



The power we give police officers is sacred. We have a moral duty to hold them accountable.

For our justice system to have any legitimacy, wrongdoers must be punished fairly and equally, whether they are holding a badge or not.

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The coercive force we let law enforcement use to maintain public order and manage public safety is one of the most important and sacred responsibilities we entrust to our government. Unfortunately, a policy called qualified immunity undermines the very integrity of our justice system, serving as a linchpin for why accountability for police misconduct and abuse remains so elusive.

Sadly, qualified immunity is not a policy that most people are even aware of. It's rarely preached or taught about in our nation's pulpits and pews. But the racial awakening ignited by the brutal murder of George Floyd in 2020 has led to long overdue scrutiny of this legal doctrine.

In theory, qualified immunity exists to protect public-sector workers from frivolous lawsuits based on actions they took as part of their official duties. In practice, however, the fact that this doctrine is applied to law enforcement means civil suits against police officers are often dismissed without going to trial.

This happens because the Supreme Court has established a standard that is nearly impossible to meet: To overcome a claim of qualified immunity, plaintiffs have to show that a previous case exists with similar enough facts that the police officer would be "on notice that his conduct constituted excessive force."

In other words, as the libertarian Cato Institute puts it, justice in civil lawsuits alleging police misconduct turns "not on whether state actors broke the law, nor even on how serious their misconduct was, but simply on the happenstance of whether the case law in their jurisdiction happens to include prior cases with fact patterns that match their own."

The powerful shield against civil liability that qualified immunity provides reinforces the quite reasonable perception that police officers are rarely held accountable for violating the very laws

they're hired to enforce. It is difficult for any community to see agents of the state as legitimate if they are not seen as accountable.

Justice finds its roots in morality

The legal doctrine of qualified immunity contradicts core moral and religious principles. Our faith traditions offer timeless first order principles that can and must be applied to our policing and justice system.

At the very heart of the Judeo-Christian faith tradition is the belief in "imago dei," that every person is made in the very image and likeness of God.

Deputizing gone wild: Federal task forces give state and local cops ridiculously broad immunity

In other words, every person possesses inherent dignity and worth. In many respects, our nation's commitments to liberty and equal justice under the law – which are codified in our Constitution and its amendments – are rooted in and bolstered by this theological conviction.

From the Christian tradition, the Apostle Paul's letter to the church at Rome (Romans 13) provides a timeless and salient moral framework. Paul summarizes the role of government and authorities as having two principal roles: (1) to restrain evil/punish the wrongdoer and (2) to advance the common good. Qualified immunity compromises and undermines both of these principal roles.

It is much harder to restrain evil when members of the community, particularly people of color and marginalized people, so often lack trust in the police officers who are pledged to protect them, due to the inability to hold bad officers accountable. Qualified immunity also sabotages and poisons the common good by shielding and privileging officers in unjust and unnecessary ways.

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What renders a law unjust?

As Dr. Martin Luther King Jr. wrote in his famous Letter from Birmingham Jail: "A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust."

Want to fix racist policing?: Take away immunity. Give officers more ethics training instead.

Applying this standard to policing, qualified immunity is an unjust legal doctrine because it degrades the human personality of those who are victims of police abuse. It also degrades the

human personality of the vast majority of police who are trying to do their job honorably and ethically, but whose job is made more difficult and even more dangerous due to the lack of accountability for the minority of officers who abuse the power we entrusted to them.

While policing is an increasingly challenging and often risky profession, no one can or should be above the law. Otherwise, both policing and public safety suffer.

For the sake of the common good, the United States desperately needs to transform the relationship between police misconduct and accountability. Ending qualified immunity for law enforcement is an important step on that journey.