



Civil Liberties Advocates Urge Lawmakers to Consider Police Reform

Eva Mckend

June 5, 2020

According to the Center for Popular Democracy, taxpayers are spending over \$100 billion a year on policing across the nation.

Clark Neily, of the libertarian think tank Cato Institute, says when it comes to settlements for civil rights violations, officers, through their liability insurance, should have to foot the bill.

"There are insurance companies that will provide liability insurance for police officers but they don't really need it. There hasn't been a real demand for it because 99.98% of all damages in civil rights cases are paid by the department or the city, which means ultimately by the taxpayers," said Neily.

The money states save on settlements could be used to create an insurance allowance for officers. Neily thinks it would incentivize them to think more critically before applying force. He wants to couple that with new constitutional small claims courts.

"You could go into this special tribunal and basically litigate relatively smaller type claims where maybe you don't have a significant physical injury but you still object to the way that you were treated and the way your rights were violated by the police officer. Take something really simple, like a police officer looking inside the trunk of your car without consent and without a warrant," said Neily.

Historically police unions have pushed back against these reforms, arguing policing is low-pay and high-risk, and that the protections in place for them, including the legal tool of qualified immunity, are essential.

"Qualified immunity is when any government official, not just police officers, are basically shielded from being sued and sometimes prosecuted for any act that they may be involved in within the commission of their employment," said Lucrecia Johnson, a civil rights attorney.

The issue is before the Supreme Court.

Johnson says it's difficult for civilians who file complaints to win.

"What makes it so hard right now for a complaint to proceed is that a plaintiff has to show that their constitutional right was violated and at the time of the event, the officer or the government official should have known that it was unreasonable for them to do it and that second prong is where most cases fail," she said.

Johnson says the national reform movement underway could move the needle.

Neily shares in that belief and even thinks there's a chance no-knock warrants like the one used in the case of Breonna Taylor, killed in her apartment by Louisville police in March, will be issued less often.

"There are many judges that just hand out warrants like Halloween candy," said Neily.

The Fraternal Order of Police declined to comment for this story.