



End qualified immunity in Vermont

When a Vermont police officer violates someone's rights, they should be held accountable for their actions – and victims should be able to get the justice they deserve.

The legal doctrine of qualified immunity prevents people who are victims of police misconduct from having their cases heard when their rights have been violated. It effectively closes the courthouse doors to victims while making it harder to hold abusive officers accountable.

That's why people from across the political spectrum support ending qualified immunity.

Victims deserve their day in court.

Qualified immunity requires victims of police abuse seeking justice in a civil court to first show that police violated “clearly established law.” That is, victims must be able to point to another, prior case with nearly identical circumstances, or else their case cannot go forward – even in cases where rights violations cause serious injury or death.

Here are some of the cases of police misconduct that have been thrown out due to qualified immunity:

- A ten-year-old boy who was shot while lying on the ground by an officer aiming at the child's non-threatening dog.
- The officers who stole \$225,000 in cash and rare coins while executing a search warrant.
- A fourteen-year-old boy who was shot by officers after he dropped his BB gun and raised his hands.

Nearly

**3 in 4
Vermonters**

support eliminating qualified immunity in Vermont (74 percent).

This includes 85 percent of Democrats, more than half of whom say they “strongly” support ending qualified immunity, and 51 percent of Republicans.

Source: Poll results available at www.aclwt.org/endQI

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There is broad support for ending qualified immunity.

Critics from across the political spectrum contend that qualified immunity is an extreme, court-created mistake, and one that is incompatible with civil rights.

Justice Sonia Sotomayor:

Qualified immunity “tells officers that they can shoot first and think later, and it tells the public that palpably unreasonable conduct will go unpunished...there is nothing right or just under the law about this.”

Justice Clarence Thomas:

“Our qualified immunity jurisprudence is on shaky ground” and “our analysis is no longer grounded in the common law.”

Cato Institute:

“Qualified immunity is one of the most obviously unjustified legal doctrines in our nation’s history...[It] has failed utterly as a matter of law, doctrine, and public policy.”

Law Enforcement Action Partnership (LEAP):

“We believe it is crucial to end a legal doctrine that has contributed to the erosion of public trust in the justice system and made all of us less safe: qualified immunity.”

Ending qualified immunity is a racial justice imperative.

As with almost every aspect of our legal system, a lack of police accountability has a disproportionate impact on Black people in Vermont. Police data shows that Black people in Vermont are stopped, searched, cited, arrested, and subjected to police violence at far greater rates than white people. More than two in three Vermonters (69 percent) think Vermont needs to do more to address discrimination in policing. Ending qualified immunity is a meaningful step towards increasing police accountability in our state.

What can we do about it?

The Colorado and New Mexico legislatures recently ended qualified immunity in their states. The Vermont legislature has the opportunity to end qualified immunity in Vermont. Here is what we are asking legislators to do:

- Eliminate qualified immunity as a defense to constitutional, common law, and statutory causes of action for law enforcement officers.
- Ensure law enforcement officers are liable for the “failure to intervene.”
- Ensure victims can recover from law enforcement employers and require officers to face personal liability when they have not acted in good faith.

Tell your legislators: It’s time to end qualified immunity.

Contact your legislators and ask them to end qualified immunity in Vermont and continue the work of reimagining public safety in our state.

Visit www.acluvt.org/endQI.

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