



Senate Democrats push to end qualified immunity after George Floyd's death

Zaheer

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A group of Senate Democrats on Thursday introduced a resolution pushing for the end of "qualified immunity," a legal doctrine created by the Supreme Court Aiming to protect government employees from frivolous lawsuits, but in recent years it has been reported that it allows bad actors to escape responsibility for violating people's rights.

The Democrats' resolution was in reaction to the death of George Floyd while in the custody of the Minneapolis Police Department, an event that has rekindled fury against the doctrine on both sides of the aisle.

"Law enforcement should not be fully protected from liability when they violate someone's civil rights," Sen. Kamala Harris, a Democrat from California, said of the resolution. "It is clear that the Supreme Court's qualified immunity doctrine is broken and in need of reform. It is time for us to say clearly that police officers must be accountable to the law and to the people they are sworn to protect, period."

Harris was joined by Senators Edward Markey, D-Mass., Cory Booker, D-N.J., Bernie Sanders, I-Vt., Elizabeth Warren, D-Mass., And Chris Van Hollen, D-Md.

The resolution says that the Senate "recognizes and acknowledges the legal and racial inequities inherent in the judicial doctrine of qualified immunity, since that doctrine applies to law enforcement officers." He says that qualified immunity is the result of "an erroneous judicial interpretation of a statute enacted by Congress" and concludes that Congress should change the law that is the basis of the doctrine.

The Supreme Court justified the qualified immunity as reflecting "the need to protect officials who must exercise discretion and the related public interest in encouraging the vigorous exercise of official authority," including police officers. Because of their need to make decisions in a fraction of a second, officers are said to be protected from being sued for official actions unless their actions are clearly governed by previous precedent and "any reasonable official in the defendant's shoes would have understood he was raping. " the rights of a person.

However, the effect of that doctrine has often been that egregious conduct by law enforcement agencies goes unpunished, protected by a Supreme Court precedent that judges have been reluctant to review for years.

"For some observers, qualified immunity smacks of unqualified impunity, allowing public officials to evade the consequences of misbehavior, no matter how palpably unreasonable," quasi-celebrity Fifth Circuit Court of Appeals judge Don Willett in conservative legal circles and a member of President Trump's Supreme Court List said in a 2018 opinion.

Others on the right have criticized legal doctrine over the years, including the libertarian-leaning Cato Institute.

"Qualified immunity is the cornerstone of near-null US accountability policy for law enforcement," said Clark Neily, the organization's vice president for criminal justice. "It is an illegitimate legal doctrine, made by a judge, that has systematically undermined our right to be free from the illegitimate use of force by government agents and that helped set the stage for the brutalization of George Floyd and many others, especially in communities of color. "

Neily added: "We applaud Senators Harris, Markey and Booker for their efforts to correct this historic mistake and create a culture of genuine accountability for police, prosecutors and other public officials."

The Democrats' resolution describes the phenomenon Willett pointed to, saying it makes it easier for officials to shirk responsibility for the technicalities.

"[B] and the narrow construction of the & # 39; clearly established & # 39; standard for any objective or contextual distinction between the contested use of excessive force and the use of excessive force in a previous case, including small or insignificant distinctions , are the cause of qualified immunity with respect to the contested use of excessive force, "says the resolution, the doctrine" unfairly prevents victims of police violence from claiming "their rights."

"For too long our courts have closed their doors to people seeking redress when the police violate their constitutional rights," Booker said separately. "We must ensure that there is access to justice to truly hold the police accountable for their misconduct."