



Montgomery County Young Democrats Testimony to House Judiciary Committee in Support of HB 1012 – Police Immunity and Accountability Act 2/24/2022

Delegate Wilkins and members of the House Judiciary Committee:

The Montgomery County Young Democrats (MCYD) support [House Bill 1012](#), which proposes that a police officer who subjects, or causes to be subjected, any individual to the deprivation of certain rights under the Maryland Constitution or the U.S. Constitution is liable for certain damages; establishes that a police officer is not immune from civil or criminal liability for violations of another individual's constitutional rights; and requires the Maryland Police Training and Standards Commission to review certain cases brought under the Act. This bill will change structural incentives for state and local law enforcement agencies, encouraging them to take more responsibility for the actions of their employees, as well as return the Constitution to its proper place as a limit on government actions.

Montgomery County Young Democrats is an organization of young Democrats, ages 14-34, who are working to make Montgomery County and Maryland better places to live, with freedom, opportunity, and justice for all. With that, we are invested in the prospect of restoring public faith in law enforcement – by ensuring consistent, meaningful, and just accountability under the law – for the simple fact that civil society is impossible without a well-functioning criminal justice system. This starts with the passage of the Police Immunity and Accountability Act.

The judicial doctrine of qualified immunity shields public officials, like police officers, from liability when they break the law. The doctrine was created by the Supreme Court in the 1960s, with no basis statutory text, legislative intent, or sound public policy. While established civil rights laws maintain that any government official who violates someone's constitutional rights "shall be liable" to the person they injured, the Supreme Court's introduction of qualified immunity has allowed police officers to avoid responsibility.

A Reuters study showed that courts have been increasingly willing to grant police immunity from suit under the arbitrary logic of qualified immunity. In practice, the doctrine uses illogical rules that effectively prevent police officers from being sued for unconstitutional misconduct unless the plaintiff can identify a preexisting case with nearly identical facts. However, since cases barred by qualified immunity are dismissed before trial, the precedent the doctrine demands is

rarely set. Unlike most legal defenses, a victim or the victim's family must convince a court that qualified immunity doesn't apply. All a government officer must do is invoke the doctrine. If the victim can't persuade a court qualified immunity shouldn't apply – by pointing to a specific earlier case – the victim's case is thrown out. As such, law enforcement officials are now routinely excused from bad behavior including actions that cause harm or death to innocent victims or blatantly violate a person's rights.

The loss of public trust in law enforcement comes from a widespread perception that bad officers are not held accountable when things go wrong. There's merit to this perception. A 2019 investigation by USA Today found that in most police forces, less than 10 percent of officers are investigated for misconduct. A root of this problem is qualified immunity, which incentivizes police departments to hang on to bad officers.

According to research from the Cato Institute and Pew Research Center, 66 percent of Americans now support repealing the qualified immunity so that citizens can sue police for wrongful misconduct. Many local jurisdictions – including New York City, New Mexico, and Colorado – have passed bipartisan legislation to end qualified immunity. Their efforts will help police rebuild the trust and respect of their communities because those communities will know that misconduct is no longer tolerated on the force.

The Police Immunity and Accountability Act will be an opportunity for Maryland to address current limits in policing standards and for public officials to take an active role in reducing civil and constitutional rights violations.

The Montgomery County Young Democrats urge you to favorably report HB 1012, vote for it, and ask your colleagues to vote for it as well.