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PUNISHMENT ISN'T A COP'S JOB

*An officer metes out his brand of discipline.
He then faces society's version.*

For Police Issues by Julius (Jay) Wachtel. It's impossible to not be repulsed by the [horrific scene](#). A bystander video depicts Derek Chauvin, a veteran Minneapolis cop, relentlessly pressing his knee against George Floyd's neck. Even as Mr. Floyd protests he can't breathe and bystanders implore the now ex-cop to stop, Chauvin doesn't relent.

Public fury propelled an unusually swift official reaction. It took only one day for Minneapolis Mayor Jacob Frey to fire Chauvin and the three colleagues who participated in Mr. Floyd's arrest. Only two days after that state prosecutors [charged Chauvin](#) with [third-degree murder](#) ("perpetrating evidently dangerous act and evincing depraved mind") and [second-degree manslaughter](#) ("culpable negligence creating unreasonable risk"). As of yet, charges have not been filed against his colleagues.

"Depraved" is an obviously challenging standard. How "depraved" were Chauvin's actions? Here's how Mayor Frey described the episode:

For five minutes we watched as a white officer pressed his knee into the neck of a black man who was helpless. For five whole minutes. *This was not a matter of a split-second poor decision.* (Emphasis ours.)

While the mayor intimated that Chauvin acted maliciously, he didn't say what it was a "matter" of. What *were* Chauvin's motives? First, let's examine what's known.

According to the complaint, it all began with a [9-1-1 call](#) from a nearby convenience store. Here's an excerpt:

9-1-1: How can I help you?

Caller: Um someone comes our store and give us fake bills [a counterfeit \$20] and we realize it before he left the store, and we ran back outside, they was sitting on their car. We tell them to give us their phone, put their (inaudible) thing back and everything and he was also drunk and everything and return to give us our cigarettes back and so he can, so he can go home but he doesn't want to do that,

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and he's sitting on his car cause he is awfully drunk and he's not in control of himself.



MPD (ex-)officers Thomas Lane and J.A. Kueng went to the store. They were directed to a vehicle parked across the street. Inside were Mr. Floyd and two companions, a man and a woman. A nearby security camera [captured much of what took place](#).

George Floyd, who occupied the driver's seat, was the officers' first objective. Once handcuffs were applied – according to the complaint, Mr. Floyd resisted – Lane took charge of him while his partner concerned himself with the others. Mr. Floyd was 6-6, over 200 lbs. and uncooperative. With some difficulty the cop walked him to the sidewalk and had him sit down. They argued throughout, with the officer reprimanding and Mr. Lloyd protesting. While the cop grew exasperated and eventually launched into a lecture, the interaction didn't seem (from this ex-l.e.o.'s point of view) especially heated. Neither did it portend violence, particularly as Mr. Floyd was well restrained. (Had he not been securely handcuffed, there's no question that he would have bolted.)



Soon, the officer brought Mr. Lloyd to his feet and, together with his partner, marched the reluctant man across the street. At that point the episode seemed like just another low-level, no-big-deal arrest, one of the innumerable such events that take place every day, on every shift, and nearly always end without serious consequence. Once the trio observably reaches the other side it really does seem like “game over.” Mr. Lloyd's pockets had already been searched, and all that was left was to put him in the back of a patrol car and head for the station.



That's where this video ends. And where the real problems begin. According to the [murder complaint](#), and as partly depicted on some shaky video footage included in a [montage assembled by the New York](#)

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Times, on reaching the patrol car “Mr. Floyd stiffened up, fell to the ground, and told the officers he was claustrophobic.” Chauvin and the fourth officer, Tou Thoa, arrived and tried to help get Mr. Floyd into the car. But he continued resisting:

“The officers made several attempts to get Mr. Floyd in the backseat of squad 320 from the driver’s side. Mr. Floyd did not voluntarily get in the car and struggled with the officers by intentionally falling down, saying he was not going in the car, and refusing to stand still.”

Mr. Floyd was partly in the car and still struggling when Chauvin – he was the senior officer on scene – gave up. He pulled Mr. Floyd out, pushed him to the ground and held him there. Officers Kueng and Lane assisted by holding the man’s back and legs. That’s when that infamous, final video takes over. It depicts Chauvin pressing his left knee against the right side of Floyd’s neck.

