Twitter Thread by Danny Cevallos



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1] Family handcuffed at gunpoint by police sues Aurora, Colorado. Terrible images in the complaint. These cases are filed all the time. This time it's different: Colorado has a new law.

2] According to the complaint, APD relied on license plate scanner that indicated plt's license plate matched that of a stolen vehicle. But it was a motorcycle with Montana plates, not an SUV with Colorado plates, which was what plt was driving.

3] This would be a challenge to win in Federal Court. Police "can rely on information obtained from a police computer database in order to establish probable cause." Hughes v. McWilliams, (SDNY 2009).

4] Police reliance on cpu information is "reasonable even if the information is incorrect, provided the police officer did not know or have reason to know that the information was false or unreliable." Arizona v. Evans, 514 U.S. 1, 15-16 (1995).

5] But it seems from the Complaint that the police knew that the vehicles didn't match and possibly that the states were wrong (and aren't motorcycle plates a different size?).

6] So this might have been a winnable case in federal court, even with "qualified immunity." But with the new law, probably no one will ever file in CO federal court again. They'll all file in CO state court. Here's why...

7] The CO law doesn't exactly "end" qualified immunity. It allows for claims against police who violate CO constitutional rts under CO law. It's a state version of the federal Section 1983, the main federal civil rights statute.

8] BUT, the CO law specifically says “qualified immunity is not a defense to liability.” So *only* in CO court, qualified immunity not a defense. In federal court, under Section 1983, it still is. So, if you're a plaintiff, there's little incentive to sue in fed ct.

9] This is a big deal b/c qualified immunity protects law enforcement from lots of claims. US Supreme Court created qualified immunity in 1982, which shields officers from any liability, unless they violated rights that were “clearly established.”