



LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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March 25, 2021

Re: HB 1727 - The Bad Apples in Law Enforcement Accountability Act

Position: SUPPORT

To: House Restorative Justice Committee

Dear Chairperson Cassidy and Members of the Restorative Justice
Committee:

Thank you for the opportunity to testify today. As an organization of law enforcement professionals, the Law Enforcement Action Partnership is writing to express our support for **HB 1727**, which would remove unnecessary barriers so courts can hold police officers accountable when they violate a person's constitutional rights in Illinois. Existing barriers to police accountability create a serious public safety issue.

The Law Enforcement Action Partnership (LEAP) is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience. Our mission is to make communities safer by focusing law enforcement resources on the greatest threats to public safety and addressing the root causes of crime.

In order to improve public safety, we need to build trust in law enforcement, and in order to build trust, there must be transparency and accountability. As such, we believe it is crucial to end a legal doctrine that has contributed to the erosion of public trust in the justice system and made all of us less safe: qualified immunity.

Trusting relationships between police and civilians are not just a preference; they are a requirement for public safety. Without these relationships, police are left to investigate crimes with little to no help from the people we serve. People have so little trust in us that a majority of violent crimes go unreported, even by victims themselves. Our institutions are failing to protect and serve in part because people have lost trust in our ability to make a difference and would rather take matters into their own hands or suffer in silence.

LawEnforcementActionPartnership.org

Formerly known as Law Enforcement Against Prohibition

One major reason that people do not trust law enforcement is that they believe police are not held accountable to the law. A key reason for this belief is the qualified immunity doctrine.

Qualified immunity can prevent legitimate cases from being heard when someone files a civil lawsuit because a police officer violated their constitutional rights. The doctrine holds officers and their agencies harmless unless the officer's action has already been "clearly established" as a constitutional violation in that court's jurisdiction.

For example, in *Jessop v City of Fresno*, police officers stole money, and the victims sued. The Ninth Circuit dismissed the lawsuit on qualified immunity grounds, because no previous Ninth Circuit case specifically said that police stealing from plaintiffs is a violation of the Fourth Amendment. When such cases are dismissed, the media firestorm has a devastating impact on public trust in the justice system.

We understand firsthand why police are concerned about losing the qualified immunity defense, and we want to be clear that this concern is not warranted.

First, qualified immunity is not the officer's lone shield protecting us from a flood of frivolous lawsuits. Studies show that judges dismiss cases on qualified immunity grounds in less than [four percent](#) of civil rights cases involving law enforcement. When cases are without merit, judges dismiss them based on other tools in the federal rules of civil procedure. When cases have merit and shouldn't be dismissed, these other tools don't apply, so defense attorneys turn to qualified immunity.

Second, when a case makes it into court, qualified immunity is not the officer's only defense for actions that were reasonable or in good faith. Our real protection is the Fourth Amendment itself, which is only violated by "unreasonable searches or seizures." Officers who acted in a reasonable way considering the heat of the moment are protected by this "reasonableness standard," without the need to resort to qualified immunity.

Finally, qualified immunity is not the only thing standing between officers and bankruptcy -- in practice, officers are never bankrupted by these lawsuits. When officers' actions lead to settlements or judgments against them, [research shows](#) that 99.98% of the bills get paid by cities. Governments foot the bill even when indemnifying the officer is against

local law or policy, and even when the officer is terminated or convicted in criminal court for their conduct. Ending qualified immunity will not change this practice. Officers will not be bankrupted by settlements, judgments, or personal liability insurance.

In short, ending qualified immunity will not bring open season upon law enforcement. It will simply allow judges to hear the facts of the most egregious cases, which are currently causing the public perception that police are above the law.

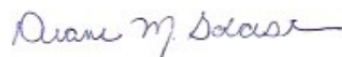
Qualified immunity is deeply unpopular. [Two-thirds of Americans](#) say that civilians need to have the power to sue police officers in order to hold them accountable for misconduct and excessive use of force, even if that makes police work more difficult. In fact, we believe it will make police work easier by helping us rebuild community trust.

The nationwide uprisings after the killing of George Floyd last summer indicate a breaking point. We can keep going down this same road, or we can chart a better path that inspires trust in police work. We do not expect perfection from police; we simply expect that officers who break our oath to protect and serve are held accountable for their actions. Qualified immunity stands in the way of accountability.

HB 1727 is a big important step in the right direction to build community trust in law enforcement. This legislation sends a message to the people of Illinois who believe that police are not held accountable for their unconstitutional actions against citizens. We urge you to restore accountability to those of us charged with upholding the law and protecting our communities. The safety of our communities requires no less.

Thank you for the opportunity to share our perspective in support of this bill.

Respectfully,



Lt. Diane Goldstein (Ret.)
Executive Director, Law Enforcement Action Partnership