What’s Chauvin trying to do? We saved the online use of force section of the Minneapolis PD manual and posted it [here](#). It authorizes two control techniques that involve the neck:

- **Choke Hold:** Deadly force option. Defined as applying direct pressure on a person’s trachea or airway (front of the neck), blocking or obstructing the airway...
- **Neck Restraint:** Non-deadly force option. Defined as compressing one or both sides of a person’s neck with an arm or leg, without applying direct pressure to the trachea or airway (front of the neck)...

Conscious Neck Restraint: The subject is placed in a neck restraint with intent to control, and not to render the subject unconscious, by only applying light to moderate pressure...

Unconscious Neck Restraint: The subject is placed in a neck restraint with the intention of rendering the person unconscious by applying adequate pressure...

“Choke holds” cut off oxygen and can kill so are considered a last resort. But supposedly safer “[vascular control](#)” techniques remain in widespread use. “Carotid restraints,” applied by pressing on the sides of a neck, can supposedly more safely render a person unconscious by sharply reducing blood flow to the cerebral cortex.



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While not without controversy, these holds remain widely accepted by the policing community and continue to be taught in academies (click [here](#) for the California POST manual section).

Officers are well aware of the risks posed by chokeholds and usually avoid them. Chauvin is depicted applying a carotid restraint, the so-called “[conscious neck restraint](#)” described in the M.P.D. manual. However, even this lesser form is only supposed to be used “against a subject who is actively resisting” (M.P.D. section 5-311, emphasis ours). Here’s how that’s defined (sec. 5-302):

Active Resistance: A response to police efforts to bring a person into custody or control for detainment or arrest. A subject engages in active resistance when engaging in physical actions (or verbal behavior reflecting an intention) to make it more difficult for officers to achieve actual physical control. (10/01/10)
(04/16/12)

And here’s its lesser cousin:

Passive Resistance: A response to police efforts to bring a person into custody or control for detainment or arrest. This is behavior initiated by a subject, when the subject does not comply with verbal or physical control efforts, yet the subject does not attempt to defeat an officer’s control efforts. (10/01/10) (04/16/12)

Well, we’re stumped. Passivity requires that one “not attempt to defeat” control efforts. But even “verbal behavior reflecting an intention” constitutes “active” resistance. So as far as M.P.D. rules go, “passive” resistance doesn’t really exist. Chauvin apparently capitalized on that ambiguity to apply a neck restraint to a physically immobilized person literally to his heart’s content.

In our view, why he did so was obvious: as punishment, and as a public shaming. That his motive was impure seems evident from his impassivity, his “[look of indifference](#)” in the face of Mr. Floyd’s obvious distress. According to the criminal complaint, Mr. Floyd complained “he could not breathe” before being taken to the ground. And once he was down, his pleas persisted. Their obvious authenticity didn’t just worry spectators. Lane, the officer who brought Mr. Floyd from his car, also expressed concern. But Chauvin, the late-comer, overruled him. Here’s another outtake from the [charging document](#):

The defendant placed his left knee in the area of Mr. Floyd’s head and neck. Mr. Floyd said, “I can’t breathe” multiple times and repeatedly said, “Mama” and

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“please,” as well. The defendant and the other two officers stayed in their positions. The officers said, “You are talking fine” to Mr. Floyd as he continued to move back and forth. Lane asked, “should we roll him on his side?” and the defendant said, “No, staying put where we got him.” Officer Lane said, “I am worried about excited delirium or whatever.” The defendant said, “That’s why we have him on his stomach.” None of the three officers moved from their positions.

Cause of death was initially attributed to a combination of factors. According to the [complaint](#), the medical examiner reported “no physical findings that support a diagnosis of traumatic asphyxia or strangulation.” Instead, Floyd’s death was attributed to forceful restraint by police, existing health problems including “coronary artery disease” and “hypertensive heart disease,” and the possible presence of intoxicants.

That soon changed. On June 1st. the Hennepin County Medical Examiner [released an “update”](#) that directly blames use of force for causing Mr. Floyd’s heart to stop beating:

Cause of death: Cardiopulmonary arrest complicating law enforcement subdual, restraint, and neck compression

Manner of death: Homicide

How injury occurred: Decedent experienced a cardiopulmonary arrest while being restrained by law enforcement officer(s)

Other significant conditions: Arteriosclerotic and hypertensive heart disease; fentanyl intoxication; recent methamphetamine use

While factors other than force were present, the examiner concluded that they alone would not have caused Mr. Floyd to suffer the episode. It took force to cross the lethal threshold.

