

**CRAFT OF POLICING**  
**ESSAYS**

By  
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## A COP'S DILEMMA

*When duty and self-interest collide, ethics can fly out the window*

By Julius Wachtel, (c) 2010

Protecting public officials may not be the primary mission of the [New York State Police](#), but there's no denying that the Executive Services Detail, a unit of about 200 officers who guard the Governor and his family, is the most prestigious assignment to which Troopers can aspire. With David Paterson's picture prominently displayed on the department homepage (a photo of recently-departed Superintendent Harry Corbitt is buried two layers down) there's little doubt as to who's really in charge. And that may be part of the problem.

On Halloween evening, October 31, 2009, [New York City cops](#) were summoned to a Bronx apartment where an anguished woman told them that David Johnson, a man with whom she had been living, "had choked her, stripped her of much of her clothing, smashed her against a mirrored dresser and taken two telephones from her to prevent her from calling for help." Johnson, who is six-foot seven, was gone, and officers filed a misdemeanor report. Two days later, while seeking a restraining order in family court, [the victim told a referee](#) that her assailant could probably be found at the Governor's mansion.

You see, David Johnson was until days ago the Governor's top aide. Originally hired as an intern in 1999, when Paterson was a State Senator, the strapping young criminal justice major (he later earned a degree) followed his mentor into the executive, and with virtually no other experience [gained so much influence](#) that he was soon giving instructions to high State officials, including, to the chagrin of the Governor's security detail, [their own boss](#).

This wasn't Johnson's first tangle with the law. When eighteen he was arrested for selling crack to an undercover officer. Johnson served five years probation as a youthful offender. Neither was it his only instance of assaulting women. During his service as a Senate aide Johnson had several altercations with girlfriends, [including an incident where he punched](#) one in the face.

Unseemly as they were, those encounters didn't lead to charges (one victim said she had previously called police about Johnson, but to no effect.) But the Halloween incident was different. According to the [New York Times](#), on the very next day Johnson

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prevailed on the Governor's security detail commander, State Police Major Charles Day, to call the victim, ostensibly to smooth things over. After getting clearance from above, Major Day did so, reportedly three times. Former Commissioner Corbitt also got involved, dispatching a subordinate to contact the woman, a curious act as the State Police has no jurisdiction over cases of domestic assault in New York City. Although officials insisted that the calls and visits were out of concern for the woman – in Corbitt's words, "to offer [her] counseling and tell her she had 'options'," – the victim found the contacts heavy-handed and complained about them in court.

That's when the Governor himself took hold of the matter. Enlisting an aide who happened to know the woman, Paterson arranged to personally speak with the victim, and [after several calls](#) apparently got her to drop the case.

And that's where it would have ended but for the *New York Times*. When it first broke news of what happened Paterson minimized his involvement, then to demonstrate good faith suspended David Johnson without pay. But as reporters kept digging the heat got to be too much for State Police Commissioner Corbitt, who abruptly quit. As demands grew that Paterson resign (he's also facing allegations of lying about getting free tickets to the World Series) his top criminal justice advisor, Denise O'Donnell, and his communications director, Peter Kauffmann bailed out, the latter going so far as to say that [he was protecting his own integrity](#), thus implying that the Governor had asked him to lie.

It's not the first time that chief executives have compromised New York's finest. In 2007 then-Governor Eliot Spitzer got State Police Superintendent Preston Felton to use State Police officers to dig up dirt on Spitzer's nemesis, Senate majority leader Joseph Bruno. An [extensive investigation](#) led to hefty fines and the end of several careers, including Felton's (he retired) and Spitzer's (he resigned when it was revealed that he was consorting with call girls.) Before that, Governor Pataki had been accused of using the State Police detail to interfere with a Federal investigation of his campaign staff. Indeed, [a report](#) on the misuse of the State Police and the "politicization" of the Executive Services Detail was recently issued by New York Attorney General Andrew Cuomo. Who requested it? [Governor Paterson](#), supposedly to prevent a recurrence.

When was it delivered? September 8, 2009, less than two months before Halloween.

Security details are in intimate, 24/7 contact with protectees and their families, so they'll routinely encounter situations that call for heavy doses of discretion and forbearance. It's inevitable that officers will grow close to their charges, occasionally too much so. While he was Governor of Georgia, former President Bill Clinton got so buddy-buddy with his State Police protectors that they [allegedly procured him female](#)

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[companions](#). Later, once Clinton was in the White House and unsavory stories began to leak, at least one of the former guards was offered a job, purportedly to keep quiet about the past.

What took place in New York is of course different, yet its roots are much the same. Officers working protective assignments are there at the sufferance of the executive, and all the more so for the detail leader, whose plum job rests on remaining in good terms with the protectee, the protectee's family and key staff members. Pressures to go along to get along can turn cops into enablers and, if what's suspected in this episode is true, co-conspirators in obstructing justice.

Temptations often arise in policing. Most are ultimately controlled through the same means that deter ordinary citizens – the penal law. Officers who succumb to the lure of graft by stealing money from drug dealers have wound up in prison. But when the benefits of ignoring one's duty are less tangible, keeping things on the up-and-up is usually left up to the department. That's particularly true for protective details, whose members the law treats as though they're ordinary peace officers, doing the work that cops normally do. Of course they aren't, and they don't. Situations like the above might have never developed if protective officers were forbidden by statute from injecting themselves or exercising authority in matters that are none of their business. That would give every officer the best possible excuse for staying out of trouble:

“I'd really like to help you [Governor, Superintendent, detail leader] but it's a *crime* for me to do anything other than physical protection. My career and freedom depend on it. I sure hope you understand.”

Posted 1/24/20

## A RECIPE FOR DISASTER

***Take an uncertain workplace. Toss in a “mission impossible” and pressures to produce. Voila!***

*For Police Issues by Julius (Jay) Wachtel.* Early last year [a mother received a letter from LAPD](#) informing her that her son was a gang member. Shocked by the news, the parent promptly marched off to a police station where she vehemently insisted that her kid had nothing whatsoever to do with gangs. LAPD apparently took her complaint to heart. After reviewing the reporting officer’s bodycam footage and “finding inaccuracies in the documentation,” a supervisor contacted the parent and assured her that the teen would not be identified as a gangster.

To its credit, LAPD launched [an expansive inquiry](#). During the following months many members of the agency’s specialized “Metro” division came under investigation. Twenty were ultimately stripped of their official duties. Their alleged misconduct – incorrectly reporting on field interview cards that persons they stopped were gang members – had seriously compromised the agency’s gang database. One of eight regional systems that comprise the state’s [“Cal Gang” intelligence network](#), its use is governed by State law. Only specially certified law enforcement officers can access the system, and adding entries is strictly regulated. Among other requirements, targets for inclusion must meet at least two of eight specified criteria, such as admitted gang membership or displaying a gang tattoo, and must have been contacted not just once but “on multiple occasions.”

[An August 2016 report](#) by the California State Auditor revealed widespread noncompliance with these rules. LAPD, in particular, was singled out for serious and persistent lapses. Yet its problems apparently persisted. Public blowups over LAPD’s controversial stop-and-frisk campaign (see, for example, [“Scapegoat,” Part I](#)) recently led Chief Michel Moore, a veteran officer who took the helm in June 2018, [to publicly announce his determination](#) to right the ship:

I don’t mean this to go on for months or years. I will make a finding on the basis of the completed investigation as to appropriate disposition — whether that be sustained acts of misconduct, including the potential criminality....

“Criminality”? Well, fudging the facts so that a stopped person meets the criteria for inclusion into a gang database sure seems like a purposeful falsification of official

records. But why would an officer do that? L.A.'s a busy place, and it's not as though its street cops lack for things to do. Chief Moore's angst, though, wasn't directed at ordinary badges but members of the elite "Metro" group, which had been assigned to conduct "intensive patrol" – meaning, of course, stop-and-frisks – in neighborhoods beset by gangs and gunplay.

We've suggested in a string of essays (for example, "[Driven to Fail](#)" and "[Good Guy/Bad Guy/Black Guy, Part II](#)") that get-tough campaigns inevitably lead to a profusion of "false positives." That's created major angst among members of minority groups, and not just in Los Angeles. Still, given the high rates of violence that characterize many lower-income areas, their police feel obliged to do *something*. How the outcomes of that "something" get assessed and measured presents some complex dilemmas.

In [a new, thought-provoking article](#), the *L.A. Times* reported that managers evaluated Metro's cops on sixteen criteria, from arrests and citations to "field interviews of gang members." As we mentioned in "[Driven to Fail](#)," Metro's teams were unfamiliar with their assigned areas' patterns and worthy inhabitants. So they adapted, in part, by focusing on pre-identified "chronic offenders." Finding and discreetly following noteworthy prey until there's enough to justify a "Terry" stop, though, proved no easy task. Targets of opportunity became a fallback strategy.

Whether cops free-lance or shadow known targets, the uncertain environment of policing virtually guarantees a profusion of error. [Let's self-plagiarize](#):

Policing is an imprecise sport. And when its well-intended practitioners target geography, meaning, by proxy, racial and ethnic minorities, the social impact of this "imprecision" can be profound. NYPD stopped nearly six times as many blacks (2,885,857) as whites (492,391). Officers frisked 1,644,938 blacks (57 percent) and 211,728 whites (43 percent). About 49,348 blacks (3 percent) and 8,469 whites (4 percent) were caught with weapons or contraband. In other words, more than one and one-half million blacks were searched and caught with...nothing.

Not every unproductive encounter reflects an error of judgment. There were likely more than a few worthy characters among those whom Metro had to ultimately let go. How many? Lacking clear data, it's impossible to know. Yet the abundance of apparent "false positives" created an ideal platform for critics unfamiliar with the vagaries of the police workplace to jump to the conclusion that cops are racists. That, along with relentless pressures to produce measurable outcomes, created a vicious cycle well

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known to cops who have participated in get-tough-on-crime campaigns. Fudging someone's gang involvement is a lie, period. But given the intrinsic difficulties of their "mission impossible," Metro's officers might have thought it the surest way to score enough "hits" to satisfy superiors while keeping nettlesome citizens, reporters and civil libertarians off their agency's backs.

Pressures to produce aren't just a problem at LAPD and NYPD. They're endemic to policing. Demands from the top to "give us numbers," which ultimately land on the shoulders of those who occupy the bottom of the flow chart, were obvious to the blogger throughout his law enforcement career. So much so that it inspired the topic of his dissertation. Entitled "Production and Craftsmanship in Police Narcotics Enforcement," it explored the tension between quantity and quality in street drug enforcement. (For an article based on this work, click [here](#).) Here's just one of the many memorable quotes from a "worker bee":

Make cases, put people in jail, numbers. Our department right now is heavily into numbers. It's not so much the quality of the case but it's how many cases you do...because there are stat's being taken through the chain of command.

Not even your blogger, who's obsessed with the notion of craft, would suggest that numbers are wholly irrelevant. Citation counts, for example, can be *one* valid measure (hopefully not the *only* measure) of the quality of an agency's traffic enforcement effort. Yet counting can easily distort what takes place. That's not only true in policing. Unholy pressures to produce quantifiable miracles pervade government, commerce and industry. (In education, your writer's second career, it was "how many graduates did we have this year?") But let's take a *really* long reach. Consider the Boeing 737 fiasco. Is there any doubt that pressures to maximize profits impaired the quality of engineering? Here's an extract from the [New York Times account](#) of an official report filed by former senior engineer Curtis Ewbank:

...Ray Craig, a chief test pilot of the 737, and other engineers wanted to study the possibility of adding the synthetic airspeed system to the Max. But a Boeing executive decided not to look into the matter because of its potential cost and effect on training requirements for pilots. "I was willing to stand up for safety and quality," Mr. Ewbank said in the complaint, "but was unable to actually have an effect in those areas. Boeing management was more concerned with cost and schedule than safety or quality."

All lies aren't equal. "[Why do Cops Lie?](#)" and other posts in our [Conduct and Ethics](#) series offer eye-popping examples of bias, selfishness and greed. Perhaps some of these

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qualities apply to a few of Metro's officers as well. But it seems to us that the relentless characteristics of the workplace might have led some otherwise honest, hard-working cops to justify seemingly unproductive stops by fudging their subjects' gang affiliations. Given the circumstances, these might have seemed like only "little white lies."

Of course, in policing there is no such thing.



Posted 11/16/10

## AN EPIDEMIC OF BUSTED TAIL LIGHTS

### *LAPD struggles over claims of racial profiling*

*By Julius (Jay) Wachtel.* Here's a puzzler for our loyal readers. Click [here](#) to read LAPD's policy on "biased policing". Then read it again. Now imagine you're an LAPD officer patrolling an area where shootings involving ethnic gangs have occurred. You spot an older, beat-up car slowly circling the block. It's occupied by sloppily-attired young male members of that ethnic group. Children and pedestrians are present. Do you: (a) go grab a donut, (b) wait until shots are fired, or (c) pull the car over?

If you answered (c) you may wind up with a lot of explaining to do. Or not. It really depends on which paragraph of section 345 is controlling. The first, which paraphrases [Terry v. Ohio](#), appears to leave race open as one of the factors that can be used when deciding to detain someone for investigation:

Police-initiated stops or detentions, and activities following stops or detentions, shall be unbiased and based on legitimate, articulable facts, consistent with the standards of reasonable suspicion or probable cause as required by federal and state law."

But the very next paragraph appears to limit the use of race to situations where cops are looking for a specific individual:

Department personnel may not use race...in conducting stops or detentions, except when engaging in the investigation of appropriate suspect-specific activity to identify a particular person or group. Department personnel seeking one or more specific persons who have been identified or described in part by their race...may rely in part on race...only in combination with other appropriate identifying factors...and may not give race...undue weight.

Section 345's prohibition against using race as an anticipatory factor has spurred spirited debate within LAPD. While everyone agrees that race should never be the *sole* factor, many cops don't think that it should *always* be out of bounds. In a [notable recent conversation](#) (it was, believe it or not, inadvertently taped) an officer told his superior that he couldn't do his job without racially profiling. Somehow the recording made its way to the Justice Department, which is still monitoring the LAPD in connection with the [Rampart scandal](#). As one might expect, DOJ promptly fired off a letter of warning.

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Chief Charlie Beck, who's struggling to get the Feds off his back, quickly denied that the officer's comments reflect what most cops really think. Still, the faux-pas reignited a long-simmering dispute between LAPD and the Los Angeles Police Commission, whose president, John Mack, a well-known civil rights activist, has bitterly accused the department of ignoring citizen complaints of racial profiling.

Each quarter the [LAPD Inspector General](#) examines disciplinary actions taken against officers during that period. Last year, as part of an agreement that relaxed DOJ oversight, LAPD IG investigators started reviewing the adequacy of inquiries conducted by LAPD into alleged instances of biased policing (LAPD's preferred term for racial profiling.)

