



# Qualified Immunity 360

A Multi-Part Presentation on the History, Legal Basis, and Utility of the Judge-Made Defense to Claims under 42 U.S.C. § 1983.

The [Washington State Minority and Justice Commission](#) is sponsoring a webinar presentation on qualified immunity, co-hosted by Washington Supreme Court Justice Mary I. Yu and Judge David Whedbee of the King County Superior Court.

The presentation aims to facilitate a “360” discussion of the doctrine to educate practitioners, judges, law students, and the public on the mechanics, history, and public policy behind the doctrine.

When: Friday, May 7, 2021, from 8:00 a.m. to 4:00 p.m. (with discussion afterward for those who are interested). WSBA CLE credit available.

[Pre-Registration Required](#)

Co-sponsored by:

Center for  
**CIVIL & HUMAN RIGHTS**  
at Gonzaga Law

**W** SCHOOL OF LAW  
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PANELISTS  
**David B. Owens**  
Partner at Loevy & Loevy



**Brian G. Maxey**  
Principal, Modern Policing  
The Maxey Group, LLC



**Tiffany R. Wright**  
Adjunct professor  
Howard University School of Law  
Civil Rights Clinic



**James E. Pfander**  
Owen L. Coon Professor of Law  
Northwestern School of Law



**Janet C. Hoeffel**  
Catherine D. Pierson Professor  
of Law  
Tulane Law School



**Joanna C. Schwartz**  
Professor of Law  
UCLA School of Law



**Hon. Carlton W. Reeves**  
Judge  
United States District Court  
Southern District of Mississippi



# MINORITY AND JUSTICE COMMISSION PRESENTS: QUALIFIED IMMUNITY 360

A MULTI-PART PRESENTATION ON THE HISTORY, LEGAL BASIS, AND UTILITY OF  
THE JUDGE-MADE DEFENSE.

MAY 7, 2021

[VIEW LIVESTREAM](#)

*Co-sponsored by the Washington State Bar Association, Seattle University School of Law,  
University of Washington School of Law, and Gonzaga University School of Law*

**8:00:** Welcome – Justice Mary Yu, *Co-chair, Minority and Justice Commission*

**8:10-8:25:** Introduction of the topic and overview of the day – Judge David Whedbee, *King County Superior Court*

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**I. 8:30 - 9:30**

David Owens, Seattle/Chicago-based plaintiff’s attorney and Adjunct Professor with active §1983 litigation across the county, will address the practical analysis when doing case selection, to determine the viability of claims against the current qualified immunity case law and procedural obstacles. Mr. Owens, who will be teaching a class at Stanford on race and §1983, will also discuss the disproportionate impact of police use of force on communities of color and related adverse effects of qualified immunity.

**9:30-9:40:** 10 minute break

**I. 9:40 - 10:40**

Brian Maxey, former Assistant City Attorney for Cities of Seattle and New York. Mr. Maxey will discuss the assessment of an officer’s defense including qualified immunity and its advantages to the officer. Mr. Maxey will also address related concerns of officer indemnification and municipal liability under *Monell*, in addition to his experience litigating the defense in over 300 cases in federal courts.

**10:40-10:50:** 10 minute break

**II. 10:50 - 11:50**

Tiffany Wright, Adjunct Professor, *Howard University School of Law Civil Rights Clinic*, will discuss the social and legal historical background for the emergence of the doctrine, including the legislative intent that animated the Civil Rights Act of 1871, and the failure in the post-Reconstruction era to enforce constitutional protections under the Act through to *Monroe v. Pape*, 365 U.S. 167 (1961).

**11:50 - 12:30:** Lunch

**III. 12:30 - 1:30**

James Pfander, Professor, *Northwestern School of Law*, will address the legal validity of qualified immunity as rooted in common law at the time of the passage of the Civil Rights Act of 1871, and as held in *Pierson v. Ray*, 386 U.S. 547 (1967), where the U.S. Supreme Court first recognized the defense.

Janet Hoeffel, Professor, *Tulane Law School*, will discuss the advent of the “reasonably unreasonable police officer” in *Pierson* and as further developed in subsequent case law such as *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), where the U.S. Supreme Court expanded its theory for qualified immunity based on public policy considerations of shielding officers from the burdens of litigation.

**1:30 - 1:40:** 10 minute break

**IV. 1:40 - 2:40**

Joanna Schwartz, Professor, *UCLA School of Law*, will address the question of whether qualified immunity works as contemplated by the U.S. Supreme Court and its public policy concerns, examining the question in terms of the doctrine’s implications for courts and litigants based on empirical studies. She will present new research building on her articles, *The Case Against Qualified Immunity*, 93 Notre Dame L. Rev. 1797 (2018), and *How Qualified Immunity Fails*, 127 Yale L. Rev. 2 (2017).

**2:40 - 3:00:** 20 minute break

**V. 3:00 - 4:00**

Judge Carlton Reeves, of the Southern District of Mississippi, will discuss his tour de force opinion in *Jamison v. McClendon*, No. 16cv-595- CWR-LRA (S.D.Miss. Aug. 4, 2020), his approach to drafting the opinion and any reactions to the opinion. The presentation will be conducted interview-style with Chief Justice Steven González interviewing Judge Reeves.

**VI. Audience Discussion:** open discussion moderated by Judge David Whedbee.

Audience will have opportunities to ask questions to presenters, and discuss alternatives to police accountability notwithstanding qualified immunity. Judges will have opportunity to discuss ethical concerns about criticizing a judge-made doctrine in light of the presentation, and any misgivings about the qualified immunity doctrine.