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THIRD, FOURTH AND FIFTH CHANCES

*Some cops repeatedly avoid meaningful sanctions.
Then disaster strikes.*



For Police Issues by Julius (Jay) Wachtel. Let's begin with [a colorful quote](#):

Lots of times some skell [a mope] is fighting a cop tooth and nail, then a cop loses control, which is easy to do, and then you lose your temper and somebody videotapes you, and the next thing you know you're losing your job.

Retired NYPD sergeant Mike Bosak's words aptly describe the potentially career-busting perils his former colleagues faced on the morning of April 10, 2009 when a horde of student protesters [burst through the doors](#) of The New School, a local university. Video footage taken inside the institution [depicted officers going about their business calmly](#) as students staged a sit-in. But what happened in the chaos of the streets was something else, with [officers chasing protesters](#) in a helter-skelter fashion reminiscent of the Keystone Cops.



That's what worried the former sergeant. Watch as that angry cop aggressively approaches a student who's yelling "shame on you!" and shoves him to the ground. Fortunately the shovee [was not seriously hurt](#). But imagine the consequences had the young man's head forcefully struck the



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pavement. Such as what happened to the senior citizen protester in “[Gold Badges](#)”.

Your writer can personally attest that officers habitually shrug off taunts and worse. Yet many cops are burdened with colleagues who repeatedly manifest poor self-control. As headlines regularly remind us, when armed humans lose their cool the consequences can be dreadful. In [a recent investigative piece](#), “The Bad Cops: How Minneapolis protects its worst police officers until it’s too late,” the *Minnesota Reformer* reviewed records of citizen complaints against Minneapolis officers between 2013-2019. It found 1,924. Sixty percent were closed without action. Thirty-five percent led to “coaching”; two percent to “mediation.” Discipline was imposed in three percent of cases. Those 53 included 24 suspensions, 22 letters of reprimand, one demotion, and a relatively measly six firings.

Over the years Minnesota news outlets have chronicled the saga of a certain veteran officer and police union functionary. We’ll refer to him as MPD1. [According to Minnesota Public Radio](#) MPD1 was the subject of “more than 30” complaint investigations between 2000-2016. While most were apparently closed without action, he received two letters of reprimand in 2012 and was suspended twice in 2013.

MPD1’s first incident of note happened in 2011, when he and another officer severely kicked a man whom they suspected had a gun. Their target, whom they rendered unconscious, turned out to be unarmed. He sued, and the city eventually paid out \$85,000. Yet that didn’t slow the officer down. One year later [an online video](#) shows MPD1 choking one activist and dousing others with pepper spray. Those scenes are followed by a clip that depicts his rough handling of a news photographer during an earlier encounter.



Fast-forward to December 2013. That’s when MPD1 [allegedly kicked a handcuffed prisoner](#) in the face as he sat in a patrol car, breaking the eighteen-year old’s nose and jaw and knocking out his two front teeth. Again there was litigation. And again officer MPD1 remained on active duty. Eight months later, in August 2014, he and a partner responded to a domestic disturbance call. [A video of the encounter](#) shows MPD1 pushing a woman to the ground right after she opens the front door, then again once he’s inside (top photo). He also allegedly [called her a profanity](#).

That proved too much for Chief Janee Harteau. She placed MPD1 on leave. Her words clearly foretold her intentions:

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Public trust and procedural justice is vital in our ability to effectively protect and serve, and as a result I have lost all confidence in [MPD1's] ability to serve the citizens of Minneapolis due to his poor judgment and his lack of integrity.

MPD1's behavior does seem awfully heavy-handed, and he was fired. But in October 2016 an arbitrator decided that his conduct, while out of line, didn't warrant termination. Punishment was reduced to a week's suspension and MPD1 was awarded back pay. Chief Harteau promptly communicated her displeasure:

I am disappointed in the arbitrator's decision. These rulings hinder my ability, as a Police Chief, to create an effective culture of accountability within the Department.

So she took another tack. Minneapolis had paid \$360,000 to the victim of the 2013 kick-in-the-face. But its internal investigation of MPD1 was set aside when he was fired for pushing the woman. Keeping MPD1 on paid leave, Chief Harteau reopened the earlier case, and in February 2019 fired him again. This time the arbitrator (same one as before) [saw things differently](#):

This amounts to six serious use of force violations in the period from 2012 to 2015. This pattern of continued use of force violations poses a significant problem for the MPD. This conduct damages police-community relations and subjects the City to the potential of significant civil liability.

