine Justices of the Court.

[00:09:25] **SB:** Government: always on the cutting edge of any issue or technology. So, back to when we have an argument, whether it's in the halls of the Supreme Court or a back conference room at IJ, we always have a theme that we want to impart to the Justices. This case, of course, was no exception. Talk to us about the theme that we wanted to convey and then how the argument played out.

[00:09:53] **PJ:** Sure. So, our big theme in this case was simply that when someone has an allegation that government officials violated their constitutional rights, they should have the ability to go into court and have a judge or jury decide whether their rights were violated. So, that was the theme for this case.

[00:10:10] I should point out that because the argument was done over the phone, unlike having a sort of free-for-all with the Justices jumping in as they want, what the Court has done now is allowed each justice in order of seniority to have basically a three-minute period of question and answer before moving to the next justice. And so, that's changed the way the argument's done quite a bit, because instead of there being an ongoing discussion among the Justices and the litigants, each Justice has their set of questions that they want to ask, and the next Justice may or may not pick up on those same questions.

[00:10:46] In this case, the questions that the Court ultimately asked were a little bit surprising in that most of the Justices, based on the way they asked their questions, seemed to be fairly or very skeptical of the substantive argument the government was making. Several justices, instead of addressing the substantive argument, asked questions that were more focused on whether the Court should decide that argument.

[00:11:12] Just as a couple of examples, Justice Sotomayor asked the government about a number of problems that she saw with its textual analysis of the relevant statutory provisions, and also pointed out that if the government was correct, it would lead to an enormous increase in the amount and type of litigation that takes place. On the other hand, you had Justice Alito, who is much more focused on whether that question was properly before the Court, or perhaps whether the Court should answer that question.

[00:11:43] From a substantive perspective, all this augurs well for our position, and the question is really: How is the Court going to procedurally address whether it touches the issues or whether it does something else?

[00:11:57] **SB:** That's all James is really trying to do here, right? Is to try to get to the substantive issues in the case, and that he overcame qualified immunity, and then the government came up with this other roadblock for it to try to get out of hearing those substantive issues.

[00:12:13] **PJ:** Right, that takes us right back to the theme that we're talking about, which is just that James should have a chance, after alleging what these officers did to him violated his Fourth Amendment rights under the U.S. Constitution, to go into Court and have a jury decide, which none has after five or six years now, whether what the officers did actually violated the Constitution or not.

[00:12:33] **SB:** Right, and I think the way that the Supreme Court is doing these arguments now too, you hear from all of the Justices, and just about all of them will ask questions of the parties, which is interesting. But I think it's fair to say, Patrick, and I think it was true in the *King* case, it's a little bit harder to read where the Justices are because you just don't have that back and forth that characterizes a number of arguments where you can get, I think, a better sense of where the Court is and where they might be leaning.

[00:13:00] **PJ:** Absolutely, and so since you have a Justice-by-Justice, in a linear fashion, set of questions, you have kind of the Justices coming in with their one to three questions, and then the next Justice coming in with their one to three questions, and there isn't sort of a

continuity. But I mean, touching on some of the silver linings of the phone argument is, I got asked two different questions by Justice Thomas, which is a rarity since he's joined the Court. So, I am trying to find the upside of doing this from a conference room instead of in the courthouse.

[00:13:30] **SB:** That's right. Mark from North Carolina asked, "This level of government abuse cannot be tolerated. If SCOTUS does not rule in James' favor, is there a suggested alternative path?"

[00:13:42] **PJ:** Yeah, so as we've just discussed, the problem here is that what the government's asking is for the Supreme Court to stop James from ever having a jury decide whether his constitutional rights were violated. In short, if the government prevails cleanly in the way that it's asked the Court to decide the case, no, James' case is over. He will have spent years litigating a case, he will have been beaten at the hands of government workers, and he will never get a chance to plead his case to a jury of his peers.

[00:14:13] On the other side, just to show you how unfair these rules are is that, again, we've been litigating for five years, and if we win, if the Supreme Court decides this case in our favor, all that means is that James gets to go back down to the very beginning of this lawsuit and move forward as if the case were beginning from step one. That's what these types of doctrines do, they stop the case before it even starts and give the government an enormous number of escape hatches to avoid addressing whether the Constitution was violated.

[00:14:44] **SB:** Well, we will know soon enough, they've got to issue an opinion by the end of June. It'll likely be even before then, too, since this was argued fairly early in the term.

[00:14:54] So let's move to another topic that's gotten a lot of attention, both at the Supreme Court, and really throughout the country and in public consciousness, and that's the issue of qualified immunity. Probably a lot of listeners are familiar with that, but just so we can set the context for the discussion, Anya, why don't you just give a real brief description of what qualified immunity is all about?

