



The Rutland Area
Branch of the
NAACP
naacprutland.org



Jan. 25, 2022

Senator Dick Sears Jr., Chair
Senator Philip Baruth, Vice Chair
Senator Jeanette K. White
Senator Alice W. Nitka
Senator Joe Benning

To the esteemed members of the Vermont Senate Judiciary Committee:

We the undersigned organizations, on behalf of our members and supporters, are writing to voice our strong support for S.254, an act relating to creating a private right of action against law enforcement officers for violating rights established under Vermont law. This bill would eliminate qualified immunity as a legal defense for law enforcement officers who have violated someone’s constitutional or civil rights.

We urge you to support S.254 because it will advance Vermont’s commitment to police accountability, racial justice, and court reform; provide access to justice for victims of constitutional or civil rights violations; and improve communities’ sense of trust in law enforcement and the judicial system.

Ending qualified immunity will also incentivize better law enforcement policies, training, and supervision, thereby preventing civil rights violations from occurring in the first place.

This proposal is at bottom very simple and straightforward: when a Vermont police officer violates someone’s rights, the victim should be able to seek justice. But qualified immunity can effectively prevent victims from having their day in court, even in cases of extreme police misconduct. Qualified immunity perpetuates a

system that deprives victims of access to justice, while also undermining police accountability and eroding public trust.

Simply put, qualified immunity is incompatible with Vermont values and Vermonters' civil rights. It is time to join the growing number of states that are reconsidering this unjust doctrine for the first time, and states like Colorado and New Mexico that have successfully adopted these reforms.

We are grateful for your recent efforts to reimagine and transform policing in Vermont. Yet qualified immunity stands as a major impediment to the ultimate success of that work. And, despite efforts to curb police violence and address systemic racism, it is clear how much remains the same. Data consistently shows Vermont law enforcement stops, searches, arrests, and uses force against Black people at disproportionate rates, and we continue to see examples of police abuse that might have been prevented if there were better incentives to hire, train, and oversee police.ⁱ

This legislation would remove an unjust barrier to victims of police misconduct, move us towards a law enforcement culture of systemic accountability, and help to build trust between law enforcement and the communities they serve. It is an essential step forward for Vermont, and ending qualified immunity is supported by three in four Vermonters, including many of our members and supporters.

For all of these reasons, we hope you will lend your unequivocal support to this critically important legislation.

Sincerely,

American Civil Liberties Union of Vermont
Migrant Justice
Planned Parenthood Vermont Action Fund
Pride Center of Vermont
Rights and Democracy
Rutland Area Branch of the NAACP
Vermont Businesses for Social Responsibility
Vermonters for Criminal Justice Reform
Voices for Vermont's Children
Vermont Public Interest Research Group
Windham County Branch of the NAACP
Women's Justice and Freedom Initiative

^{i i} See, e.g., Ethan Weinstein, *Shaftsbury man sues Vermont State Police for \$25 million, alleging troopers assaulted him*, VT Digger, Jan. 18, 2022, <https://vtdigger.org/2022/01/18/shaftsbury-man-sues-vermont-state-police-for-25-million-alleging-troopers-assaulted-him/> (“The lawsuit alleges that ‘Zink punched plaintiff in the head, face, and his lower body. All the while, plaintiff was handcuffed and lying face down

on the icy, snowy driveway.”); Derek Brouwer, *Vermont Bill Would End Doctrine That Shields Cops from Lawsuits*, Seven Days, Dec. 15, 2021, <https://www.sevendaysvt.com/OffMessage/archives/2021/12/15/vermont-bill-would-end-doctrine-that-shields-cops-from-lawsuits> (“[T]he proposed bill would provide a new option for people such as Jeremie Meli. He was injured in 2018 when Burlington police sergeant Jason Bellavance pushed him into a wall. Meli and his brothers are suing Bellavance and the City of Burlington in federal court, alleging civil rights violations and excessive force. Bellavance was disciplined for his actions and later left the department under a separation agreement. But city attorneys are seeking to have the civil claims dismissed, in part, on grounds that Bellavance is entitled to qualified immunity. ‘As of September 9, 2018, there was no establish[ed] rule making clear, beyond debate, that it was unconstitutional for Defendant Bellavance to push Plaintiff in the chest,’ the city’s attorneys wrote.”)