The [2009 second quarter report](#) summarized biased policing complaints for the prior five quarters. Out of 266 citizen complaints of racial profiling, zero were sustained. This was by far the greatest such disparity for any category of misconduct. IG employees examined a random sample of twenty internal investigations of biased policing. Six were found lacking in sufficient detail to make any conclusions. Incidentally, twelve of the police-citizen encounters involved traffic offenses. Ten were for no tail lights, cracked windshields, tinted front windows, no front license plate and jaywalking. An eleventh was for speeding, a twelfth for riding a dirt bike on a sidewalk.

The most recent report, covering the [fourth quarter of 2009](#), revealed 99 citizen allegations of biased policing; again, zero were sustained. The IG reviewed a sample of eleven investigations; it criticized two as inadequate. Four officer-citizen encounters had complete information. Each was precipitated by a traffic violation: one for running a red light, one for no brake lights (the driver later insisted only his supplemental third light was out), one for not wearing a seat belt, and one for tinted front windows.

Earlier this year DOJ criticized the IG's investigation review process as superficial. Biased policing claims will henceforward be investigated by a special team, using new protocols. Their first product is due out soon.

Cops have so many ostensible reasons for making a stop that divining their underlying motive, if any, is probably a non-starter. That was conceded by no less an authority than the Supreme Court. Here is an extract from its ruling in [Whren v. U.S.](#):

The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.

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It's widely accepted in law enforcement (and apparently, by the courts) that using all available laws isn't cheating – it's simply good police work. That can make it well-nigh impossible to determine whether racial bias was a factor in making a stop. John Mack may not like it, but the commanding officer of Internal Affairs was probably just being candid [when he told the police commission](#) that sustaining an allegation of biased policing literally requires that an officer confess to wrongdoing.

What can be done? Target individuals, not ethnic groups. Selecting low-income, minority areas for intensive policing, even if they're crime “[hot spots](#),” can damage relationships with precisely those whom the police are trying to help. Aggressive stop-and-frisk campaigns [such as NYPD's](#) can lead impressionable young cops to adopt distorted views of persons of color, and lead persons of color to adopt distorted views of the police. Our nation's inner cities are already tinderboxes – there really is no reason to keep tossing in matches.

Target individuals, not ethnic groups. Repeat at every roll-call. And be careful out there!

Posted 5/29/21

## ANOTHER VICTIM: THE CRAFT OF POLICING

***Ronald Greene succumbed to police abuse one year before George Floyd. How they perished was appallingly similar.***



*For Police Issues by Julius (Jay) Wachtel.* “Let me see ‘em...let me see your [curse] hands...[curse]...” Louisiana State Trooper Dakota DeMoss’ body camera graphically captured what happened (and what was said) during the early morning hours of May 19, 2019 when he and a colleague forcefully extracted the driver of a recklessly-driven vehicle that crashed after a prolonged pursuit. (Click [here](#) for LSP’s video channel, [here](#) for the full bodycam video of the initial encounter and [here](#) for our edited clip of the arrest.)

Ronald Greene, 49 isn’t armed. Neither does he forcefully resist, at least in any conventional sense. But his confused mental state, clumsiness and immense size (shades of [George Floyd](#)) clearly irritate the



officers, and one promptly shoots him with a Taser. That rough handling – and virtually non-stop cursing – continues as troopers drag Mr. Greene from the car and place him on the ground, belly down. That’s when the impaled dart comes into view (left.) An



officer – according to [news reports](#), DeMoss – tells Mr. Greene to “put your hands behind your back, [curse]” but the scared, disoriented man seems unable to comply. Arms outstretched, he whimpers “I’m sorry.” After some blows and a long string of unproductive curses, a trooper delivers another jolt through the Taser (right). Mr.

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Greene continues whimpering and begging for mercy, but troopers ignore his protests and, handcuffs affixed, order him to lay on his stomach.

Unlike what happened to George Floyd, once Mr. Greene was handcuffed he wasn't constantly pressed into the ground. Still, troopers repeatedly warned him to stay on his stomach and occasionally applied force to that effect. Our top image, taken at 5:40 am, about twelve minutes into the encounter, depicts an officer pressing on Mr. Greene as he orders "don't you turn over, lay on your belly, lay on your belly" (click [here](#) for a brief video clip.) But a few moments later another bodycam video (click [here](#)) shows two troopers watching over Mr. Green as he partially sits up.

Many other aspects of this encounter resemble what happened to George Floyd. Troopers handled Mr. Greene very roughly, especially at first. They forcefully extracted him from his car, delivered multiple blows with their fists and jolted him repeatedly with a Taser. Mr. Greene, like Floyd, behaved oddly, mumbling supplications to Lord Jesus in a high-pitched tone of voice. As it turns out, he was also under the influence of a powerful drug: in his case, cocaine. Rough treatment, frail mental and physical health and chemical intoxication comprise the bedrock of the syndrome known as "[excited delirium](#)." A Minneapolis cop thought that it applied to George Floyd. Louisiana's Union Parish Coroner [reportedly identified it](#) as the underlying cause of Mr. Greene's death: "cocaine induced agitated delirium complicated by motor vehicle collision, physical struggle, inflicted head injury, and restraint."



Throughout the first fifteen minutes or so Mr. Greene was conscious and talkative. But as time passed he became unresponsive. This image, taken about 5:46 am, depicts troopers as they begin rendering aid. An ambulance was called. Unlike what happened to Mr. Floyd, troopers closely attended to Mr. Greene after his collapse (click [here](#) for a clip.) Alas, it proved too little, too late.

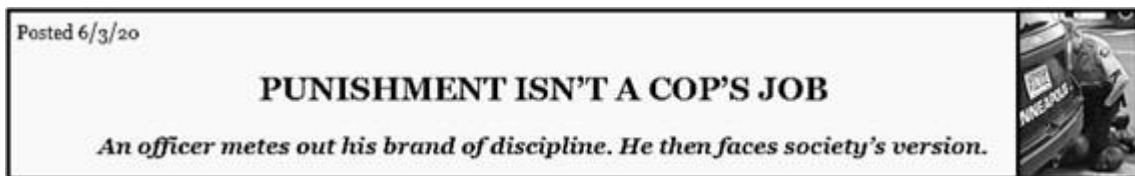
It's not that Mr. Greene shouldn't have been arrested. He was mentally and physically unwell, under the influence of a narcotic, and in no shape to drive. Mr. Greene reportedly ran a stop sign and a traffic light, and during the chase a trooper anxiously radioed that "we got to do something" as Mr. Greene's car was speeding down the "wrong side of the road" and "could kill somebody." Yet watch that video clip of the arrest. Mr. Greene's handling by the two troopers who first encountered him was abominable. Here's what one of these officers (we think, DeMoss) told another trooper by radio as an ambulance rushed Mr. Greene to the hospital (click [here](#) for the clip with audio):

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Well, I think this guy was drunk...and I think he was wet...and I beat the ever-loving 'fuck out of him, choked him and everything else trying to get him under control...and we finally got him in handcuffs when [someone else] got there, and the sonofabitch was still fighting with me and still wrestling with me...gotta hold him down since he was spittin' blood everywhere. And all of a sudden he just went limp. Yeah, I thought he was dead. We set him up real quick...he's on an ambulance enroute to...and I'm haulin' ass trying to catch up to them.

Tragically, the recipient of that transmission, Trooper Chris Hollingsworth, an 18-year veteran, [reportedly perished in an off-duty auto accident](#) “shortly after learning he was being fired for his role in Greene's death.”

If all we expect from police is to handle recalcitrant persons however they wish, our “Selection and Training” section – indeed, our entire website – is superfluous. When it comes to the arrest of George Floyd and Ronald Greene, my non-police neighbors would have done better. Of course, so would most other cops. Officers run into clearly troubled characters such as Mr. Greene as a matter of course. And as a matter of course they apply patience and some good-natured persuasion to avoid needlessly turning to force. When involved in fraught encounters, most cops follow the rules of their intricate and demanding craft. They brush off intrusive thoughts such as anger and frustration because they know that getting emotional can poison their decisions. As we've said before, [there's absolutely nothing new](#) about the trendy concept of “de-escalation”; cops who respect their craft – and we assume they're in the vast majority – have faithfully practiced its precepts since the times of Robert Peel.



Yet cops *are* human, so exceptions keep popping up. Minneapolis was one. We quickly “diagnosed” ex-cop Chauvin’s actions as an effort to discipline and humiliate. It’s why [our essay](#), posted eleven days after the tragedy, was entitled as shown. What happened to Mr. Greene in Louisiana seems equally appalling. Whatever notions of “craft” the first officers on scene might have had were instantly extinguished by waves of anger.

But the troopers were experienced cops. This wasn’t their first pursuit. They weren’t assaulted or shot at. So why all the rage? In “[Angry Aggression Among Police Officers](#)” (*Police Quarterly*, March 2003) Sean P. Griffin and Thomas J. Bernard surmise that the

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chronic stressors of policing can make officers aggressive, and that they're prone to take it out on the most vulnerable. So who might that be? As Jeannine Bell argues in "[Dead Canaries in the Coal Mines: The Symbolic Assailant Revisited](#)," (34 *Georgia State University Law Review* 513, 2018) citizens who fit a certain Black male stereotype may be at particular risk. She cites the examples of [Tamir Rice, Philando Castile and Alton Sterling](#). And now we can add George Floyd. And Ronald Greene.

We're not arguing that police abuses are inevitable. Officer personalities vary, and at least in this writer's experience, most cops seem to handle the burdens of their craft rather well. Unfortunately, agencies [have failed to correct](#) officers who repeatedly goof up. As we discussed in "[Third, Fourth and Fifth Chances](#)," failure to reign in errant cops can easily lead to disaster. And we have a ready example. On February 8, 2021, nearly two years after his force-rich, expletive-laden confrontation with Mr. Greene, Trooper DeMoss and two LSP colleagues [were booked by their own agency](#) on misdemeanor charges of "simple battery and malfeasance in office" for using excessive force and turning off their body cameras during a 2020 traffic stop.

And just as we "go to press" the craft of policing suffers additional blows:

- Washington State authorities announced the [arrest of three Tacoma police officers](#) on murder and manslaughter charges for needlessly pummeling, choking and Taser-ing Manuel Ellis, a 33-year old Black man, during a seemingly minor encounter on March 3rd. Mr. Ellis complained that he couldn't breathe, and then he died.
- Los Angeles prosecutors [filed perjury charges](#) against a promising L.A. County sheriff's deputy for lying during a preliminary hearing. Deputy Kevin Honea, 33 testified that he found a handgun in the front of a vehicle. Its ready availability helped bind over the car's occupants on robbery charges. In fact, a motel security camera showed that another deputy found the weapon in a box in the car's trunk.

Would Trooper DeMoss be facing charges over a year-old traffic stop had Mr. Greene's death not become a matter of national interest? Would the speedy decision to prosecute the Tacoma officers – we haven't looked into their culpability, but things look bleak – have happened in the absence of Derek Chauvin's trial and conviction? Ditto, Deputy Honea. While his superiors [ascribed his testimony to "sloppiness"](#) and levied a brief suspension, L.A. County's new, progressively-minded D.A., George Gascon, took a far sterner approach.

Examining policing under a microscope is no longer a thing of the "future."

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What's our takeaway? As we pitched in "[More Rules, Less Force?](#)" positive change can't be accomplished by simply making more rules. Instead we must focus on "craft." Police must redouble their efforts to advance the practice of their demanding vocation. In "[Why Do Officers Succeed?](#)" (*Police Chief*, July 2020, p. 26) we suggested that agencies collect examples of good work within their own ranks and use them "to stimulate dialogue about quality policing and the paths to that end."

Officers could be asked to describe recent episodes of fieldwork whose outcomes they found especially gratifying. Examples might range from the seemingly mundane, such as gaining critical information from a hostile resident, to the more noteworthy, say, peacefully and safely taking a dangerous and combative suspect into custody. To learn how these successes came about, officers would be asked to identify the factors they believe helped produce such good results.

Imagine roll-call sessions that focus on craft. And supervisors and senior officers who convey their perspectives about what makes for quality policing to young cops. And should the "uncrafty" take place, promptly step in.

No, that's not dreaming. And while we don't discount formal training, the actual workplace seems to exert the greatest influence on how things actually get done. It's where craftspersons – nurses, physicians, soldiers, plumbers, automobile mechanics and, yes, cops – get "broken in" to their demanding occupations. Naturally, agencies would have to pitch in. Most importantly, they would have to reel in pressures to make "numbers" that, [as we've repeatedly complained](#), can stretch the notion of quality to its breaking point.

Or we can keep driving down this unimaginative, bleak road. It does have an end. It's called "defunding."



Posted 12/18/23

## ARE CIVILIANS TOO EASY ON THE POLICE? (II)

*Exonerated of murder, but not yet done*



*For Police Issues by Julius (Jay) Wachtel.* On Wednesday evening, December 6, one week after opening arguments and “less than two hours” after getting the case, a Prince George’s County, Maryland criminal jury [acquitted suspended police officer Michael A. Owen, Jr. of all charges](#) over the January 27, 2020 shooting death of William Howard Green (right-side photo). Owen (left side photo) had been in custody since one day after the shooting. And [as the first Prince George’s officer](#) to ever be charged with an on-duty murder, he was denied bail and wound up spending *nearly four years* behind bars awaiting trial. (Shockingly, he may have another one coming. We’ll get to that later.)

Unlike the gnarly circumstances (i.e., pretextual traffic stops) that underlie many of our posts, the tragic encounter with Mr. Green [began as an episode of so-called “routine” policing](#). Owen was dispatched to the scene of a major traffic wreck. Mr. Green’s car had gone out of control, struck several other vehicles and “crashed into a tree”. Passers-by found him unconscious and called police. And when officers arrived they quickly observed that Mr. Green was deeply intoxicated. As Owen’s prosecutor conceded, Mr. Green “did cause several accidents and was high on PCP or at least had PCP in their system”.

After the officers searched and handcuffed Mr. Green (natch, behind his back) they placed him in the front passenger seat of Owen’s cruiser. Mr. Owen’s colleague stepped away to interact with witnesses and victims. Owen took a seat behind the wheel to watch over Mr. Green and await the arrival of a drug testing unit. Its arrival, though, was delayed. After about twenty minutes Mr. Green said he had to urinate, and the ex-officer’s response [supposedly agitated him](#). Mr. Green reportedly turned violent and a struggle ensued. According to the cop, his prisoner had somehow gotten hold of a gun,

and Owen grabbed it and fired in self-defense. Owen insists that he was startled to discover that the pistol was, in fact, his own duty gun. It was fired seven times. Its first shot apparently went astray. But the six bullets that followed struck Mr. Green and inflicted fatal wounds.

Alas, then-cop Owen wasn't assigned a bodycam. None of what happened was captured on video, so all we "know" is what he said. Instead of just relying on media accounts, let's turn to his courtroom testimony. It took place on Monday, December 4 (we paid the court reporter for the transcript).