MPD1's termination [was final in November 2019](#). But he's not the reason why Chief Harteau lost her job. That can be blamed on another officer. We'll refer to him as MPD2. In July 2017 he [shot and killed Justine Damond Ruszczyk](#) as she walked up to his idling patrol car. MPD2 didn't realize that Ms. Ruszczyk was the 9-1-1 caller and [found her unexpected approach frightening](#). At the time MPD was already in the hot seat over a series of incidents, including [the killing of Jamar Clark](#) two years earlier. So after promptly agreeing that "Justine didn't have to die" [Chief Harteau resigned](#). State agents assembled a case against MPD2. He was convicted of murder and manslaughter in 2019 [and sentenced to 12½ years](#). Minneapolis [settled the family's wrongful death lawsuit](#) for \$20 million.

MPD2 had only two years on the job when he killed Ms. Ruszczyk. During that time [he amassed three complaints](#): one led to a lawsuit, and two remained under investigation. If that doesn't seem like much, consider keeping up that pace for, say, nineteen years. That's how long former MPD officer [Derek Chauvin](#) had served when he was filmed kneeling on George Floyd's neck. By then [he had accumulated eighteen complaints](#). But "only" two led to discipline!

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It's not just Minneapolis. Troubled officers have been linked to tragic events across the U.S. "[Should Every Town Field Its Own Cops?](#)" offered several examples. Among them is the well-known 2014 episode where a rookie Cleveland cop shot and killed Tamir Rice, a 12-year old boy who was playing with a toy gun. Cleveland hired the officer even though his former agency [asked him to leave](#) after only one month for behavioral reasons. His applications were rejected by a long string of departments, but [Cleveland took him on anyways](#).

Litigation over police misconduct has bedeviled American cities. Recent pieces in the *Washington Post* and the *Wall Street Journal* reveal that local governments have been forking over eye-popping amounts to settle claims of officer abuse:

- [Chicago](#): About \$253 million since 2015
- [Dallas](#): \$3.7 million since 2015
- [Detroit](#): \$28.5 million since 2015
- [District of Columbia](#): More than \$40 million since 2016
- [New York City](#): More than \$1.1 billion since 2015
- [Los Angeles County](#): More than \$238 million since 2015

Neither article tracks the damage caused by cops with dodgy histories. However, according to the *Washington Post*, [five D.C. settlements since 2015 involve the same cop](#). One payout, for \$25,000, was supported by video that "shows [the officer] pinning [the complainant's] arms with his knees, pummeling him and showering him in pepper spray." This officer was also twice accused of harassment in 2016. Both complaints were sustained and he got "additional training." And yes, he's still on the job.

Thanks to all the attention, the issue of so-called "bad apple" cops may be gaining more traction. But one well-traveled expert [isn't holding his breath](#). "The review process," says former police chief Daniel Oates, "is staggeringly favorable to bad cops." Mr. Oates, a lawyer who commanded NYPD intelligence and led the Ann Arbor, Aurora and Miami Beach police departments blames chiefs' powerlessness on "a combination of state and local laws, union contracts, and past labor precedents." State peace officer "bill of rights," as in Florida, and civil service commissions that seem eager to reverse disciplinary decisions only add to the difficulties.

On the other hand, strict controls have reportedly led to officer "[slowdowns](#)." It's not just about rogue cops. Citizen fears about overly passive officers can erode a chief's standing as well. In fall 2020, as she prepared to assume the prestigious mantle of [IACP President](#), then-Santa Monica police chief Cynthia Renaud [came under withering fire](#) over her alleged failure to unleash the troops so they could effectively counter the

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“widespread looting and vandalism” that beset the coastal enclave. Indeed, the pressure became so pronounced that Chief Renaud reluctantly retired.

So what can be done about “bad apples”? At present, the International Association of Directors of Law Enforcement Standards and Training maintains a [national, non-governmental index](#) that identifies officers who have been decertified by state peace officer licensing authorities. It’s for agency use only. In June 2020 President Trump [issued an executive order](#) directing DOJ to develop a database that, in addition to decertifications, includes on-duty criminal convictions “and civil judgments against law enforcement officers for improper use of force.” That remains a work in progress.

USA Today [has also stepped in](#). Working with the [Citizens Police Data Project](#), which focuses on Chicago cops, it has assembled information on “at least 200,000 incidents of alleged misconduct” involving about 85,000 law enforcement officers across the U.S. At present, searches are [limited to decertified officers](#).

According to the *Los Angeles Times*, a national registry of officer misconduct was first proposed in the 1994 Federal crime bill. However, we found that the enacted provision [restricts using data](#) to “research or statistical purposes” and prohibits including “any information that may reveal the identity of the victim or any law enforcement officer.” So its utility in controlling rogue cops seems nil.

Policing is a craft whose proper exercise requires a great deal of skill and courage. Good cops – and they’re the vast majority – don’t want to work with thoughtless, impulsive colleagues. No doubt there are many officers, managers and chiefs who would very much like to improve things. But given our deeply polarized sociopolitical environment, substantial improvement may have to wait. For the foreseeable future, third, fourth and fifth chances will in many places remain the norm.