



Ending Qualified Immunity Act

Background

Across the country, police officers continue to escape accountability when they break the law, shielded from liability by the doctrine of qualified immunity. In 1871, to help realize the promise of equality protected in the Fourteenth Amendment, Congress passed the Civil Rights Act of 1871, granting individuals the right to sue state and local officials who violate their rights, **including** police officers, under Section 1983. Since 1967, the Supreme Court has issued several decisions gutting this protection by inventing the qualified immunity doctrine, preventing police officers from being successfully sued for abuse of power or misconduct unless a prior case has “clearly established” that the abuse or misconduct is illegal - a unique protection that no other profession holds. The Court’s broad interpretation of this doctrine allows police to violate constitutional rights with impunity, immunizing them 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

- Since 2005, courts have increasingly ruled in police’s favor in excessive use of force cases, a trend that has accelerated in recent years.¹
- Examples of recent denials of justice include a case of mistaken identity where a cyclist was 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.²
- In 2017, the 11th Circuit ruled that while it was an unconstitutional use of excessive force when a police officer threw a flashbang into an uninspected bedroom while two people slept, causing one person to suffer severe burns, the officer was still entitled to qualified immunity.³
- In 2018, the 9th Circuit ruled that it was “not objectively reasonable” when an officer pointed a loaded gun at an unarmed man who remained calmly seated in his car while being watched by another officer; however, both officers were entitled to qualified immunity, because “the law was not clearly established at the time.”⁴

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 Ayanna Pressley and Justin Amash have introduced [legislation](#) to end the doctrine of qualified immunity. The legislation codifies that the qualified immunity doctrine is not grounds for defense for officers that violate 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 civil liability for their actions.
- Clarify Congress’ original intent for Section 1983 and note the history and necessity of this protection.

¹ 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/>.

² *Ibid*

³ *Dukes v. Deaton*, 2017 U.S. App. LEXIS 1367 (11th Cir. 2017)

⁴ *Thompson v. Rahr*, 885 F.3d 582 (9th Cir. 2018)



Endorsements

The Ending Qualified Immunity Act is Endorsed by ACLU of Massachusetts, Arab American Institute, Black Youth Project 100 (BYP100), Center for American Progress, Center for Disability Rights, Center for Popular Democracy, Constitutional Accountability Center, The Daniel Initiative, Drug Policy Alliance, Due Process Institute, Jewish Council for Public Affairs, Lawyers for Civil Rights, The Leadership Conference on Civil and Human Rights, MomsRising, National Association of Criminal Defense Lawyers, National Center for Transgender Equality, National Organization for Women, National Urban League, Open Society Policy Center, Republican Liberty Caucus, The Justice Collaborative, and Young Americans for Liberty.