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**DIRECT EXAMINATION BY OWEN'S LAWYER**

Owen testified that he was dispatched to an accident with injuries. On arrival a witness pointed to the vehicle that caused the collision. As he and Corporal Villaflor approached the car they observed Mr. Green inside, "slumped against like the driver side window" and "nonresponsive." Mr. Green slowly awakened when his partner rubbed his sternum. They physically hauled Mr. Green out of his car and patted him down. It wasn't a "search"; they didn't reach into his pockets. That's when Owen told his partner "I smell PCP."

Owen feared that Mr. Green could turn violent, so he was handcuffed behind his back. Mr. Green noticeably reacted. "Mr. Green is not resisting per se but he's tensing up. He's pulling away. And so we kind of have to use like joint manipulation just to get him in handcuffs." Owen then fetched his car and his partner left. Owen placed Mr. Green in the front passenger seat. Policy required it for "single-officer" cars that lack a cage. He then backed the cruiser into a parking space to get it out of the way.

Owen spent the next twenty minutes "doing paperwork on my computer" while "keeping an eye on Mr. Green". He occasionally asked questions. At first Mr. Green was mostly unresponsive. He dozed on and off. But then things turned in a decidedly negative direction.

**Owen:** *"...as he began to become more lucid...his behavior deteriorates. He starts using vulgar language and begins to tell me he does what he wants, he wants to go to the bathroom, which my response is give me few minutes, sir, and I'll get you to a bathroom as soon as I can. But he becomes more and more agitated as time goes on..."*

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According to Owen, Mr. Green moved his hands from the side and placed them “behind his back.” He then “begins to reach into the small of his back and it looks like he’s manipulating something”.

**Owen:** *“I grabbed his hands and pulled them back out from behind him and told him don’t do that, leave your hands to the side.”*

**Q:** *“And did he comply with that request?”*

**Owen:** *“For about like five seconds... and then he goes back and continues to look like he's manipulating something. At this point he actually raises up off his seat, kind of presses feet against the floor board.”*

Owen said he reached for the in-car microphone to call for help. But Mr. Green used his left leg to knock it out of his hands.

**Owen:** *“...immediately after that he began thrashing about. I’m still trying to control his hands. And he’s throwing his body weight around, trying to kind of head-butt me and stuff. I’m trying to control him as best I can, but it’s very obvious that he has like superhuman strength.”*

Owen said he tried to apply “pain compliance” by twisting the handcuffs, but it didn’t work.

**Owen:** *“...So he's twisting the upper part of his body. His legs are flailing. He's moving from one side to the other. He's generally trying to get away from me...He was calling me all types of names, bitches, pussy ass nigger was one of them...”*

And when Owen tried to use his personal radio, Mr. Green “escapes my grasp”.

**Owen:** *“...he hits me very forcefully with all of his body weight pressing me, really slamming me into the B pillar driver’s side of the car... causing me excruciating pain in my torso section.”*

Owen then heard “a hollow metallic thud”.

**Owen:** *“I recognized -- I know it’s a gun hitting the center console. No doubt about that in my mind. I fight through the pain and look down in the center console and there is a gun... Mr. Green had his hands on the gun, saw that the gun was pointed at me...”*

Owen said that he didn’t run off because he could have been shot in the back. So he grabbed at the gun.

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**Owen:** *"We're struggling over it. He's extremely strong...I reached down, grabbed the gun, struggling over it with Mr. Green, trying to, one, you know, turn the muzzle away from me, and, two, get it from him in general..."*

**Q:** *"Okay. And what happens next?"*

**Owen:** *"As we're fighting over the gun, a shot is fired...At that point I was able to retrieve the gun and I fired a quick succession of rounds, stopped, re-accessed Mr. Green's behavior at this point, and then was able to safely exit the car based off of his behavior..."*

**Q:** *"Okay. And what observations did you make to lead you to the conclusion that he was no longer a threat to you?"*

**Owen:** *"He wasn't moving anymore."*

According to Owen, he didn't realize that it was his own gun.

**Owen:** *"I knew that it was a black handgun. During that entire interaction I don't -- I'm not processing these very minute details. And so I look at the gun -- and again this happens extremely quickly -- but I look at the gun, recognize that it is a Smith and Wesson. And when and I look down at my holster, and my jaw just dropped."*

Owen said that Mr. Green's hands on the gun eliminated less-lethal alternatives, such as a Taser.

**Q:** *"So what I'm talking to you about is when saw the gun, when you looked at it and saw Mr. Green's hand on the gun, was anything in the continuum use of force a possibility aside from deadly force?"*

**Owen:** *"No, sir."*

**Q:** *"And is that why you exercised deadly force in this case?"*

**Owen:** *"Yes."*

### **CROSS-EXAMINATION BY STATE'S ATTORNEY**

Owen agreed that the original pat-down should have detected a concealed weapon. He said that he again patted down Mr. Green before placing him in his car, but said it wasn't as thorough. Owen also testified that he did not feel his gun leave its holster. And he insisted that while Mr. Green was handcuffed behind his back, that's not where his hands wound up:

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**Owen:** *"I hear [the gun] hit the center console. When I looked back toward Mr. Green he is no longer making contact with me. He's got his hand on the gun."*

**Q:** *"With his hands still behind his back?"*

**Owen:** *"His hands are not behind his back, they're off to the side, he's handcuffed behind his back, but his hands are off to the side and kind of turning a little bit away from me...He's got the gun pointed at me with his hands."*

Owen rejected the prosecutor's implied criticism of his gunfire.

**Q:** *"After firing shot number two, did you reassess the threat?"*

**Owen:** *"Sir, these shots are happening extremely quickly. I think we heard witnesses testimony say sound like a machine gun. So --"*

**Q:** *"You have to pull the trigger intentionally each time, correct?"*

**Owen:** *"Yes, but all of these happened together. There is not -- extremely quickly. There is not a lot of time for -- I think like I'm going to die, sir..."*

But when pressed about why he didn't get out of the car after the first shot, Owen said that Mr. Green might have had another gun and shot him in the back.

**Q:** *"So, when after -- once you got control of the gun, you fired the other six shots because you believed that he still was in possession of a gun, correct?"*

**Owen:** *"Yes."*

**Q:** *"And ultimately you realized that he didn't -- there was no other gun in the vehicle, other than your gun, correct?"*

**Owen:** *"I believe that if I turned to exit the vehicle that it was possible that Mr. Green, because of his movements, had another weapon and might use it, and might use it against me."*

### **RE-DIRECT EXAMINATION BY OWEN'S LAWYER**

Owen's lawyer promptly honed in on the basics:

**Q:** *"When you looked and saw the gun on the center console with Mr. Green's hand on it, pointing at you, what did you think?"*

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**Owen:** “*I thought I was going to die.*”

**Q:** “*Is that why you reacted the way you reacted?*”

**Owen:** “*Yes.*”

**STATE’S ATTORNEY:** “*I have no officer questions.*”

**JUDGE:** “*You may step down.*”

---

Prince George’s County State’s Attorney Aisha Braveboy disparaged the suspended officer’s testimony as “outrageous” and “certainly implausible”. Naturally, [she was gravely disappointed by the verdict](#):

We believe that Cpl. Owen committed a crime that night, and he did in fact murder William Green. However, the burden is on the state, and it is a very high burden. There were only two people in the vehicle that night that could tell us what happened, and unfortunately one of them is no longer with us.

Throughout the trial, she battled the notion that Owen had faced a *real* threat. So what drove him to kill? In her closing remarks, she suggested that the cop got mad because Mr. Green urinated in his patrol car. That’s admittedly a big leap. Still, she needed *something*. Local residents (even some judges) had long displayed a reluctance to sanction cops who tangled with misbehaving souls. For example, in 2005 [jurors acquitted a Prince George’s cop](#) of assaulting a suspect who had stolen a van “at gunpoint,” then crashed it when pursued. Video depicts the officer (like Owen, a corporal) repeatedly kneeling and whacking the man even after he’s handcuffed and on the ground. State’s attorney Glenn Ivey, who had two years on the job, was disappointed in the outcome. Still, as he well knew, his predecessor had prosecuted *eleven officers* for misconduct in eight years but failed to gain a *single* conviction.



Natch, it’s not just Prince George’s. In an unforgettable 2015 episode, Baltimore police arrested [Freddie Gray](#). His behavior had drawn the attention of bicycle cops, and in the ensuing struggle they found a switchblade in his pockets. Mr. Gray was arrested, hog-tied and shoved into a paddy wagon. Alas, no one had belted him into a seat, and he suffered fatal injuries while bouncing around during transport. Six officers (including a Lieutenant) were

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charged with murder and manslaughter. Each was acquitted, and the Feds [refused to bring charges](#).

Indeed, as we reported in [Part I](#) and its updates, citizens are reluctant to convict cops who tangle with palpably naughty characters. That's frustrated the progressive, reform-minded prosecutors who came aboard post-George Floyd. Last year, the office of then-San Francisco [D.A. Chesa Boudin](#) (he's since been recalled for being too soft on crime) prosecuted "[the first excessive-force trial for an on-duty officer in the city's history](#)." And as usual, jurors returned a "not guilty" verdict. In your writer's own stomping grounds, [a jury recently acquitted](#) two former Long Beach, Calif. police officers of perjury for accusing the wrong parolee (two were detained) of possessing a gun. In 2018, when the stop occurred, the then-D.A. chalked the cops' faux-pas as an honest (if unfortunate) mistake. But when [reformist D.A. George Gascon](#) took the helm in 2020, things changed.

Cops know that citizens are likely to grant them a "pass". That's why LAPD's rank-and-file championed the 2019 city ordinance that currently [lets officers choose all-civilian panels](#) to rule over the Chief's decisions to fire. Naturally, Chief Michel Moore [thinks that was a very bad move](#). Here's an extract from his December 7, 2022 memorandum to the Police Commission:

The Department has observed that all-civilian Boards are resulting in an increased frequency in which sworn employees who have committed serious misconduct are not being removed from their positions. Similarly, all-civilian Boards are proving substantially more lenient reducing every recommended penalty in each Board completed this year.

Would it have helped Owen's prosecutor if she could have brought up his prior disciplinary record? [According to the Washington Post](#), his ten years on the job were sprinkled with controversy. Here's a summary:

- **[November 11, 2010](#)**: Shortly after graduating from the academy, Owen exchanged gunfire with a would-be mugger while off-duty. No one was struck.
- **[December 17, 2011](#)**: Owen shot and killed an apparently intoxicated man who was lying on the grass and allegedly pointed a gun. A loaded gun was found, and the man's past included firearms charges. Owen applied for and received State compensation for a "permanent partial disability" supposedly brought on by this encounter. He apparently continued receiving treatment for PTSD throughout his career.

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- **2013:** Owen didn't appear in court for the arraignment of a "suspicious" man with whom he tangled. Charges against the suspect were dismissed in exchange for dropping a lawsuit that claimed Owen assaulted him.
- **2016:** Charges in two traffic-related cases were dismissed because Owen failed to show for court. In the first, a woman accused him of grabbing her neck during an argument. In the other, an off-duty college cop disputed that he became combative. These no-shows led Owen to be flagged in the agency's "early warning" system.
- **July 13, 2019:** Owen's alleged use of brute force on an uncooperative suspect apparently led prosecutors to drop charges against the man.
- **July 31, 2019:** Owen accidentally discharged his gun while struggling with a motorcycle thief (no one was struck.) Owen had to take "judgment enhancing shooting training" and meet with the department psychologist. He was again flagged in the early warning system.

[And there was that lawsuit.](#) On Monday, September 28, 2020, eight months after Mr. Green's death and nearly three years before Owen was tried, Prince George's County settled with the victim's family for \$20 million. They had been represented by the same Baltimore law firm ([Murphy Falcon & Murphy](#)) that had obtained a \$6-million-plus payout for the death of Freddie Gray.

No dice there either. As far as the trial judge was concerned, it was all about what happened on that Monday night in 2020. *Everything* else was off-limits. Still, prosecutor Braveboy *did* get a break. While neither the officer's disciplinary history nor the survivor lawsuit could come in, neither would his alleged victim's criminal record.

Docket Information	
↕ Date	Docket Text
06/16/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
07/11/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
09/17/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON PLEA GUILTY: 2 JUDGMENT: 2 SENTENCED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO COUNT: 2 TYPE:ESS ENTIRELY COMMENT:COMMUNITY SERVICE CONFINEMENT: 180 D / CONF. SUSP: 180 D / PROBATION: 001 TYPE: SUPERVISED
08/03/2004	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
08/06/2004	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON SENTENCED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO COUNT: 2 TYPE:ESS ENTIRELY COMMENT:COMMUNITY SERVICE CONFINEMENT: 180 D / CONF. SUSP: 180 D / PROBATION: 001 TYPE: NO CHANGE IN SENTENCE
08/15/2004	Notice of Filing:
01/15/2006	**CONVERTED RECEIPT HISTORY AS OF 2006-01-15** 2004-02-09: RECEIPT #: 20619325 AMOUNT: \$50.00 CAN NUM: 4668 TENDER: Cash CHECK #: 0 FROM: GREEN, WILLIAM



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And one *did* exist. According to [D.C.'s WUSA9](#), Mr. Green had been arrested by D.C. police in 2003 for "buying a single PCP-laced cigarette". Our [online examination of court files](#) (see above image) revealed that "William Green" was charged with felony possession of PCP on May 30, 2003 (case no. "2003 FEL 003162"). Mr. Green pled guilty that September and drew probation. Apparently things didn't work out: there was a re-do in 2004, but probation was re-imposed. D.C.'s criminal case website has many other entries for a "William Green". However, there are no birthdates or other means to readily determine whether any are about our Mr. Green. As for Prince George's County, only civil cases are accessible online. So our tools for probing the victim's record were limited.

Still, the suspended cop remains suspended. And it's over allegations that seem unlikely to draw nearly as much sympathy. In August 2021 [the Feds indicted Owen and five other D.C.-area cops on conspiracy charges](#). According to DOJ, they participated in an elaborate scheme to defraud insurance companies and financial institutions by

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND	
UNITED STATES OF AMERICA	*
v.	*
	* CRIMINAL NO. <i>Px21CR5</i>
	*
CONRAD DARWIN D'HAITI,	*
PHILIP JAMES DUPREE,	*
MARK ROSS JOHNSON, JR.,	*
MICHAEL ANTHONY OWEN, JR.,	*
JARON EARL TAYLOR, and	*
CANDACE DANIELLE TYLER,	*
Defendants	*
	(Conspiracy to Commit Bank Fraud, 18 U.S.C. § 1349; Conspiracy to Commit Mail and Wire Fraud, 18 U.S.C. § 1349; Conspiracy to Commit Wire Fraud, 18 U.S.C. § 1349; Forfeiture, 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(2), 21 U.S.C. § 853, 28 U.S.C. § 2461(c))

falsely reporting the theft of vehicles, debit cards and funds from bank accounts. [Owen recently pled not guilty](#) and was released pending trial. This case, though, was *also* off-limits for prosecutor

Braveboy. After all, imagine how it might have biased the jury's opinion of the accused's integrity and truthfulness.

