



Ending Qualified Immunity Act

Background

Across the country, police and law enforcement officers continue to escape legal accountability when they break the law, shielded from liability by the doctrine of qualified immunity. Congress granted individuals the right to sue state and local officials who violate their rights, *including* police officers, in the Civil Rights Act of 1871, now found under Section 1983. However, since 1967 the Supreme Court has issued several decisions gutting this protection by inventing the qualified immunity doctrine, rendering police officers from being successfully sued for misconduct, negligence, or abuse, a unique protection that no other profession holds. The court's broad interpretation of this doctrine has allowed police to violate constitutional rights with impunity, providing officers immunity for everything from unlawful traffic stops to brutality and murder. Qualified immunity shields police from accountability, impedes true justice, and undermines the constitutional rights of every person in this country. It's past time to end qualified immunity.

Qualified Immunity Cases Past and Present

- In 2020, the 5th Circuit held that a correctional officer was entitled to qualified immunity after spraying a person in custody in the face with a chemical agent without provocation.¹
- In 2017, the 11th Circuit ruled that it was an unconstitutional use of excessive force to throw a flashbang into a room with two sleeping people that the officer had not inspected first and although one person was badly burned, the court found the officer was still entitled to immunity.²
- In 2018, the 9th Circuit ruled that a police officer pointing a loaded gun at an unarmed man who remained seated and calm while being watched by another officer was "not objectively reasonable" but that both officers were entitled to immunity, because "the law was not clearly established at the time."³
- Since 2005, courts have increasingly ruled in police's favor in excessive use of force cases, a trend even more⁴
- Examples of recent denials of justice include a case of mistaken identity where a cyclist shot 17 times by five officers and killed in Dallas, a man left permanently brain damaged after being pulled through a broken windshield in Utah, and a man shot dead while attempting to reverse his car. In all cases the court found that the police used excessive force but were still entitled to immunity from liability.⁵

The Ending Qualified Immunity Act

In response to heinous and unjust acts of police misconduct, including the murders of George Floyd and Breonna Taylor, Representatives Pressley has reintroduced legislation to end the doctrine of qualified immunity. The legislation codifies that the qualified immunity doctrine is not grounds for defense for violations of the law. Specifically, this bill would—

- Amend Section 1983 to explicitly state that the qualified immunity doctrine invented by the Supreme Court does NOT provide police officers that brutalize or otherwise violate civil rights with defense or immunity from liability for their actions.
- Clarify Congress' original intent for Section 1983 and note the history and necessity of this protection.

¹ "Fifth Circuit Upholds Qualified Immunity for Guard Pepper-spraying Prisoner Without Provocation," *Prison Legal News*, Apr. 2, 2020, <https://www.prisonlegalnews.org/news/2020/apr/2/fifth-circuit-upholds-qualified-immunity-guard-pepper-spraying-prisoner-without-provocation/>.

² Zoe Tillman, "A Legal Doctrine That Protects Cops In Court Is Getting Fresh Attention As Videos Surface Showing Police Violence," *BuzzFeed News*, June 2, 2020, <https://www.buzzfeednews.com/article/zoetillman/qualified-immunity-police-brutality-protests-george-floyd>.

³ *Ibid*

⁴ Andrew Chung et al., "For Cops Who Kill, Special Supreme Court Protection," *Reuters Investigates*, May 8, 2020, <https://www.reuters.com/investigates/special-report/usa-police-immunity-scotus/>.

⁵ *Ibid*



Endorsements

Center for Disability Rights, NAACP Legal Defense and Educational Fund, The Leadership Conference, Civil Rights Corp, URGE: Unite for Reproductive & Gender Equity, National Immigration Project (NIPNLG), Muslim Advocates, Americans for Democratic Action (ADA), Innocence Project, Campaign To End Qualified Immunity, Louisiana Advocates for Immigrants in Detention, DC Democratic Caucus For Returning Citizens, National Black Justice Coalition, Bend the Arc Jewish Action, American Atheists, National Association of Criminal Defense Lawyers, Women's Community Justice Association, Long Island Social Justice Action Network, Unitarian Universalist Service Committee, Amnesty International USA, Open Society Policy Center, Coalition of Labor Union Women, Transformations CDC, American Sustainable Business Council, Black Alliance for Just Immigration, Constitutional Accountability Center, Japanese American Citizens League, Lawyers for Good Government (L4GG), Project On Government Oversight, Autistic Self Advocacy Network, Earthjustice, Players Coalition, Demand Justice, MomsRising, Public Justice, Baltimore-Washington Conference of The United Methodist Church, Alabama Justice Initiative, Human Rights Watch, Drug Policy Alliance, Our Revolution, Center for Constitutional Rights, National Council of Churches of Christ in the USA (NCC), American Civil Liberties Union, Sierra Club, National Partnership for Women and Families, Center for Constitutional Rights, Equal Justice Society, Defending Rights and Dissent, Mainers for Accountable Leadership, Rights & Democracy NH, Rights & Democracy VT, DemCast USA, #NoRA, Jamaica Plain Progressives, Peace Action, American Family Voices, The Institute for Justice, Common Defense, Border Network for Human Rights, Indivisible Georgia Coalition, Hispanic Federation, National Equality Action Team, We Testify, NARAL Pro-Choice America, Physicians for Reproductive Health, Indivisible San Francisco, Demand Progress, Jewish Council for Public Affairs, Protect Democracy, and Giffords.