[00:15:18] **AB:** Sure. Qualified immunity is a legal doctrine invented by the Supreme Court in 1982. It shields any government official—your mayor, your IRS agent, your public-school social worker, your Bureau of Land Management person, your police officer, you name it, any government worker—from liability, if an individual whose constitutional rights were violated cannot show that there is a case identically similar to theirs in which the federal Court of Appeals controlling in their jurisdiction specifically said that it is a violation of a constitutional right.

[00:16:00] I know it's a mouthful, but that's a very procedural doctrine, and the way it works is that after a civil rights complaint is filed, a government official simply invokes qualified immunity as a defense. Then the burden is on you as a plaintiff to find this case on the exact same facts, which is essentially identical to your case.

[00:16:24] One good example is from the 6th Circuit, right? *Baxter v. Bracey*. There, a police officer sic a dog on a surrendering suspect who was sitting with his hands up in the air. That suspect basically filed a civil rights lawsuit saying, "It's a violation of my constitutional rights. After all, I surrendered." He was in luck, he actually had a case in the 6th Circuit, in that very jurisdiction, talking about how it is unconstitutional to release a dog on a suspect who is laying on his side and surrendering that way. Right? But the 6th Circuit actually said,

“No, qualified immunity shields officers because that case that you found, Mr. Baxter, it talks about how a suspect can surrender by laying on their back, and not sitting with their hands up in the air.” So that’s how specific the case that you need to find has to be, and it’s a very, very difficult barrier to overcome.

[00:17:21] The main idea behind qualified immunity is that it is supposed to provide officers with fair warning that what they’re about to do is unconstitutional, but the thing is that the officer in this *Baxter* case would have had plenty of warning that you’re not supposed to sic a dog on a surrendering suspect. The way it ends up working is that essentially, no matter how bad the conduct, the officer or the official can always turn to the doctrine as a shield.

[00:17:54] Just to kind of give you a good illustration of that, there was a case out of California, and the 9th Circuit basically said that when the plaintiff filed a lawsuit accusing officers of stealing from him when searching his house, that there wasn’t a clearly established case on point that showed that it was a violation of constitutional rights. That was the *Jessup* case from the 9th Circuit.

[00:18:19] **SB:** So that case—you had mentioned one of our cases, we had a petition before the U.S. Supreme Court. There were close to a dozen of them over the course of the summer, this issue was being discussed throughout the country. People thought, “This is the time to do it.” The Supreme Court was poised to do it, and what happened?

[00:18:41] **AB:** And they didn’t do it!

[00:18:43] **SB:** They did absolutely nothing. A lot of people have asked me, and I’m sure have asked you guys too, that was obviously disappointing for our case and for several other ones. And it’s impossible, of course, to know the exact reasons why the Court acts or does not act, but what do you think this means, Anya, and what is the future of qualified immunity?

[00:19:01] **AB:** The general thinking is that the Court was hoping, in denying this petition, that Congress would resolve the issue by itself by amending the civil rights statute that allows for government officials to be sued. That’s why it passed on taking any one of these cases. Our position, of course, is that the Court created this doctrine in 1982, so it is up to this Court to get rid of it. So, we will keep bringing the cases, and at some point, there will be a grant, right? There will be a steady march of petitions to the United States Supreme Court because, unfortunately, there are plenty of examples of constitutional violations with no accountability.

[00:19:53] One issue to watch for is the obviousness doctrine under the case called *Hope v. Pelzer*. The Court, back in the early 2000s, denied qualified immunity to prison guards who shackled a prisoner to a pole and denied him water for many hours in Alabama heat. The U.S. Supreme Court said that some things are just obviously unconstitutional, and you don’t need a case on point to tell you that. That was a very important case from 2002, and it was a big deal. But then the Court and the lower courts have been very reluctant to use this doctrine where any officer would have known that what they’re doing is wrong.

[00:20:35] Though, just a couple of weeks ago, there was this case from the 5th Circuit called *Taylor v. Riojas*. The facts were so outrageous there—involving feces in prison cells, on the floor, on the ceiling, packed into a water faucet—that the U.S. Supreme Court actually said, “You know what? We don’t need a case on point, this is ridiculous. This is outrageous. This

is obviously unconstitutional, and the 5th Circuit was absolutely wrong to grant qualified immunity to the officers.”

[00:21:06] So this is really something where you can see maybe the doctrine starting to fray at the edges and, as I mentioned, we’ll just keep bringing these cases to the U.S. Supreme Court because, at the end of the day, it is the Supreme Court’s job to overturn the precedent that it created in 1982.