Just imagine.

Whether civilians really *do* "go too easy" on police promises to be a never-ending debate. As we "go to press" Washington state jurors are deliberating the fate of three Tacoma police officers who were charged with murder and manslaughter in the death of [Manuel Ellis](#). During a nine-week trial, officers Christopher Burbank, Matthew Collins and Timothy Rankine were accused of needlessly pummeling, choking and Taser-ing Manuel Ellis during a seemingly minor encounter and [ignoring his protests that he couldn't breathe](#). Indeed, the Coroner attributed his demise to oxygen

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deprivation caused by forcible restraint. But the defense insisted that Ellis, a meth user, [“created his own death”](#):

This is a situation where [Ellis] created his own death. It was his behavior that forced the officers to use force against him.”

That was, in effect, Owen’s defense. Will it work for Tacoma’s cops? Check the update!

Posted 9/21/23

## CONFIRMATION BIAS CAN BE LETHAL

*Why did a “routine” traffic stop cost a Philadelphia man’s life?*



*For Police Issues by Julius (Jay) Wachtel.* On August 14, two Philadelphia police officers assigned to the 24th. police district were on routine patrol [when they observed](#) a car “being driven erratically” in the area of “B” Street and Westmoreland. According to then-police commissioner Danielle Outlaw (she’s since announced her resignation) Officer Mark Dial, the passenger, and his partner, the driver, asked dispatchers whether that vehicle had recently raised suspicion (it hadn’t).



Officer Dial and his partner followed the car for about a half-mile as it drove down Westmoreland, turned left onto Lee St., and left again at Willard, a one-way street that runs in the opposite direction. After going the wrong way for a short distance it pulled to the left curb and parked.

That’s where PPD’s initial account – that the vehicle’s driver and sole occupant, 27-year old Eddie Irizarry, promptly jumped out wielding a knife – apparently went off the rails. As Ms. Outlaw acknowledged two days after the tragedy, Mr. Irizarry never stepped out of the car. Instead, [Officer Mark Dial shot and killed him](#) while he remained seated behind the wheel, with the windows rolled up. And yes, the encounter was captured by a stationary camera. We clipped this sequence of images from the [video](#), which was posted online.



Images 1 & 2 depict Mr. Irizarry's arrival (again, his car is going the wrong way). He quickly pulled to the curb, ran over a traffic cone, then backed in, blocking a parked SUV (3). His car stopped moving at 12:24:10. The police car arrived five seconds later (3-4). Officer Dial exited the passenger side at 12:24:16. He immediately walked around the front of Mr. Irizarry's car, [reportedly yelling](#) "show me your hands!" and "I will f\*\*\*ing shoot you!" (4 & 5). [Officer Dial began firing](#) through the driver side window, which was rolled up, at 12:24:22 (6). That's *six seconds* later. And he kept shooting as he walked away (note the shattered glass) (7). His final, final, sixth round was fired at 12:24:24, *eight seconds* after he got out of the police car. Officer Dial then went to the passenger side of Mr. Irizarry's car, and his partner came to the driver's side and opened the door (8). They placed Mr. Irizarry in the police car and drove him to the hospital. But it was too late.

Here's the sequence using clips from [Officer Dial's bodycam](#):



Image 1 shows the police car's arrival. Image 2 depicts Officer Dial walking to Mr. Irizarry's car. Images 3 & 4 show him as he begins shooting, and Image 5 as he continues firing while walking away.

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What do we know about Mr. Irizarry? [His family and their lawyers contend](#) that he suffered from chronic “mental problems”, including schizophrenia. These issues, however, apparently didn’t prompt any past police intervention. According to lawyer Shaka Johnson, Mr. Irizarry “has never been arrested a day in his life...He’s never seen handcuffs, the inside of a jail cell. Ever in 27 years. Never had a negative encounter with police.” We confirmed through [Pennsylvania’s official portal](#) that Mr. Irizarry has no State

record of a criminal arrest. However, our review of [Philadelphia municipal court records](#) turned up a 2018 case in which Mr. Irizarry pled guilty to disobeying a traffic control device (Docket #CP-51-SA-0000205-2018). While that’s no great shakes, it seems consistent with his allegedly erratic driving, including making that improper left turn onto Willard St. (see right).



Still, considering that Mr. Irizarry remained in his car, and just how quickly Officer Dial opened fire, there may seem to be little reason to probe further. Most importantly, there’s no indication that Mr. Irizarry had a gun. We don’t have access to the bodycam video of the police car’s driver. But according to the lawyers for Mr. Irizarry’s family, who apparently do, Officer Dial’s partner quickly announced “he’s got a knife.” That supposedly spurred Officer Dial to order Mr. Irizarry to “[drop the knife](#).” ([Police commissioner Outlaw’s account](#) substituted the word “weapon” for “knife”. Implications-wise, that’s a *big* difference.) And when Officer Dial took his brief glimpse through the driver-side window – which *was* rolled up – he supposedly observed Mr. Irizarry “holding a small, open folding knife against his thigh.” It turns out that there were *two* knives in the car, and both were in plain view. Officials described one as a “serrated folding knife” and the other as “some type of kitchen knife” (the family’s lawyers said that Mr. Irizarry had a “pocket knife” he used for work.)

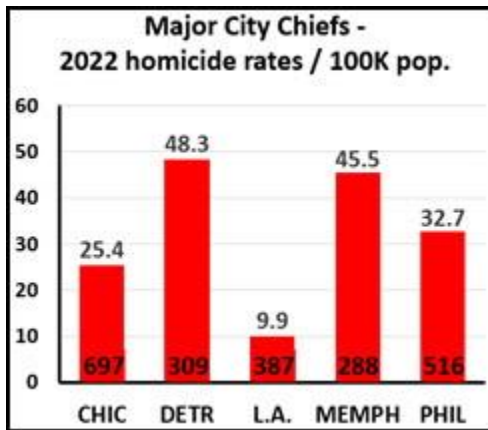
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Clearly, neither dodgy driving nor having knives justifies killing. These behaviors may, however, provide some insight into where Mr. Irizarry was “at”. Perhaps the same applies to Officer Dial. Our essays are replete with chaotic episodes where cops inappropriately use lethal force. Sometimes a citizen waved a knife. Sometimes cops “saw” a gun that wasn’t there. Sometimes a troubled, uncompliant soul – [Ta’Kiya Young](#) comes to mind – stepped on the gas at the wrong time. On occasion, the

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justification for responding with gunfire was clearly lacking. For a recent (and most depressing) example check out “[San Antonio Blues](#).” It’s about three cops who fired through the window of an apartment, killing a mentally troubled woman who threatened them *with a hammer*. Bodycam videos created such a compelling narrative that the officers were promptly arrested for murder (click [here](#) for a narrated video compilation).

Ditto, Officer Dial. Thanks to the neighborhood camera and his own bodycam, what happened doesn’t really seem at issue. [He’s been charged with murder](#) and is out on \$500,000 bail. A preliminary hearing is set for September 26. But that’s not quite the “end of the story”. [According to his lawyer](#), video (we assume, from his partner’s bodycam, which we haven’t seen) “demonstrates completely that Officer Dial got out of his car, ordered him to show his hands, and then heard ‘gun.’ You can hear it on the video. He then saw an individual pointing what he thought was a gun right in his face.”



We’ll have more to say about Officer Dial’s decision-making later. For now, we as usual turn to *place*. To begin with, he and his partner worked in a particularly violent metropolitan area. Check out our comparo on the left, which was prepared from data published by the [Major City Chiefs](#). Philadelphia’s 2022 murder rate (rates on top, number of incidents below) was *more than three times* L.A.’s. It even surpassed the rate of notoriously violence-stricken Chicago!

Still, as we emphasize in our “[Neighborhoods](#)” posts, when it comes to making inferences from statistics, citizens don’t live – and cops don’t toil – in aggregates. What *really* matters are neighborhoods. Let’s examine Philly’s:

2023 Phila. criminal homicides thru 9/5 Five highest-rate ZIPs					2023 Phila. criminal homicides thru 9/5 Five lowest-rate ZIPs				
ZIP	Pop	Pov	Number	Rate/1K	ZIP	Pop	Pov	Number	Rate/100K
19132	32598	34.1	20	61.4	19102	4793	16.6	0	0
19139	44789	29.2	19	42.4	19103	24854	9.1	0	0
19121	33708	38.9	14	41.5	19115	35226	9.7	0	0
19134	59230	39.4	23	38.8	19118	9999	6.8	0	0
19140	53979	40.6	17	31.5	19119	28509	10.5	0	0
<b>Average</b>		<b>36.4</b>	<b>13.5</b>	<b>43.1</b>	<b>Average</b>		<b>10.5</b>	<b>0</b>	<b>0</b>

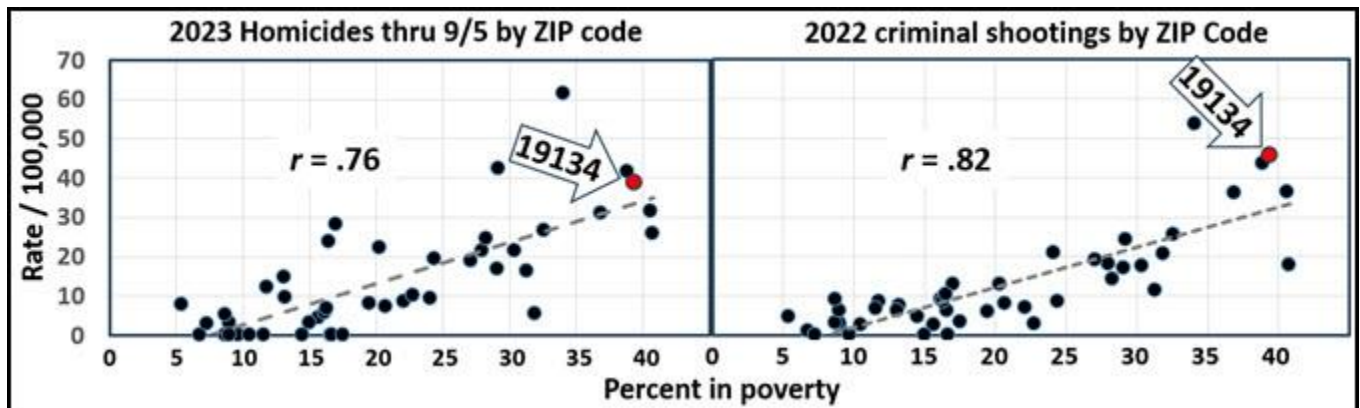
# POLICEISSUES.ORG

Officer Dial was assigned to Philadelphia PD’s [24th. District](#), and the encounter, from beginning to end, took place within its primary ZIP, 19134. We downloaded and ZIP-coded January 1 – September 5, 2023 homicide data from the [city’s official website](#) and obtained population and poverty numbers for each of Philadelphia’s 35 residential ZIP’s from the [Census](#). With a deplorable 39.4 percent of its citizens in poverty ([U.S. is 12.6 percent overall](#)), ZIP 19134 (it’s highlighted in red) was the city’s third-poorest. And with a murder rate of 39.4 per 100,000 population, it was its fourth most lethal.

Violence isn’t only measured by murder. CBS collected data about [criminal shootings](#) in Philadelphia in 2022, and we ZIP-coded their locations. Here’s how *that* can of worms turned out:

2022 Phila. criminal shootings 5 highest-rate ZIPs					2022 Phila. criminal shootings 5 lowest-rate ZIPs				
ZIP	Pop	Pov	Number	Rate/10K	ZIP	Pop	Pov	Number	Rate/10K
19132	32598	34.1	175	53.7	19118	9999	6.8	1	1.0
19134	59230	39.4	270	45.6	19119	28509	10.5	7	2.5
19121	33708	38.9	147	43.6	19106	13064	5.4	6	4.6
19140	53979	40.6	196	36.3	19137	8384	14.5	4	4.8
19133	25798	36.9	93	36.0	19102	4793	16.6	3	6.3
<b>Average</b>		<b>38</b>	<b>176</b>	<b>43</b>	<b>Average</b>		<b>10.8</b>	<b>4.2</b>	<b>3.8</b>

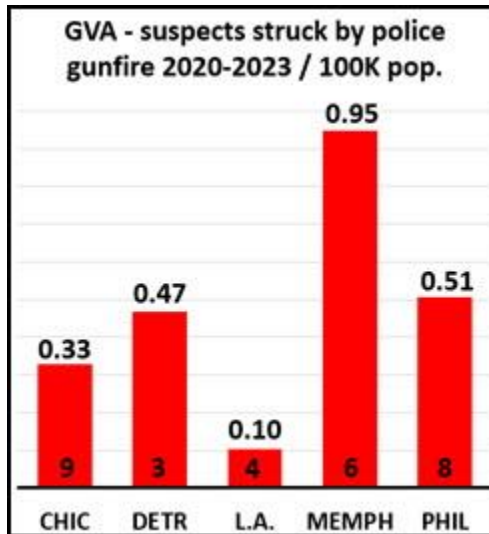
ZIP Code 19134 (highlighted in red) comes in second-worst out of thirty-five. That’s decidedly not something to brag about. Neither is the disquieting fact that, as we chronically harp in our “[Neighborhood](#)” posts, poverty and violence are virtually in lockstep. Check out the “*r*” (correlation) statistics on these graphs:



Correlations can range from zero, meaning no association between variables (i.e., poverty and crime), to one, meaning a perfect, lock-step relationship. With an *r* of “plus” .76, Philly’s poverty and murder rates are, statistically speaking, very closely linked.

# POLICEISSUES.ORG

Ditto, poverty and criminal shootings. In fact, at  $r=.82$ , that measure comes tantalizingly close to perfection. Of the lousy kind.



Let's look at officer-involved shootings. We downloaded data from the [Gun Violence Archive](#) on suspects struck by police gunfire in our five cities between 2020-2023. Our bar graph on the left (rates on top, number of incidents below) places Philadelphia in the unenviable position of surpassing chronically-beset Chicago and Detroit in terms of police gunfire. We also obtained information about officer-involved shootings in Philadelphia between 2018-

2023 from its [police portal](#) (see right). That revealed that ZIP 19134 (circled in red), where Eddie Irizarry suffered his fatal encounter, had the greatest number and, as well, the highest rate of shootings. ZIP 19134 is actually served by two precincts, 24 and 25, which are housed together. Their officers also handle areas within several other ZIP's, and three of those (19124, 19140 and 19133) had a substantial number of shootings as well. And that unholy relationship between crime and poverty is clearly evident. Notice how average poverty across ZIP's (circled in red) worsens as the number of police shootings increases from zero to one, then to two, and finally to three-plus.