As the report explains, “homicide” doesn’t ascribe blame. Indeed, should officers encounter a lethal threat, homicide can be justifiable. That, of course, isn’t what they faced here. Chauvin must argue that the death was accidental, and had he believed that Mr. Floyd was having problems breathing or had he known about those “other significant conditions” he would have stopped using force and summoned an ambulance.

But an autopsy performed by doctors hired by Mr. Floyd’s family reached a [dramatically different conclusion](#). According to one of the physicians, Dr. Allecia

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Wilson, “there is evidence in this case of mechanical or traumatic asphyxia.” In other words, that substantial direct pressure was applied to Mr. Floyd’s neck and deprived him of oxygen. If her account holds up, Chauvin’s good-faith defense crumbles, as even M.P.D.’s loosey-goosey policy defines pressing on someone’s neck to restrict oxygen intake – a chokehold – as deadly force. And there was clearly no reason to apply lethal force here.

We’ll leave the legal dispute for lawyers and courts to hash out. Let’s address the human factors that determine how policing gets done. With ex-cop Chauvin and Mr. Floyd we have two very hard heads. Neither seemed the type to be overly concerned with what others want. Beginning with Mr. Floyd, a search of court files revealed that he had accumulated an extensive criminal record while living in Houston. Here’s an abbreviated version of the summary from the Harris County court:

114323001010	The State of Texas vs. FLOYD, GEORGE (SPN: 01610509) (DOB: 10/14/1973)	11/27/2007	AGG ROBBERY-DEADLY WPN (F)
105047301010	The State of Texas vs. FLOYD, GEORGE PERRY (SPN: 01610509) (DOB: 10/14/1973)	12/15/2005	POSS W /INT DEL / MAN 1 >=4<200G (F)
097658901010	The State of Texas vs. FLOYD, GEORGE PERRY (SPN: 01610509) (DOB: 10/14/1973)	2/6/2004	MAN / DEL CS PG I <1GRAM (F)
115177701010	The State of Texas vs. FLOYD, GEORGE (SPN: 01610509) (DOB: 10/14/1973)	1/3/2003	TRESPASS PROP / BLDG-(M)
092886901010	The State of Texas vs. FLOYD, GEORGE LEE (SPN: 01610509) (DOB: 10/14/1973)	10/29/2002	POSS CS PG 1 <1G (F)
107577801010	The State of Texas vs. PERRY, FLOYD (SPN: 01610509) (DOB: 10/14/1973)	8/29/2001	FAIL IDENT TO P-O-FUGITIVE (M)
984955901010	The State of Texas vs. FLOYD, GEORGE (SPN: 01610509) (DOB: 10/14/1973)	12/9/1998	THEFT - \$50-\$500 (M)
079379601010	The State of Texas vs. FLOYD, GEORGE (SPN: 01610509) (DOB: 10/14/1973)	9/25/1998	THEFT FROM PERSON (F)
075978001010	The State of Texas vs. FLOYD, GEORGE (SPN: 01610509) (DOB: 10/14/1973)	8/3/1997	MAN / DEL CS PG I <1GRAM (F)

Mr. Floyd’s most serious conviction, for aggravated robbery with a deadly weapon, stemmed from a November 2007 incident in which he reportedly invaded a home [and pointed a handgun at its occupant](#). Mr. Floyd pled guilty in 2009 and drew a five-year prison sentence. After his release he relocated to Minneapolis. A Hennepin County record search turned up two misdemeanor convictions, both for no driver license, one in 2017 (27-VB-17-250861) and another in 2018 (27-VB-18-128822). Then came May 25th. and the bogus \$20 bill.

Chauvin was [a nineteen-year veteran of the Minneapolis force](#), which he joined in 2001. A search at the [“police conduct resources”](#) page of the Minneapolis Dept. of Civil

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Rights website revealed that he was the subject of twelve formal citizen complaints, all filed between 2003 and 2015. Each was marked as closed without discipline, and the details are recorded as non-public.