[00:21:25] **SB:** Yeah, and I think it’s one of these things where it’s just going to be a longer fight and certain circuits are going to be better at it, others are going to be worse on qualified immunity. I think some of the thinking on this too—again, you can never read the tea leaves entirely with the Supreme Court—is that the Court sometimes likes to take issues when there’s not as much public passion about something. And so maybe when the temperatures turn down a little bit, but the legal issue is still very much alive, that’s when they would take it on. We will certainly keep at that and try to get the right case before the Supreme Court. So, let’s say, this is of course a very lofty goal, it’s ambitious but feasible, we address the qualified immunity issue, the Court resolves it correctly, it abolishes it or at least severely curtails it. That’s not the end of the fight on immunity and accountability. Why don’t we talk about, there’s a lot of other ones there, but why don’t you talk to us about some of the other issues? Patrick, why don’t you just take that over?

[00:22:31] **PB:** I’ll field that. I mean, the unfortunate thing that *King* really illustrates is that qualified immunity is not the only tool in the government’s toolbox to avoid constitutional claims. Another enormous tool for them is something called the *Bivens* doctrine. What *Bivens* says is that you can only sue federal officials for violating your constitutional rights under very limited circumstances. And we have, in a number of amicus briefs, already explained why that restrictive doctrine has no historical or originalist defense because at the beginning of the United States, the way it would work is that courts were responsible for deciding law and Congress was responsible for setting policy.

[00:23:18] So if you came to a court and you said, “This government official violated my rights in a way that violated the Constitution,” it was up to a court to give you a remedy, and it was up to Congress to decide how to ameliorate that, if there was some good faith reason for why your rights were violated. And they would usually do that by indemnifying or paying back the damages to the officer who violated the Constitution.

[00:23:42] In recent years, the Court has severely restricted the way that *Bivens* applies, and so now there are only a few ways that a federal officer who violates your constitutional rights can be held accountable at all. Just for one example, if a federal officer violates your First Amendment rights, whatever First Amendment rights those are, speech or religion, you cannot bring a lawsuit against them directly under the Constitution because the Supreme Court has said *Bivens* restricts those remedies to a number of smaller contexts, and that would not be one of them.

[00:24:14] **SB:** Yeah, well, that is one that we are certainly going to focus our attention on as well, this whole controversy about *Bivens*, immunity, and accountability touch on all of II’s pillars. That’s one of the reasons why we got involved in it, and listeners can expect to see us doing a cert petition on this *Bivens* question in the next several months.

[00:24:38] In our upcoming newsletter, folks can read about a case that we just filed in Castle Hills, Texas, involving an outrageous case where a city councilor was arrested simply for

exercising her First Amendment rights, so this is one that's going to be a major part of the work of the Institute for Justice. We're going to continue to push these range of issues in order to assure that people, government officials, have to follow the Constitution. Citizens must follow the law; government officials must follow the Constitution.

[00:25:15] So, thank you, Patrick and Anya, for that discussion. I'm going to turn it back over to Melanie right now so we can address some of the questions that people submitted.

[00:25:25] **MH:** Great, thank you, Scott. So, we did want to turn to questions from the supporters who wrote into us. Unfortunately, on this call because of some COVID-related staffing issues, we can't take questions live—usually we do, and we will next time. But we did have a lot that were submitted in advance, so we'll turn to those now. We addressed quite a few earlier in the conversation, but there were a couple more that we wanted to touch on. If you're listening and you have a question for us that we don't answer by the end of the call, you can stay on the line and leave a message, and then we can get back to you that way.

[00:26:00] Many of the questions we received in advance had to do with people concerned about the possibility of frivolous lawsuits, especially given the need for split-second decision making on the part of police officers. We know that those are the two main policy arguments against abolishing qualified immunity, and the listeners wanted to hear the team's take on that.

[00:26:21] **PJ:** Yeah, sure. So, I can answer that. First of all, as we mentioned earlier, courts historically do law and Congress does policy. So, to the extent that there is a policy reason for something like qualified immunity, that should be coming from Congress in the form of a statute instead of coming from the Court in the form of a legal decision. Even if we do go ahead and reach those policies, I first want to point out and just emphasize that qualified immunity is a doctrine that applies to all government workers, like Anya mentioned earlier, not just police.

[00:26:53] So do keep that in mind, but to the extent that we'd look at it as applied to police and we say, "Without qualified immunity would there be a number of frivolous lawsuits and would it stop officers from making split-second decisions?" The answer is no, for two reasons.