ZIP	Pop	Pov	# Shtgs	Pcts
19134	59230	39.4	7	24, 25
19144	44831	28.3	5	14, 39
19145	44743	16.3	5	1, 17
19124	71209	32.6	4	15, 24, 25
19140	53979	40.6	4	25, 39
19146	40743	13.1	4	17
19133	25798	36.9	3	22, 25, 26
19148	50744	19.5	3	3, 4
Average		28.3		

# ZIPs	Avg. Pov.	# Shtgs
5	23.4%	2
17	22.0%	1
16	14.4%	0

Lethal blunders have befouled policing since time immemorial. Supposedly well-intentioned officers were being charged with murder long before the George Floyd imbroglio hardened public and prosecutorial attitudes towards the police. Consider, for example, the 2017 killing of [Justine Ruszczyk](#), a well-meaning, middle-aged Minneapolis resident who unexpectedly walked up to the police car that responded to her 9-1-1 call.



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The officer who shot her [wound up serving three years](#) for manslaughter and third-degree murder.

Officer Dial had been a Philadelphia cop for five years. We otherwise know precious little about him. What we *do* know is that he worked in an especially poor and violence-prone zone of a violence-beset city. “[Working Scared](#)” emphasized that officer personalities are shaped by their working environment. As its subtitle asserts, “fearful, ill-trained and poorly supervised cops” are indeed “tragedies waiting to happen.” Was Officer Dial’s workplace so beset will ill-behavior that it exerted an unholy influence on every citizen-officer encounter? That’s where “[confirmation bias](#)” comes in. It’s the normal human tendency – meaning *everyone*, not just cops – to interpret things in a way that reinforces their pre-existing biases and beliefs. Mr. Irizarry’s erratic driving and, particularly, his rejection of authority figures – he immediately rolled up his window – might have “confirmed” Officer Dial’s biases and badly distorted his decisions.

It might even explain why a cop “saw” a non-existent gun. That, of course, doesn’t excuse his behavior. Really, police officers *are* human. They’re also well-armed. Although they’re also supposedly carefully selected, well trained and closely supervised, some continue to impulsively react with gunfire. Why is that? Are those working in violence-beset areas particularly affected? Might instinctively drawing a gun when danger looms be partly to blame? Given the quirks of human nature, and not just those of the badge-wearing kind, avoiding interminable replays would require that police embark on a brutally honest, in-depth exploration of the underlying issues. We mean at *every* academy session, *every* command get-together, and, most importantly, *every* roll-call, from now until the cows really *do* come home.

Posted 8/14/14

## COOKING THE BOOKS

### *Has LAPD been using whiteout to fight crime?*

*By Julius (Jay) Wachtel.* Six years ago, a post entitled “Why the Drop?” posed a question about Los Angeles’ crime statistics: “Crime has been falling. Does anyone know why?” Thanks to some intrepid reporting by the Los Angeles Times, we might finally have our answer. And it’s not pretty.

In 2001 the violent crime rate in the City of Angels reached a historic high of 756.5 per 100,000 population. By 2007, the tally had plunged to 398.2. This startling reduction of 47 percent meant that even as the population increased, there were 24,442 fewer violent crimes. True enough, crime had eased throughout the U.S. But even as the national trend line flattened, L.A.’s Part I crime rate (murder, forcible rape, robbery and aggravated assault) kept falling. In 2012 violent crime in the U.S. increased by seven-tenths of one percent. But L.A. reported yet another decline, in this case of nearly seven percent.

Considering its burgeoning population and thin police coverage, L.A.’s unbroken string of victories seemed remarkable. So we wondered. After considering possible causal factors such as demographics and harsh sentencing, our speculation took what may have been a prophetic turn:

National crime stats come from the police, the same agencies whose effectiveness the data supposedly measures. Many reporting problems have surfaced over the years. Bookkeeping errors (unsurprisingly, usually leading to undercounts), differences in categorization, even purposeful jiggling – they’ve all taken place. Suffice it to say that cooking the books is eminently possible, and no one’s watching.

Each year the FBI publishes crime statistics, by city and state. According to the Times, the decline in L.A.’s crime rate is attributable, at least in part, to a practice of purposely downgrading incidents so they don’t reach the Part I threshold. In fact, police departments throughout the U.S. have been cooking the books for years. Want to keep an aggravated assault – the most common Part I violent crime – off the FBI tally? Easy. Simply discourage reporting. Or if a victim refuses to play ball, downplay their account, minimize their injuries or ignore the use of a weapon. Presto! You now have a simple assault, which is not included in the FBI’s report.

Don’t believe it? Here are a few examples:

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- In 1998 the U.S. Justice Department opened an inquiry into fudged crime statistics in Philadelphia. As a local reporter later said, “The phony stats were known for many years. Aggravated assaults were easily changed to simple assaults...Precinct commanders used to joke about this, but behind those statistics are real victims.”
- Detroit chief James Barren was fired in 2009 when his department and the medical examiner were caught misclassifying homicides as self-defense and suicide.
- In the same year a Dallas newspaper investigation revealed that police were reporting only half the crimes called for in FBI guidelines. Although use of a weapon (not just a gun) makes assaults “aggravated,” pipe beatings, to give one example, were being recorded as simple assaults.
- Also in 2009 the Florida Department of Law Enforcement attributed chronic under-reporting of serious crime by Miami police to “a self-imposed pressure that certain [officers] felt as a result of the implementation of Compstat.” One of the examples cited was a carjacking that police downgraded to an “information report.”
- Sometimes crimes can’t be easily downgraded. But Baltimore found an ingenious way to make it seem as though fewer citizens were being shot. How? By reporting shootings with multiple victims as a single crime.

For possibly the longest running and most systematic manipulation of crime data look to the Big Apple. NYPD officers have been accusing their agency of undercounting serious crime for years. As one cop said, “If it’s a robbery, they’ll make it a petty larceny...a civilian punched in the face, menaced with a gun, and his wallet was removed, and they wrote ‘lost property’.” Indeed, some cops got so angry that they secretly taped superiors telling them to downgrade reports. By 2010 the department had no choice but to formally investigate. It concluded that, yes, a few rogue managers were purposely downgrading crimes. Orders were duly issued banning the practice.

Yet the problem apparently persisted. In *The Crime Numbers Game: Management by Manipulation*, a stinging exposé published in 2012, two criminal justice professors (one, a retired NYPD captain) alleged that these unsavory practices have not only continued but are literally embedded in the troubled agency’s DNA.

Compstat, NYPD’s vaunted number-crunching tool, likely deserves much of the blame. Brought to Los Angeles by former (and current) NYPD Commissioner Bill Bratton, it measures officer performance by tallying enforcement activity – stops, tickets and arrests – and the agency’s success by counting crimes. Of course, once NYPD

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started bragging about its success, crime rates had to keep going down. And even if crime really was falling, cops (at least those seeking good evaluations) remained under instructions to make as many stops and arrests as possible. (Thanks to the law of unintended consequences, high levels of police activity can have negative effects. New York's stop and frisk campaign seemed like a great idea – until it didn't.)

As we've repeatedly said, what really "counts" in policing can be impossible to adequately express with numbers. Police departments aren't factories, and officers aren't assembly-line workers. Adopting programs such as Compstat can push aside worthy objectives and distort what actually gets done. And while relying on numbers alone to form public policy is a bad idea, fudging them is unforgivable. It turns cops into liars. It misleads policymakers and the public. Granting offenders undeserved breaks also shortchanges victims and increases everyone's risk of becoming the next casualty.

Hopefully the Times' jaw-dropping findings will lead LAPD to reassess both the value and accuracy of its statistics. Coincidentally, just as this post was going to press, the California State Board of Equalization issued an alert warning that some businesses were gaming tax collectors with "illegal sales suppression software" that automatically understates sales volume. While there is no known application that does that for city crime statistics, one can only imagine the possibilities!

Posted 9/8/21

## **DAMN THE EVIDENCE – FULL SPEED AHEAD!\***

*Lousy policing and thoughtless prosecution  
cost three innocent men decades in prison*



*For Police Issues by Julius (Jay) Wachtel.* Virginia offers [three kinds of pardons](#): simple, conditional, and absolute. That last type can only be issued “when the Governor is convinced that the petitioner is innocent of the charge for which he or she was convicted.”

Needless to say, absolute pardons are rare. Yet within a recent thirty-day period [Governor Ralph Northam granted three](#). Two of the beneficiaries had been convicted of murder: Emerson Stevens, for abducting and killing a rural Virginia woman in 1985, and [Joseph Carter](#), for bursting into a Norfolk motel room in 1989 with an accomplice and robbing and killing an occupant. The third, [Bobby Morman, Jr.](#), was convicted of being the triggerman in a 1993 Norfolk drive-by shooting that fortunately injured no one. Here are some of the pertinent details:

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### **Emerson Stevens**

(click [here](#) for the *Washingtonian*’s comprehensive two-part account.)



Mary Harding, a rural Virginia bookkeeper, disappeared on a day in 1985 when her husband, a fisherman, was reportedly at sea. Four days later her decomposing body was found in a marsh. It had been weighted down with a cinder block. Her back bore deep slashes, and a rope and chain bound her neck and right leg.

There were no obvious leads. But Mary’s husband said that a local fisherman, Emerson Stevens, a “loner and a drinker,” had been at Mary’s funeral and seemed “shaken.” A neighbor mentioned that she

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once caught Stevens looking through her bedroom window. And that was pretty much it.

When questioned, Mr. Stevens told the detective that he was home all of that fateful day, and repeated his assertion when polygraphed. But when informed that he failed, Mr. Stevens changed his story. He said that he actually drove to his sister's that day and briefly parked near the victim's home to urinate. Analysts found a single strand of hair in Mr. Stevens' pickup. Using microscopy they matched it to the victim.

Stevens was tried for murder. One expert confirmed that damning match. Another testified that a specialized hunting knife Stevens was known to carry could have inflicted the slashes. And another suggested that the victim's body could have floated from Mr. Steven's dock to where it was recovered, ten miles away. Mr. Stevens testified. He admitted lying to the detective, but only to get him "off his back." As for the knife, he said he had lost it. Several defense witnesses swore that they had dinner with Stevens that evening, and wife confirmed that he was home that night.

Jurors hung. But on retrial one of Stevens' cousins testified that he saw the defendant's truck at the victim's home on the day of her disappearance. Worse still, Mr. Stevens was again caught lying, this time on the stand. It turns out that he didn't "lose" the knife: his father testified he threw it out because his son "was hassled so bad."

Mr. Stevens was convicted of murder. In 2009, nearly a quarter century after his imprisonment, the Virginia Innocence Project took on his defense. And in time they thoroughly debunked the State's case. Only two years after Mr. Stevens' conviction, the cousin who supposedly saw his truck at the victim's home pled guilty to obstructing justice for testifying that he never asked about a \$20,000 reward offered in the case (in fact, he repeatedly did.) And the State withheld material evidence that contradicted their case. An FBI report estimated that the body floated no more than 600 yards. The medical examiner was now certain that the slashes weren't produced by a knife, but were inflicted by a boat propeller after Mary's death. Over the years, microscopic hair comparisons had led to many wrongful convictions [and were thoroughly discredited](#).

Thanks to the project's work [Mr. Stevens gained parole in May 2017](#). Three years later a Federal appeals court [affirmed his right to pursue a claim](#) that Virginia violated his right to a fair trial (956 F.3d 229, 2020.) Here's what one of the Judges wrote:

There is now no reliable physical evidence, the prosecution's theory that Stevens's knife caused the back wounds is no longer viable, the jury could seriously question at least one prosecution witness's credibility based on his false testimony, and the FBI report at least makes the prosecution's theory that the body traveled ten miles much more difficult to believe...At a minimum, Stevens

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has made a prima facie showing that, based on the evidence as a whole, no reasonable jury would have convicted him of this crime.

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## **Joseph Carter**

(click [here](#) for the National Registry account and [here](#) for the UVA summary)

What's known for certain is that on November 19, 1989 two men burst into a Norfolk motel room and robbed its occupants, stabbing one dead and clubbing the other. When first questioned, neither the survivor (he said both his assailants were masked) nor a female resident of the motel who got a glimpse of the duo (she said neither was masked) said they knew either of the robbers. Crime scene investigators found fingerprints in the room. They belonged to a known local man, Mark Pavona.



Pavona was interviewed by detective Glenn Ford. He denied being involved. However, Pavona said that two acquaintances, Joseph Carter and Brian Whitehead had told him that they planned to commit the robbery. Detective Ford displayed their photos to the survivor and the witness. Both identified Joseph Carter as one of the assailants.

Physical evidence was otherwise lacking. At trial neither the survivor nor the witness could identify Whitehead. So he was acquitted. But both positively identified Carter. They conceded knowing the defendant, who had once lived at the motel. In fact, the witness said that she spoke with Carter's wife about the crime on the day after. As for the survivor, he admitted not recognizing Carter when he was supposedly masked. But in court, his "body shape" and "the way he spoke" cinched it. It was Carter, allright.

Carter and his wife testified that they were home with their kids when the murder occurred. But that wasn't enough to carry the day, and jurors convicted Carter of murder.

In 2011, as Carter began his second decade of imprisonment, the investigating detective, Glenn Ford, then retired, [was sentenced to twelve and one-half years in Federal prison](#) for extorting money from drug dealers while he served as a cop. By then his reputation had been shattered by the notorious "[Norfolk Four](#)" case, in which he gained the convictions of four Navy vets for a 1997 rape/murder by hounding them into falsely confessing. (They were conditionally pardoned in 2009 and fully exonerated in 2017.

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Ford's downfall reignited things, and the Virginia Innocence Project took on Carter's defense. Pointing out some glaring flaws in the ex-detective's work – for example, he didn't investigate Pavona, whose fingerprints were found in the room – they secured Carter's parole in 2016. Two years later the female witness admitted that she had succumbed to pressure to identify Carter. "The truth is that I have no idea who committed this crime, because I did not get a good look at either man."

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### **Bobbie Morman, Jr.**

(click [here](#) for the National Registry account and [here](#) for the UVA summary)



On August 4, 1993 gunfire erupted from a car occupied by several young men as it passed by a Norfolk residence. Three persons were standing outside; fortunately, none were struck. Each told police that the gunman was Bobbie Morman, Jr.

Mr. Morman went to trial. His accusers' accounts varied. One, who initially told authorities that she didn't see Bobbie Morman's face, testified that she was certain that he pulled the trigger. A second witness testified that he "figured" it was Bobbie Morman. When cross-examined, he conceded that he "was not exactly" sure. But the third witness was certain that the shooter was Morman.

Surprisingly, all of the vehicle's occupants testified. Each denied that the defendant had been in the car. One, Glen Payne, swore that *he* did the shooting and his companions confirmed it. Another defense witness said that he and the accused were playing video games at the time of the shooting. All this affected the jurors, who posed many questions to the judge during deliberations. But they nonetheless convicted.

In 2014, as Bobbie Morman began his second decade in prison, Mr. Payne, the confessed triggerman, [told a television host](#) that, as he had said "time and time" again, *he* was the shooter. He had only intended to scare, not to harm: "I shot in the air, just to scare them...No one was hurt... Bullets in the air...Pow...That`s all it was."

