

COVER PAGE

NAME: Frederick L. Thomas

**Position: National President, National Organization of Black Law
Enforcement Executives (NOBLE), Captain, East Baton Rouge Parish
Sheriff's Office**

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TITLE: Examining Civil Rights Litigation Reform, Part 1: Qualified Immunity

Prepared Testimony of Captain Frederick L. Thomas
President of the National Organization of Black Law Enforcement Executives
Before the U.S. House Committee on the Judiciary, Subcommittee on the
Constitution, Civil Rights, and Civil Liberties
Hearing on: “Examining Civil Rights Litigation Reform, Part 1: Qualified
Immunity”
Thursday, March 31, 2022

Chairman Jerrold Nadler, Ranking Member, Congressman Jim Jordan,
Subcommittee Chairman, Congressman Steve Cohen, Ranking Member,
Congressman Mike Johnson, and committee members:

Thank you for the opportunity to provide testimony regarding Qualified Immunity on behalf of the National Organization of Black Law Enforcement Executives.

My name is Frederick L. Thomas. I am the National President of NOBLE. I am also the Captain of the East Baton Rouge Parish Sheriff’s Office. I have been in law enforcement for 30 years and 26 years in the Louisiana Army National Guard. I am a U.S. Military Combat Veteran who served in “Operation Iraqi Freedom.”

NOBLE members serve at every level of command in federal, state, and local law enforcement agencies. 50 chapters across the U.S. represent thousands of individuals, including criminal justice practitioners. Our members are as diverse as the nation we protect and serve. Their views vary just as much. However, we all agree that qualified immunity needs to be revisited.

NOBLE is honored to testify, in hopes of addressing the unintended consequences and many misconceptions that keep us from police reform.

The “clearly established standard” in the current doctrine sets a high bar that favors law enforcement. But getting rid of qualified immunity altogether threatens public safety.

Instead, NOBLE proposes:

- Strengthening trust and legitimacy between communities and law enforcement

AND

- Making policing more humane and effective.

In my experience, the unresolved issues around police violence, and the failure to create safeguards that address the present imbalance have had consequences on law enforcement agencies across the country.

- Recruitment and retention are at an all-time low
- State and local government budgets are strained to their insurance limits
- Officer performance and morale have been negatively impacted

NOBLE believes in doing the right thing for the public. We call for our profession to come together to:

- Provide reasonable recommendations to our legislators

AND

- Educate the public about the real consequences on either side of the arguments.

The outlaw is Misinformation. Our saving grace is Unity, as public servants we must share our expertise with transparency so you can make real federal policy changes.

NOBLE joins law enforcement organizations nationwide to propose the assessment of claims of qualified immunity based on whether an officer's conduct was objectively reasonable, or if there was fair notice that the conduct violates a constitutional right.

- Fair notice allows plaintiffs to point to related case law to prove the conduct in question was unconstitutional.
- The objective reasonableness standard accounts for situations where there is no previous case law related to the conduct in question.

These recommendations ease the burden on plaintiffs while ensuring law enforcement officers are still appropriately protected. They increase transparency and better ensure those who engage in gross misconduct are held accountable.

NOBLE knows firsthand the history of civil rights in this country:

- We know it from our legislative experience.
- We know it from our law enforcement experience.
- Maybe, most importantly, we know it from personal experience.

This intimate knowledge lets us understand this is not a black and white issue.

Real reform requires us to explore best practices, such as:

- Improving officer training in de-escalation tactics, crisis intervention and deploying effective alternatives to lethal force
- Embracing procedural justice
- Instituting more selective recruitment methods and standards

AND

- Reimagining public safety without overreliance on police.

We lend our expertise as public servants to creating a nation that is united, balanced and ensures justice for all. We dare to reimagine policing based on dialogue, examination, and allocation of resources. We believe oversight will help build trust and transparency in our neighborhoods, especially our communities of color.

This is a noble profession. Most police officers do their jobs every day with respect and commitment to the value of life and our democracy. NOBLE was founded in 1976 during a 3-day symposium to discuss the high crime rate in black

urban communities. Today, this organization represents over 3,400 members who serve all communities and all Americans.

In closing, NOBLE supports comprehensive legislation that improves law enforcement in all ways, at all levels. Police reform and qualified immunity are complex issues. We encourage all interested parties in law enforcement and Congress to come together to address them.

I thank you, Chairman Nadler, and the Committee Members, for supporting our profession, listening to the voices of NOBLE members, and for the invitation to appear today. I will now answer any questions you may have for me.