[00:27:07] One, there are already a number of mechanisms built into the procedural rules in federal court that allow courts to get rid of frivolous claims, and frankly they can sanction parties for bringing frivolous claims. So there's no need to engraft qualified immunity on top of that and provide a special protection from frivolous lawsuits to government individuals but not to regular people who don't work for the government.

[00:27:31] On the issue of split-second decision making, we don't need qualified immunity to protect officers from split-second decision making because what does that is the Fourth Amendment to the United States Constitution, which only makes unconstitutional unreasonable searches and seizures. And, as the Supreme Court has articulated in *Graham v. Connor*, whether a search or seizure, or use of force, is excessive or unreasonable takes into account all of the circumstances and doesn't apply 20/20 hindsight. Split-second decisions that are reasonably made are already, by definition, reasonable decisions and we don't need qualified immunity, which just goes in and muddles the issue and stops courts from actually reaching that constitutional question.



[00:28:14] **MH:** So, another somewhat related question that came up a lot from listeners was, “Won’t it be impossible to hire police because they’ll be afraid of being impoverished by litigation?” Anya, can you take that one?

[00:28:32] **AB:** Oh yes, absolutely. As Patrick mentioned, qualified immunity is not the only shield that stands in between officers and financial ruin. There are many different mechanisms that protect them in split-second decision situations, as well as in general. There are mechanisms like the reasonableness test under the Fourth Amendment and the Federal Rules of Civil Procedure that are excellent at weeding out bad lawsuits.

[00:29:07] Secondly, there have been a number of studies done, very well-reviewed and reputable studies, that show that, at least right now, 99.8% of officers are indemnified after they are found liable. So there’s simply no evidence of this financial liability on the officers. Also, of course, the first police departments were created in the 1830s. You’re talking about this qualified immunity doctrine being created in 1982. You have 100+ years of police officers operating in this environment, without qualified immunity being there on the books and not being really disturbed by it. We actually talk to former police commissioners on a regular basis, and they tell us that at the end of the day, when it comes to hiring police officers, qualified immunity is not something that they are worried about, and it’s not something that they think is going to cause their financial ruin.

[00:30:16] I’ll just mention one more thing if you are still not persuaded. Consider another project of ours and that’s also going back to the history and tradition of this country, reviving a respondeat superior standard for municipalities, right? So the way it works today is when a corporation, and an employee of a corporation does something in the scope of their employment that causes injury to people, then corporations are liable under the doctrine of respondeat superior, vicarious liability, because they made the decision to hire that person, they made the decision to hire that person and they train that person. So, there is responsibility that they should take.

[00:31:02] So we actually are working with different state legislators on this proposed bill where you would actually have a municipality assuming respondeat superior liability. The way it works today is municipal liability is very difficult to overcome, but if you actually bring it back to the historical standard of respondeat superior and to the way corporations do it today, then you’ll have much more accountability than we have today.

[00:31:34] **MH:** So, we’re running out of time. We’ll do one more question that was submitted in advance and that’s from Richard in California. He wanted to know why the government itself doesn’t vigorously prosecute officials who are guilty of misconduct, because, as he notes, “The constitution never addresses immunity, isn’t this something that the government can hold its own people accountable for?”

[00:31:54] **PJ:** Yeah, sure. So, the government certainly has that power, but I think the problem comes from the fact that prosecutors are the ones making the decision to, for example, charge police with committing crimes. There is an inherent conflict of interest because police can’t operate without prosecutors and prosecutors can’t operate without police. When a prosecutor wants to charge a crime, he needs police to gather evidence and then come testify during the trial. It’s very hard for him to get them to do that if they are unhappy with him because he has charged one of their friends and colleagues with a crime. And so, there is this inherent conflict of interest that prevents prosecutors from charging police with crimes where they might otherwise charge normal people with crimes.

[00:32:41] I think this really highlights the importance of our Project because even if prosecutors were more willing to charge police, it's still ultimately up to prosecutors, and victims have very little, if any say in charging decisions. So, when they bring civil rights lawsuits, like James King did, at least they're in the driver's seat for those lawsuits and they can push their case forward as much as they see fit. When that's left to a prosecutor, it's completely out of their hands, and they're at the mercy of whether the prosecutor wants to bring charges and pursue them.

[00:33:14] **MH:** All right, with that we are out of time. So I will say thank you to Scott, to Patrick and Anya, for your insights. For everyone who joined on the phone, if you missed any of the conversation, we'll have links to an audio recording and a transcript available next week on IJ's website. And again, if you have questions or comments that we weren't able to address during the conversation this afternoon, just stay on the line to leave a message. Thank you again for your support for IJ and have a great evening.