That got the Virginia Innocence Project involved. Mr. Payne informed them that Bobbie Morman's lawyer had passed on instructions to not contact the police before the trial. As for the witness who "figured" the shooter was Bobbie Morman, he was now "even less less confident that I was right." All that had an effect, and Morman was paroled in 2016.



In Virginia qualifying for an “absolute pardon” requires that applicants have pled not guilty (that is, were convicted at trial) and always asserted their innocence. That describes the Norfolk Three. Yet it took decades for justice to prevail. Mr. Stevens was released thirty-one years into a 164-year term. Mr. Carter served twenty-six years of a sentence of two life terms plus 30 years. Mr. Morman, who wasn’t accused of hurting anyone, served twenty-three years, nearly half of his stiff, 48-year term.

How did three innocent men get locked up? After all, their culpability seemed questionable from the start:

- Of the three, only Mr. Stevens was connected to the crime scene by physical evidence. Still, that microscopic hair match proved by itself insufficient. Two decades after his conviction, innocence project lawyers learned the rest of the story. [“A box of potentially exculpatory case evidence”](#) replete with materials that Stevens’ lawyer never saw contradicted prosecution assertions about the wounds on the victim’s body and, as well, put the lie to its ten-mile voyage.

And there was more. According to [an in-depth piece in the \*Washingtonian\*](#) there were at least three very “viable” suspects other than Stevens, most prominently the victim’s husband. A potential witness had also complained that the investigating detective pressured him to lie about Stevens’ whereabouts during a critical timeframe (he was offended and refused.) Indeed, coercion seemed part of that cop’s toolbox. Years later a judge would excoriated the same detective for mercilessly bullying a 65-year old woman into falsely confessing to murder.

- Witness intimidation also helped doom Joseph Carter. According to the Virginia Innocence Project, “coaxing, pressuring, and even threatening witnesses to obtain the evidence and testimony necessary to secure convictions” [was how Norfolk P.D.’s Robert Ford went about his business](#):

“There was no physical or forensic evidence tying Mr. Carter to the murder; the Commonwealth instead relied solely on tainted witness testimony obtained by disgraced former Norfolk Detective Robert Glenn Ford and his partner. Instead of taking time to sufficiently investigate the murder, or critically evaluate witness testimony, the Commonwealth permitted Detective Ford to elicit false witness testimony that wrongfully implicated Mr. Carter in a crime he did not commit.”

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In his pardon message, Governor Northam noted that the detective “used his official capacity to extort witnesses in order to yield high solvability percentages.” After gaining Mr. Carter’s conviction he went on to persecute (and prosecute) the “Norfolk Four,” a notorious case that in time sealed his reputation.

- Mr. Morman faced far less serious charges. But as we suggested in [“The Usual Suspects”](#), having a prior felony conviction puts defendants in a fix. Among other things, it can be used to impeach their testimony should they take the stand. And Mr. Morman’s alleged wrongdoing seemed virtually identical to the conduct that brought on that earlier conviction. (It was for “attempted malicious wounding.”)

That made for a heavy lift. It undoubtedly blunted the force of the testimony by the car’s occupants. Mr. Morman was also poorly served by the legal system. Mr. Morman’s lawyer reportedly advised that Glen Payne, the self-professed shooter, should wait until the trial to tell his story. Had Mr. Payne promptly alerted police, as he later said he intended, prosecutors would have had time to look into things. But that surprise testimony likely affected the judge, whose comments to Mr. Morman at sentencing (e.g., “Who do you think you’re talking to? I’ve taken time to listen to your parents and all the other witnesses...You asked for a jury trial, and you got a jury trial...”) reflected a great deal of skepticism. We’re not suggesting that Mr. Morman was a “nice” guy, but forty-eight years for a shooting that hurt no one seems exceptionally stiff.

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Good old-fashioned police work would have spared our three victims. But posts in our [“Quantity and Quality”](#) special section sound a deep note of warning. For example, [“Why do Cops Lie?”](#) focused on two eye-popping examples from the Big Apple: detective Louis Scarcella, whose “propensity to embellish or fabricate statements” led to the reversal of eight convictions, and detective Kevin Desormeau. “Once regarded as among the city’s most effective street cops,” [Desormeau was ultimately convicted of lying to a grand jury](#) for falsely testifying that he witnessed a sale of drugs.

Why do detectives go astray? Let’s self-plagiarize. When serious crimes aren’t promptly resolved, pressures mount from within and outside the ranks, to say nothing about forces within oneself. That’s when “confirmation bias,” the natural tendency to “interpret events in a way that affirms one’s predilections and beliefs” rears its ugly head. Should detectives fall prey, they may accept “evidence” that might otherwise seem sketchy or implausible ([“House of Cards”](#) and [“Guilty Until Proven Innocent”](#)). And as our self-professed guardians rush along, pressuring witnesses and turning “maybe’s”

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into “yes’s”, what’s inconsistent must be disputed or ignored (“[Can We Outlaw Wrongful Convictions II](#)”). That’s how a “house of cards” gets built (“[The Ten Deadly Sins](#)”).

We left out a tricky part of the puzzle: officer differences. In the writer’s twenty-plus years of investigating crime, nearly every cop and Fed with whom he worked was honest and trustworthy. Yes, there were a (very) few exceptions, whom he studiously avoided. In our experience, the NYPD detectives mentioned above are far from the norm. Yet as we recently set out in “[Third, Fourth and Fifth Chances](#)”, some agencies seem unwilling to reign in cops who repeatedly misbehave. Getting an agency to question the practices of highly “successful” detectives who repeatedly solve serious crimes may be tough. You see, that same “confirmation bias” – and self-interest – affects superiors, indeed, [the whole chain of command](#).

We’ve also ignored another difficult issue. Abundant evidence can point the wrong way. It took three trials before jurors convicted [Horace Roberts](#). Set up by his lover’s husband and another man, [who allegedly fabricated enough evidence to distract police from their own culpability](#), Mr. Roberts spent more than twenty years wrongfully locked up for murder. Yet according to the California Innocence Project, [it wasn’t the cops’ fault](#):

Mr. Harris [the victim’s husband] actually set our client up. It was evidence that was fabricated by, we believe, the actual killer. On top of that...he actually had the audacity to come in and testify at our client’s parole hearings, that he be kept in prison longer...it’s certainly something can’t be put on the police department or the district attorney’s office in terms of evidence; it was evidence that was actually fabricated.

However, we continue to be skeptical that cops and prosecutors did such a great job to start with. It seemed to us that the case against Mr. Roberts, which relied exclusively on circumstantial evidence, was thin to start with. That, after all, is why two juries couldn’t agree. This concern – that appearances *can* and often *do* mislead – [underlies the present struggle between cops and prosecutors in Chicago](#) over an August 15, 2021 shooting that killed a 7-year old girl and wounded her 6-year old sister. Police claim that their case against the alleged murderer, a parolee, is “solid”: prosecutors disagree. So the cops are threatening to go to court *without* the lawyers. That’s a really, *really* rare step. And if there eventually *is* a conviction, we hope that there will never be a need to examine how yet another miscarriage of justice came about.

Really, when one considers public and agency pressures to solve serious crimes, and the personal idiosyncrasies of cops and prosecutors alike, it may seem a miracle that wrongful convictions aren’t an everyday occurrence. That they’re not supports your

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writer's belief that a sense of craftsmanship still prevails in policing. Insuring that this continues, and that careless practitioners and possible lapses are promptly brought to light, is every cop's Job #1.

\* With apologies to Admiral Farragut for filching his classic line: "Damn the *torpedoes*, full speed ahead!"

Posted 5/31/08

## **DAMNED IF THEY DO, EVEN IF THEY COULD**

### ***Pressures to make arrests distract FBI agents from pursuing worthwhile targets***

By Julius Wachtel, (c) 2010

How many terrorist attacks have we had in the U.S. since September 11, 2001? None, of course. How many attempts? Hint: You can count them on the fingers of one hand, even if you bite four digits off.

That's right, *one*. It was [Richard Reid](#), aka Abdul Raheem, a British-born Jihadist who tried to blow himself up aboard an American Airlines flight from Paris to Miami in December 2001. Reid, who's now safely tucked away in a Super-Max room-and-board, was part of a three-man European cell that intended to down airliners with shoe bombs. Fortunately, an alert flight attendant smelled smoke from Reid's matches (fuses aren't supposed to be lit that way, but that's another story). So be nice to flight attendants, and be sure to flip Reid a hearty salute every time you stick your shoes in an airport tray.

According to the good folks at [FOX News](#) there have been fourteen terrorist plots aimed at America or Americans since 9/11. Of these, only Reid's went operational, the others being mostly comprised of wannabees who had to be talked into everything by informers. For example, in the [Sears Tower plot](#), six Muslim men were enticed by a paid snitch to help him blow up a skyscraper and bomb FBI offices. At their second trial (the first ended in a hung jury) one defendant was acquitted outright, while jurors deadlocked on the rest. (A third trial is pending.) Then there's the case of the [Fort Dix Six](#), where the FBI paid another informer to convince six Muslims to agree to assault a military base. Set for trial later this year, the case drove *Time* magazine to strongly criticize the FBI's habit of proceeding "almost entirely on the work of a paid informant with a criminal record."

Essentially the problem boils down to this. At heart the FBI is a law enforcement organization. Under heavy pressure to nab terrorists, but lacking actionable intelligence and the know-how to collect and analyze it, the Bureau turned to what it knew: making criminal cases. Unable to infiltrate real terror cells with undercover agents, the FBI used informers to cajole and manipulate targets of opportunity until they did or said

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enough to be arrested on conspiracy charges. If it sounds like the FBI's been making a bunch of bad "B" movies on the taxpayers' dime you wouldn't be far off.

Clearly not all FBI agents are happy about this. In recent testimony before the [House Judiciary Committee](#) one of the Bureau's few native Arabic speakers criticized his agency for focusing on minor cases, thus "diverting resources from investigating more substantial threats." Meanwhile the [Senate Intelligence Committee](#) took its own swing, accusing the Bureau's antiterrorism program of being helplessly stuck in law-enforcement mode. Finding little progress since 2005, when the 9/11 Commission gave the FBI a "C" report card, Senators criticized it for everything from inept intelligence analysis to using specialized anti-terror groups for unrelated law enforcement tasks.

Reading between the lines it seems that Congress wants FBI terrorism investigators to stop playing policeman so they can root out terrorist threats before more buildings come tumbling down and more aircraft fall from the sky. That's a tall order for agents who signed up to make cases, not sit in vans and listening posts for hours on end, and a nearly impossible one for an agency whose success has always been measured by numbers of arrests.

When it comes down to it, everyone wants tangible results. Hands at the [Los Angeles Times](#) are wringing over the fact that while the number of electronic surveillance warrants steeply increased, the number of terrorism cases referred for prosecution steeply *decreased*. According to statistics collected by [TRAC](#), a nonprofit group at Syracuse University, the Justice Department initiated fifty percent fewer national security prosecutions in 2007 than 2002 (actual drop, from fifty cases to twenty-five). Meanwhile, refusals to prosecute have climbed from about thirty percent to more than eighty percent of referrals.

Now, some might say that this is good news, reflecting a greater depth of casework and perhaps higher prosecutorial standards. But the *Times* isn't sure. "Although legal experts say they would not necessarily expect the number of prosecutions to rise along with the stepped-up surveillance, there are few other good ways to measure how well the government is progressing in keeping the country safe."

That in a nutshell is the FBI's dilemma. Experts inside and outside the Bureau agree that to protect the country it needs to place more emphasis on collecting intelligence and less on roping in dopes and staging show trials. But taking the high road might lead to even fewer arrests, leading politicians and the public to conclude that the Feds aren't doing their job.

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One person got it right. [Thomas Newcomb](#), a former national security staff member, told Congress that military action and diplomacy are more suited for defeating terrorism than going to court. “The fact that the prosecutions are down doesn't mean that the utility of these investigations is down. It suggests that these investigations may be leading to other forms of prevention and protection.” Unfortunately, prevention isn't readily measurable while making arrests *is*, so that's what the FBI feels it must keep doing even if everyone agrees it's the wrong approach.

Incidentally, that's precisely the reason why intelligence work should be done by a specialized agency, not by a law enforcement organization. For more on this see the postings below.

Posted 3/27/19

## DRIVEN TO FAIL

*Numbers-driven policing can't help but offend. What are the options?*

LAPD Bureau	Population	Murders 2016	Rate	Laser zones
Central	842,700	77	9.1	10
South	640,000	124	19.4	15
Valley	1,426,071	65	4.6	5
West	840,400	28	3.3	10

*For Police Issues by Julius (Jay) Wachtel.* It's been a decade since DOJ's Bureau of Justice Assistance kicked off the "[Smart Policing Initiative](#)." Designed to help police departments devise and implement "innovative and evidence-based solutions" to crime and violence, the collaborative effort, since redubbed "[Strategies for Policing Innovation](#)" (SPI) boasts seventy-two projects in fifty-seven jurisdictions.

[Eleven of these efforts](#) have been assessed. Seven employed variants of "[hot spots](#)," "[focused deterrence](#)" and "[problem-oriented policing](#)" strategies, which fight crime and violence by using crime and offender data to target places and individuals. The results seem uniformly positive:

- Boston (2009) used specialized teams to address thirteen "chronic" crime locations. Their efforts reportedly reduced violent crime more than seventeen percent.
- Glendale, AZ (2011) targeted prolific offenders and "micro" hot spots. Its approach reduced calls for service up to twenty-seven percent.
- Kansas City (2012) applied a wide range of interventions against certain violence-prone groups (read: gangs). It reported a forty-percent drop in murder and a nineteen percent reduction in shootings.



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- New Haven, CT (2011) deployed foot patrols to crime-impacted areas. Affected neighborhoods reported a reduction in violent crime of forty-one percent.
- Philadelphia (2009) also used foot patrols. In addition, it assigned intelligence officers to stay in touch with known offenders. Among the benefits: a thirty-one percent reduction in “violent street felonies.”
- Savannah (2009) focused on violent offenders and hot spots with a mix of probation, parole and police. Their efforts yielded a sixteen percent reduction in violent crime.