Office of Police Conduct Review Complaints				
OPCR Focus..	Matternumber	Case Status	Discipline Im..	Public Allegation
Chauvin, Derek	12-3244	Closed	No Discipline	Non-Public
	13-09814	Closed	No Discipline	Non-Public
	13-10527	Closed	No Discipline	Non-Public
	13-32189	Closed	No Discipline	Non-Public
	14-14106	Closed	No Discipline	Non-Public
	14-23776	Closed	No Discipline	Non-Public
	15-12394	Closed	No Discipline	Non-Public

Civilian Review Authority Complaints (Prior to 9/23/2012)				
CRA Focus ..	Matternumber	Status Descr..	Chief S Actio..	Allegation (group)
Chauvin, Derek	03-1999	Closed	No Discipline	Non-Public
	04-2100	Closed	No Discipline	Non-Public
	05-2306	Closed	No Discipline	Non-Public
	09-2643	Closed	No Discipline	Non-Public
	09-2680	Closed	No Discipline	Non-Public

However, [a CNN investigation](#) found eighteen complaints, with two leading to discipline, in both cases written reprimands for using demeaning language. A [deeply detailed NBC News piece](#) notes that Chauvin was present during several encounters over the years when suspects were shot. But the only occasion in which he shot someone was in 2008, when he wounded a man who allegedly went for Chauvin's gun. Chauvin was awarded a medal for valor. Most recently, in 2011, he and other officers were praised for resolving an incident involving an armed man.

To this observer, a dozen formal complaints seems like a lot, even over nineteen years. A retired Minneapolis officer and college educator conceded that it does appear [“a little bit higher than normal.”](#) But Chauvin was never a desk cop. He obviously liked to mix it up. In fact, [he held a long-time second job](#) as a weekend bouncer at a local dance club. A former owner praised Chauvin and said they had been friends. But her “main guy” had a temperamental side. “I’ve seen him in action and I’ve seen him lose it and

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I've called him out on it before. I've told him it's unnecessary and unjustified some of the ways that he behaves. He just loses it."

Chauvin [was by far the most senior officer on scene](#). His partner, Tou Thao, had about eight years on the job, while Lane and Kueng were both rookies. We speculate that Chauvin's temperament and seniority led him to take charge of the encounter and to do it *his way*, unorthodox as it may have been. Actually, in the policing business, unwelcome intrusions from experienced cops who think they've got all the answers aren't uncommon. And the consequences [have occasionally proven devastating](#). For example:

- [In October 2014](#) Chicago cop Jason Van Dyke, a 14-year veteran, butted in on officers as they actively contained a youth who had been prowling parked cars and was waving a knife. He emptied his pistol within six seconds, killing 17-year old Laquan McDonald. (Van Dyke's partner reportedly kept him from reloading.) Van Dyke was eventually convicted of second-degree murder.
- [Two years later](#), NYPD Sgt. Hugh Barry arrived at a residence where patrol officers were carefully managing Deborah Danner, a mentally ill 66-year old woman who had gone berserk. Sgt. Barry instantly moved to grab Danner, leading her to flee into a bedroom and grab a baseball bat. He promptly followed and, as she took a swing, shot her dead. Tried for 2nd. degree murder, Sgt. Barry was acquitted by a judge. New York settled a lawsuit with the family for \$2 million. What to do? Here's some self-plagiarism from [our post about Danner](#):

Police protocols should place those most familiar with a situation – typically, the first officer(s) on scene – in charge, at least until things have sufficiently stabilized for a safe hand-off. Officer Rosario and his colleagues had been monitoring the disturbed woman and waiting her out. Had Sgt. Barry taken on a supportive role, as supervisors routinely do, and let her alone, a heart-warming Hollywood ending might have been far more likely.

Mr. Floyd's killing has propelled yet another drive to devise newfangled controls and elaborate systemic solutions. That's likely unstoppable. But from this former practitioner's eye, the real "solution" lies in the craft of policing. It's in the workplace, in the everyday working relationships that influence nearly everything cops do. For example, there's not an officer out there who hasn't had a peer or superior step in and "mess things up," nor one who's never worried about a temperamental colleague, say, "Joe," that unpredictable, annoying officer on swing shift.

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Officers successfully handle difficult characters like Mr. Floyd every hour of every day. Alas, these triumphs always seem to fly “under the radar.” What makes them possible? How do they come about? That’s what we should be examining at roll call.