

Qualified Immunity Commission
24 Beacon Street
Room 136
Boston, MA 02133

8.19.21

Members of the Special Commission on Qualified Immunity,

We write to you today on behalf of Strategies for Youth, a national policy and training organization dedicated to improving police-youth interactions and reducing disproportionate minority contact. We would like to share our concerns about maintaining the qualified immunity doctrine, and its impact on the administration of justice in the Commonwealth, particularly as it relates to fair and just outcomes for our children.

Qualified immunity privileges one class of people as above the law. Our common law evolves daily, on the backs of average citizens, who have their cases heard and ruled upon, many as matters of first impression. Under both civil and criminal legal standards, ignorance of the law is never an excuse and reasonableness is not inextricably bound to precedent. By requiring specific case law and fact patterns to dictate outcomes in qualified immunity litigation, we elevate police officers outside the standards that otherwise apply across the Commonwealth's citizenry. They, in effect, become above the law. Justice is simply not administered under such a structure.

Massachusetts became the 47th state to adopt a Peace Officer Standards and Training Commission only this year, ranks 48th in state expenditures on law enforcement training, and has no state law mandating or enforcing continued training for law enforcement after the academy. The Commonwealth's reliance on qualified immunity, when it does not provide the training and standards necessary to administer justice effectively and fairly, puts youth at risk. In addition, the very nature of the juvenile justice system, and the lack of cases that end in final dispositions with appellate records, compound the inherent problems with the qualified immunity doctrine when applied to young people's claims. Reliance on expectations and precedent, in the absence of any, is total, not qualified, immunity.

When considering the future of qualified immunity in Massachusetts, we urge you not to forget about the thousands of young people who interact with the police and are processed through the juvenile justice system each year. Qualified immunity limits all litigants' rights to meaningful remedies under the law, but it is particularly pernicious for young people who have been mistreated by law enforcement. If we claim to value our children, ending qualified immunity in the Commonwealth is essential.

Sincerely,



Kristen Wheeler
Staff Attorney



Lisa Thurau
Executive Director