We saved our essay’s inspiration – Los Angeles – for last. It actually boasts three SPI programs. Two – one in 2009 and another in 2014 – are directed at gun violence. A third, launched in 2018, seeks to boost homicide clearances. So far, DOJ has only evaluated the 2009 program. Here is [its full SPI entry](#):

<p><b>Los Angeles, CA</b> <b>2009</b></p>	<p>The Los Angeles SPI addressed gun-related violence using Operation LASER (Los Angeles’ Strategic Extraction and Restoration Program).</p> <ul style="list-style-type: none"> <li>▪ Targeted violent repeat offenders and gang members who commit crimes in target areas.</li> <li>▪ Used intelligence-driven location- and offender-based tactics.</li> <li>▪ Implemented a Crime Intelligence Detail, composed of sworn officers and a local crime analyst, to create proactive, real-time intelligence briefs called Chronic Offender Bulletins.</li> <li>▪ Directed patrol, specific missions, and enhanced surveillance.</li> </ul>	<p><b>Research Design</b></p> <p>Interrupted time-series analysis, which assesses whether the interventions in target areas had an effect on crime while controlling for previous trends. (Research evaluation is ongoing.)</p> <p><b>Findings</b></p> <p>22.6% reduction in homicides per month in the target division.</p> <p>5.2% reduction in gun crimes per month in each reporting district of the target division.</p>	<p>Gun Violence, Violence Reduction</p>
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From a tactical perspective, the project falls squarely within the hot-spots and focused deterrence models. But its fanciful label – LASER – gave us pause. “Extracting” bad boys and girls to restore the peace and tranquility of hard-hit neighborhoods conjures up visions of the aggressive, red-blooded approach that has repeatedly gotten cops in trouble. Indeed, when LASER kicked-off in 2009 LAPD was still operating under Federal monitoring brought on by the [Rodney King beating](#) and the [Rampart corruption and misconduct scandal](#) of the nineties. That same year the Kennedy School issued a report about the agency’s progress. Entitled “[Policing Los Angeles Under a Consent Decree](#),” it noted substantial improvements. Yet its authors warned that “the culture of

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the Department remains aggressive: we saw a lot of force displayed in what seemed to be routine enforcement situations” (pp. 37-38). And that force seemed disproportionately directed at minorities:

A troubling pattern in the use of force is that African Americans, and to a lesser extent Hispanics, are subjects of the use of such force out of proportion to their share of involuntary contacts with the LAPD....Black residents of Los Angeles comprised 22 percent of all individuals stopped by the LAPD between 2004 and 2008, but 31 percent of arrested suspects, 34 percent of individuals involved in a categorical use of force incident, and 43 percent of those who reported an injury in the course of a non-categorical force incident.

During the same period the Los Angeles Police Commission’s [Inspector General](#) questioned the department’s response to complaints that officers were selecting blacks and Latinos for especially harsh treatment. In “[An Epidemic of Busted Taillights](#)” we noted that members of L.A.’s minority communities had filed numerous grievances over marginal stops involving “no tail lights, cracked windshields, tinted front windows, no front license plate and jaywalking.” Yet as the IG’s second-quarter 2009 report noted, not one of 266 complaints of racial profiling made during the prior fifteen months had been sustained, “by far the greatest such disparity for any category of misconduct.” (Unfortunately, the old IG reports are no longer on the web, so readers will have to trust the contents of our post. However, a [May 2017 L.A. Police Commission report](#) noted that LAPD’s internal affairs unit “has never fully substantiated a [single] complaint of biased policing.” See pg. 18.)

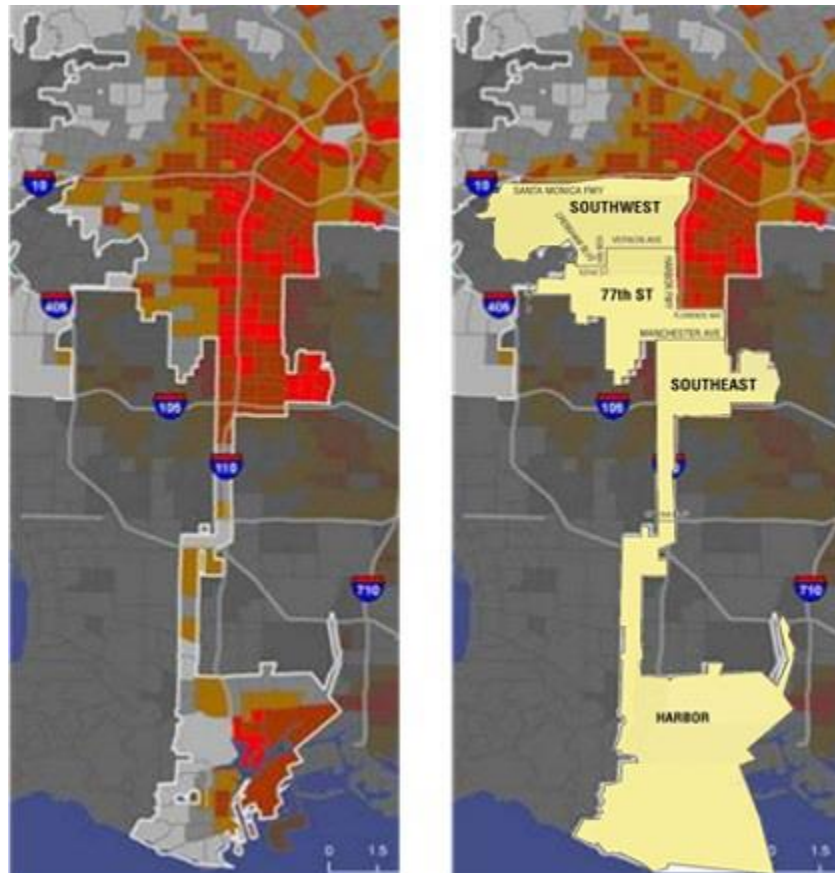
Despite concerns about aggressive policing, LASER went forward. [LAPD used a two-pronged approach](#):

- A point system was used to create lists of “chronic offenders.” Demerits were awarded for membership in a gang, being on parole or probation, having arrests for violent crimes, and being involved in “quality” police contacts. These individuals were designated for special attention, ranging from personal contacts to stops and surveillance.
- Analysts used crime maps to identify areas most severely impacted by violence and gunplay. As of December 2018 [forty of these hotspots](#) (dubbed LASER “zones”) were scattered among the agency’s four geographical bureaus. These areas got “high visibility” patrol. Businesses, parks and other fixed locations frequently associated with crimes – “anchor points” – were considered for

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remedies such as eviction, license revocation and “changes in environmental design.”

South Bureau wound up with the most LASER zones. Its area – South Los Angeles – is the city’s poorest region and nearly exclusively populated by minorities. As our opening table demonstrates, it’s also the most severely crime-impacted, with the ten most violent neighborhoods in the city and by far the worst murder rate. When we superimpose South Bureau (yellow area) on LAPD’s hotspots map, its contribution to L.A.’s crime problem is readily evident:



LAPD’s IG issued a [comprehensive review](#) of LASER and the chronic offender program two weeks ago. Surprise! Its findings are decidedly unenthusiastic. According to the assessment, the [comparatively sharp reductions](#) in homicides and violent crime that were glowingly attributed to LASER – these included a near-23 percent monthly reduction in homicides in a geographical police division, and a five-percent-plus monthly reduction in gun crimes in each of its beats – likely reflected incorrect tallies of patrol dosage. Reviewers questioned the rationale of the “chronic offender” program, since as many as half its targets had no record for violent or gun-related crimes. Many of

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their stops also seemed to lack clear legal cause. (Such concerns led to the offender program's suspension in August.) While the IG didn't identify specific instances of wrongdoing, it urged that the department develop guidelines to help officers avoid "unwarranted intrusions" in the future.

Well, no harm done, right? Not exactly. [At a public meeting](#) of the Police Commission the day the IG released its report, a "shouting, overflow crowd of about 100 protesters" flaunting "LASER KILLS" signs demanded an immediate end to the LASER and chronic offender programs. A local minister protested "we are not your laboratory to test technology," while civil libertarians complained that the data behind the initiatives could be distorted by racial bias and lead to discriminatory enforcement against blacks and Latinos. And when LAPD Chief Michael Moore pointed out that his agency had long used data, an audience member replied "yeah, to kill us." He promised to return with changes.

Chief Moore's comments were perhaps awkwardly timed. In January the *Los Angeles Times* [reported that](#) officers from a specialized LAPD unit had been stopping black motorists in South Los Angeles at rates more than twice their share of the population. They turned out to be collateral damage from a different data-driven effort to tamp down violence. Faced with [criticisms about disparate enforcement](#), Mayor Eric Garcetti promptly ordered a reset.

It's not that LAPD officers are looking in the wrong places. South Bureau, as the table and graphics suggest, is a comparatively nightmarish place, with a homicide every three days and a murder rate more than twice the runner-up, Central Bureau, and six times that of West Bureau. And while dosages varied, LAPD fielded LASER and the chronic offender program in each area. Policing, though, is an imprecise sport. [Let's self-plagiarize:](#)

Policing is an imperfect enterprise conducted by fallible humans in unpredictable, often hostile environments. Limited resources, gaps in information, questionable tactics and the personal idiosyncrasies of cops and citizens have conspired to yield horrific outcomes.

As a series of posts have pointed out (see, for example, "[Good Guy, Bad Guy, Black Guy, Part II](#)"), stop-and-frisk campaigns and other forms of aggressive policing inevitably create an abundance of "false positives." As long as crime, poverty, race and ethnicity remain locked in their embrace, residents of our urban laboratories will disproportionately suffer the effects of even the best-intentioned "data-driven"

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strategies, causing phenomenal levels of offense and imperiling the relationships on which humane and, yes, effective policing ultimately rests.

What happens when citizens bite back? Our recent two-parter, “Police Slowdowns” (see links below) described how police in several cities, including L.A. and Baltimore, reacted when faced with public disapproval. [A splendid piece](#) in the *New York Times Magazine* explains what happened after the [Department of Justice’s 2016 slap-down](#) of Baltimore’s beleaguered cops. Struggling in the aftermath of [Freddie Gray](#), the city’s finest slammed on the brakes. That too didn’t go over well. At a recent public meeting, an inhabitant of one of the city’s poor, violence-plagued neighborhoods wistfully described her recent visit to a well-off area:

The lighting was so bright. People had scooters. They had bikes. They had babies in strollers. And I said: ‘What city is this? This is not Baltimore City.’ Because if you go up to Martin Luther King Boulevard we’re all bolted in our homes, we’re locked down. All any of us want is equal protection.

If citizens reject policing as the authorities choose to deliver it, must they then simply fend for themselves? Well, a Hobson’s choice isn’t how *Police Issues* prefers to leave things. Part of the solution, we think, lies buried within the same official reproach that provoked the Baltimore officers’ fury. [From a recent post](#), here’s a highly condensed version of what the Feds observed:

Many supervisors who were inculcated in the era of zero tolerance continue to focus on the raw number of officers’ stops and arrests, rather than more nuanced measures of performance...Many officers believe that the path to promotions and favorable treatment, as well as the best way to avoid discipline, is to increase their number of stops and make arrests for [gun and drug] offenses.

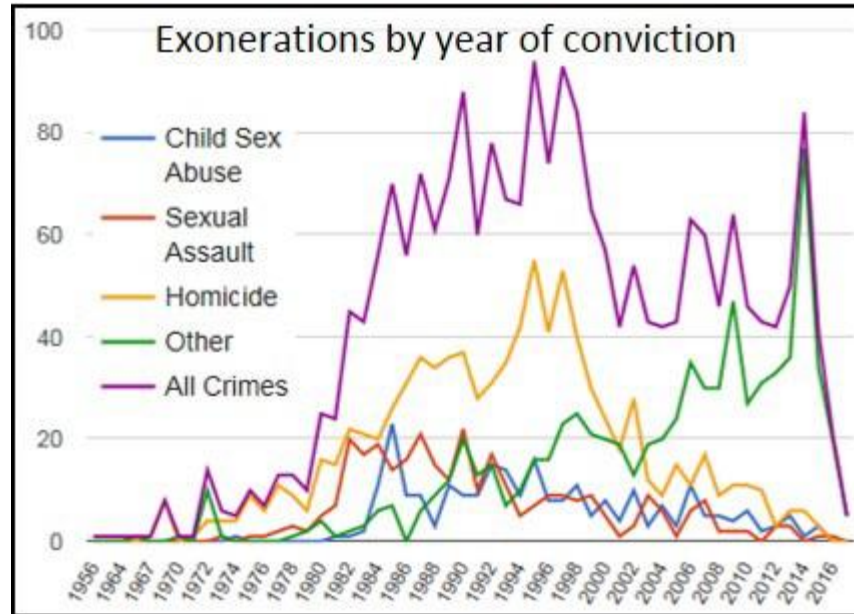
In the brave new world of Compstat, when everything must be reduced to numbers, it may seem naïve to suggest that cops leave counting behind. Yet in the workplace of policing, what really “counts” can’t always be reduced to numbers. It may be time to dust off those tape recorders and conduct some some richly illuminating interviews. (For an example, one could begin with [DOJ’s Baltimore report](#).) There may be ways to tone down the aspects of policing that cause offense and still keep both law enforcers and the public reasonably safe.

In any event, police are ultimately *not* the answer to festering social problems. Baltimore – and many, many other cities – are still waiting for that “[New Deal](#)” that someone promised a couple years ago. [But we said that before](#).

Posted 6/9/18

## FEWER CAN BE BETTER

*Murder clearances have declined. Should we worry?*



[www.law.umich.edu](http://www.law.umich.edu)

*By Julius (Jay) Wachtel.* Murder has always been the most frequently cleared serious crime. In the mid-1970s [police were reportedly solving](#) an impressive eight out of ten homicides. But a downtrend apparently took hold. Clearances fell to 72 percent in [1980](#), 67 percent in [1991](#), and 63.1 percent in [2000](#).

In 2008, with clearances stuck in the mid-sixties, the Feds stepped in. Four years later [BJA](#) released “[Homicide Process Mapping: Best Practices for Increasing Homicide Clearances](#).” Produced by the [IACP](#) and the [Institute for Intergovernmental Research](#), the 54-page report set out promising approaches to homicide investigation in seven jurisdictions of varying size: Baltimore County PD, Denver PD, Houston PD, Jacksonville S.O., Richmond PD, Sacramento County S.O. and San Diego PD. Why were these agencies chosen? In 2011, when the overall murder clearance rate was [64.8 percent](#), each enjoyed a rate exceeding 80 percent.

A sense of urgency permeates the report. Here’s the BJS director’s opening message:

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One homicide victim is one too many. Yet we also understand the challenging and quite complex nature of homicide investigations. Homicide, homicide investigations, clearance rates, and productive communication with the public are all critical concerns for law enforcement and communities nationwide. And despite recent across-the-board improvements in homicide clearance rates, we know that we can do better.

And here's the first paragraph of the executive summary:

Since 1990, the number of homicides committed in the United States has dropped over 30 percent. While this is a positive trend, it is somewhat counterbalanced by another trend: in the mid-1970s, the average homicide clearance rate in the United States was around 80 percent. Today, that number has dropped to 65 percent—hence, more offenders are literally getting away with murder.

We won't belabor the findings. As one might expect, resources get prominent attention. There's an emphasis on technology and information. Agencies are strongly encouraged to include forensic specialists and crime analysts in homicide teams. Data is said to have reshaped the detective's task: "the investigator must be an information manager who can coordinate and integrate information from a wide range of sources to drive the investigation forward."

Then what happened? Clearances kept going down, falling to [59.4 in 2016](#). Of course, many homicides are "cleared" over time. Still, considering that the murder rate is presently about half that of the crack-addled nineties ([1991=24,703 murders, rate 9.8](#); [1996=17,250 murders, rate 5.3](#)) the persistent decline in solution rates seems puzzling.

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During the early morning hours of April 17, 1994 [a woman was stabbed to death](#) in her Jacksonville County apartment. At the time the only other occupant was her brother-in-law, Chad Heins. He said he found her body when he awakened that morning. No physical or other evidence implicated Heins. However, he was convicted based on the testimony of two jailhouse informants who said he confessed. Heins drew a life term. In time the [Innocence Project](#) got involved. Between 2003-2006 a sequence of DNA tests confirmed that semen and skin residue from fingernail scrapings belonged to the same, unidentified third party. More damningly, it turned out that officers and prosecutors apparently kept quiet about a bloody fingerprint found at the scene that did not match Heins. He was exonerated in 2007 after serving thirteen years.

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A happy ending? Not exactly. Eight years later [Heins was convicted](#) in a tax fraud scheme hatched by a former cellmate. Citing the time Heins did for a murder he didn't commit, the judge went easy and sentenced him to a year and a day.

Heins' investigation was conducted by the Jacksonville sheriff's office, one of the seven contributors to the BJA report. A glance through the [National Registry of Exonerations](#) turned up wrongful convictions for murder and other crimes of violence (alas, without a known ironic aftermath) involving each of the other six police agencies. For example, [the 1991 conviction of Jeffrey Cox](#), a Richmond resident who got life plus fifty for murder. Although police had two suspects in mind, they added Cox to a photo lineup after one of the suspects brought up his name. And that's whom two neighbors identified. What police and prosecutors didn't let on was that one of the witnesses was a multi-convicted felon, while the other had charges that would be dropped in exchange for his testimony. And that a composite sketch of the killer didn't resemble Cox. And that a recovered hair didn't match. What finally set things right was when [a witness came forward](#) and said he was told by one of the two original suspects that they committed the killing and that Cox wasn't involved. That took eleven years, but hey, who's counting?

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Your blogger, a retired ATF agent, spent a career pursuing gun traffickers. When he and his colleagues caught them in the act, the quantity and quality of evidence was terrific. And when investigations didn't work out, they turned their attention elsewhere. After all, there were always plenty of good leads to chase.

That pattern applies to all "victimless" crime, including narcotics offenses. Unproductive inquiries can be easily dropped. And when everything lines up and suspects get caught, say, illegally transferring a load of guns or drugs, the evidence is indisputable. Evildoers literally convict themselves.

That's something that homicide detectives can only dream about. Like most cops, they work reactively, collecting what evidence they can after the fact. While they enjoy high status and comparatively ample resources, their mission is inherently stressful. We mentioned that in 2016 the homicide clearance rate was a seemingly robust 59.4 percent. Of course, if six in ten murders are promptly solved, that means four in ten languish. Pursuing these "whodunits" can consume prodigious amounts of shoe leather and laboratory time, and all with no guarantee of success. Yet one can't simply give up. Most detectives wouldn't want to. And even if they did, their managers would likely balk. After all, what would the public think? The victim's family?



Killers are seldom “in the act”. Yet the level of certainty required for conviction – beyond a reasonable doubt – is the same for all crimes. In reactive policing such as homicide investigation, where reaching this threshold depends on the availability of witnesses and physical evidence, pressures to produce results may drive officers to use illegitimate means, and particularly when the heat’s on. Here are some relevant extracts from prior posts:

- External and self-induced pressures to solve heinous crimes can lead even the best intentioned investigators to set aside doubts and interpret information in a light most favorable to a prompt resolution. ([“Guilty Until Proven Innocent”](#))
- “Probable cause” can be an elastic concept, and all the more so when police are under pressure to solve a high-profile crime. ([“Rush to Judgment, Part II”](#))
- Pressures to solve serious crimes can cause the theory of a crime to form prematurely, leading authorities to uncritically gather evidence that is consistent with that notion regardless of its merit or plausibility. ([“House of Cards”](#))
- As cases move through the system subtle pressures from police and prosecutors can make witnesses overconfident, turning a tentative “maybe” into a definite “that’s the one!” ([“Can We Outlaw Wrongful Convictions? Part II”](#))
- ...pressures to solve violent crimes can lead agencies and investigators to prematurely narrow their focus. Concentrating investigative resources on a single target inevitably produces a lot of information. As facts and circumstances accumulate, some can be used to construct a theory of the case that excludes other suspects, while what’s inconsistent is discarded or ignored. That’s how a “house of cards” gets built. ([“The Ten Deadly Sins”](#))

We could go on, but the reader undoubtedly gets the picture. One would think that the mighty Feds are well aware of these issues. Yet clearance rates are the only measure of success that 54-page report mentions. Nothing is said about dreadful mistakes like convicting the innocent. Same for a [“Morning Edition” piece](#) that gave prominent play to the shallow musings of a self-anointed “expert”:

Homicide detectives say the public doesn't realize that clearing murders has become harder in recent decades. Vernon Geberth, a retired, self-described NYPD "murder cop" who wrote the definitive manual on solving homicides, says

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standards for charging someone are higher now — too high, in his opinion. He thinks prosecutors nowadays demand that police deliver "open-and-shut cases" that will lead to quick plea bargains.

So what about that decline in clearance rates? Considering all the attention that's been given to the scourge of wrongful conviction, from Dallas County D.A.'s pioneering [conviction integrity unit](#), since replicated in many other jurisdictions, to the [Innocence Project](#) and its numerous clones, to the near daily stream of headlines and breathless exposés about exonerations, the need for caution has apparently sunk in.

Our expectations (and apparently, NPR's) for solving murders were set too high. Being more careful likely lowered the numbers. No matter. Sometimes fewer really *is* better.

Posted 3/19/17

## GUILTY UNTIL PROVEN INNOCENT

### *Pressures to solve notorious crimes can lead to tragic miscarriages of justice*

By Julius (Jay) Wachtel. "[Confirmation bias](#)" denotes the tendency to seek out information and interpret events in a way that affirms one's predilections and beliefs. A notorious example of how such biases can affect the criminal justice process is [the case of David Camm](#). In September 2000, four months after Camm retired as an Indiana trooper, his wife and two children were shot to death. Camm alerted 911 after allegedly finding their bodies when he returned home from an evening out. He was arrested and convicted for the killings and served thirteen years, going through three trials before being ultimately acquitted. At his last trial, in 2013, a defense witness, [Dr. Kim Rossmo](#), an expert on cognitive bias in criminal investigations, [blamed factors including confirmation bias and "groupthink"](#) for leading detectives and prosecutors to overlook contradictory evidence, ignore DNA and rely on a deeply flawed interpretation of bloodstain evidence in their rush to judgment.

An appeals court reversed the first verdict, ruling that introducing evidence of Camm's extramarital affairs was unduly prejudicial. Before the second trial DNA that authorities said they had sent in (but did not) was finally tested. It was found to match [Charles Boney](#), an ex-con who had done time for armed robbery. Boney had also left his palmprint at the crime scene. He wound up testifying against Camm, to the effect that he provided the murder weapon but waited outside the home while Camm executed his family. A forensic "expert" testified that victim bloodstains on Camm's shirt had been produced by spatter, and three prisoners insisted that Camm confessed to the killings.

Camm was again convicted (Boney would be separately tried and convicted. He drew life without parole.) But this conviction was also reversed, as Boney had been allowed to testify, without corroboration, that Camm admitted molesting his daughter.

Camm's third trial, held in 2013, brought in a wholly new perspective. A defense expert testified that Boney's DNA was found on the clothes and under the fingernails of Camm's wife, thus putting the lie to his claim that he "waited outside." Dr. Rossmo and another expert, who testified at length, criticized the investigation as haphazard and hopelessly biased from the start. Most importantly, the self-styled "serologist" who testified about blood spatter on Camm's clothes was thoroughly discredited. Real experts, hired by the defense, testified about the [profound ambiguities and uncertainties](#)

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[of blood spatter analysis](#) and said that the traces of victim blood found on Camm's clothes were likely produced by accidental transfer when he found the bodies.

Camm was acquitted. His lawsuit against the county [was settled in 2016](#) for \$450,000. Camm's litigation against D.A.'s and State police investigators continues.

David Camm's saga drew extensive coverage in the broadcast media, including [48 Hours](#) and [WDRB TV](#), and has several extensive writeups online (click [here](#) for the Wikipedia page and [here](#) for Murderpedia.) His travails are also cited in a [forensic science text](#) and were the subject of two nonfiction works (click [here](#) and [here](#)). And if that's not enough, a [novel](#) that closely tracks the case is supposedly in the works.

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When actionable leads are lacking detectives may have little choice but to assemble a list of possible evildoers. As we suggested in "[The Usual Suspects](#)", getting arrested increases one's risk of being accused of offending in the future. And when the new crimes are particularly grave – say, a string of unsolved rapes – pressures to bring a culprit to justice can rope in anyone who seems to fit the bill.

That's the situation that Luis Lorenzo Vargas faced in 1999 when Los Angeles Police proudly announced the arrest of "[The Teardrop Rapist](#)." Suspect of at least thirty-nine sexual assaults between 1995 and 2013, the rapist (he reportedly had a pair of teardrop tattoos under his left eye) stalked central city streets during the early morning hours and threatened victims with a gun or knife before dragging them away.

Vargas lived in the area where the rapes occurred and [physically resembled the perpetrator](#) down to a teardrop tattoo under the left eye (Vargas, though, only had one.) His past was also highly damning, as he had served three years in prison for the 1992 rape of a girlfriend. Detectives investigating three sexual assaults between February and July 1998 attributed to the Teardrop Rapist [showed the victims a photospread that included Vargas](#). Each victim would ultimately identify him as her assailant, although with qualifications and what now seems considerable uncertainty.

Police arrested Vargas in July 1998. He was tried eleven months later. Each accuser positively identified him in court, and Vargas was convicted. What the prosecution didn't disclose was that despite his arrest the rapes continued.

Vargas steadfastly denied his guilt and drew 55 years. He thereafter continued to maintain his innocence, placing parole out of reach. Finally, in 2012, thirteen years into his term, the California Innocence Project secured a court order to have the rape kit

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from one of the three victims submitted for DNA analysis (physical evidence was not available for the others.)

DNA testing excluded Vargas. But they matched several other assaults attributed to the Teardrop Rapist. Prosecutors recommended that Vargas be exonerated and a judge concurred. Vargas was released on November 23, 2015 after serving more than sixteen years. Meanwhile the “real” Teardrop Rapist remains unidentified.

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External and self-induced pressures to solve heinous crimes can lead even the best intentioned investigators to set aside doubts and interpret information in a light most favorable to a prompt resolution. Camm and Vargas were likely suspects who bobbed up in a sea of complexities that might have taken a very long time to untangle. But the criminal justice system doesn't have centuries.

Of course, no good cop would knowingly arrest and no good prosecutor would knowingly seek to convict the wrong person. Yet workplace pressures can play havoc with evidentiary practices. Camm was done in by misleading forensic testimony procured by police and prosecutors from a pretend expert. Vargas fell to the perils of eyewitness identification. When showing photospreads, investigators can slip and suggest, through word and gesture, just who the “real” suspect is. After undoubtedly many “thank you's” and words of support, three victims who were once not so certain positively identified an innocent man in court.

DNA helped rescue Camm and was key to Vargas's redemption. Now consider all the miscarriages of justice where there was no DNA. For more on that, click [here](#).

Posted 2/15/10

## LIARS FIGURE

### *Pressured by Compstat, police commanders cook the books*

By Julius Wachtel, (c) 2010

Who would have thought? In response to a [questionnaire](#) more than one-hundred retired NYPD officers with ranks of captain and above said that crime reports were routinely fudged to minimize the number of Part I offenses that had to be reported to the FBI. Dodges ranged from tweaking thefts so that losses fell under \$1,000 to encouraging victims of violence to minimize what took place, thus holding down the number of aggravated assaults.

Conducted with the assistance of the command officers' union, the survey forms the basis of "Unveiling Compstat: The Naked Truth." A forthcoming book by criminal justice professors John Eterno and Eli B. Silverman, it asserts that the deception was driven by weekly Compstat sessions where headquarters staff mercilessly grilled precinct commanders over crime in their districts.

As might be expected, NYPD reacted angrily. Pointing to other studies that affirmed the accuracy of the department's stats, officials suggested that those surveyed either weren't in a position to know whether the books were being cooked or were simply passing on rumors about the same incident. Professor Eterno, who retired from NYPD's crime analysis section before becoming an academic, poo-pooed that notion. "Those people in the Compstat era felt enormous pressure to downgrade index crime, which determines the crime rate, and at the same time they felt less pressure to maintain the integrity of the crime statistics."

It's not the first time that NYPD has found itself in the cross-hairs of a crime reporting controversy. In 2005 it successfully [fought off attempts](#) by a city investigative commission to look into alleged tinkering with the stats. More recently, the department admitted that such "manipulation" led to the removal of three district commanders. What's more, an NYPD officer on suspension for other reasons recently [accused his precinct](#), including a Lieutenant known as "The Shredder" of systematically reducing felonies to misdemeanors and refusing to take crime reports.

Several victims backed up his account. One told reporters that he was bloodied in a street robbery but all officers did was take a "lost property" report. Another, an elderly

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man, complained that police refused to believe his home was burglarized because of a lack of “evidence.”

There’s no doubt that Compstat sessions can unnerve police commanders, placing them on the hot seat over deep-rooted social problems that cops can’t hope to influence. And while the steep downward trend in crime that got underway in the nineties has seemingly leveled off, Compstat brooks no such excuses. Crime must keep going down, or else.

Exaggerating accomplishments isn’t a problem only in the Big Apple. A 2009 report by the Florida Department of Law Enforcement attributed [chronic under-reporting by Miami police](#) to “a self-imposed pressure that certain [officers] felt as a result of the implementation of Compstat.” One of the examples cited was a carjacking that police downgraded to an “information report.”

Miami police chief (and Compstat booster) John Timoney rejected the findings out of hand. That impolitic response probably cost him his job. Timoney joined ex-Detroit police chief [James Barren](#), who was fired last year after DPD and the medical examiner got caught [classifying homicides as self-defense and suicide](#). A Dallas newspaper investigation revealed that police were reporting only half the crimes called for by FBI guidelines. Dallas hasn’t counted being beat with a pipe as an [aggravated assault](#) since 2007; to keep from counting unfounded vehicle break-ins it’s also supposedly [stopped reporting real ones](#). Meanwhile [Baltimore police](#) have been classifying shootings with multiple victims as a single crime. Just like NYPD, they’ve also jiggled the value of stolen property to keep incidents from reaching the felony threshold.

Lying about stats to look good is nothing new. Speaking at a [2009 conference](#) of criminal justice journalists a reporter for the *Philadelphia Inquirer* described a [scandal](#) uncovered by his paper more than a decade ago. “The phony stats were known for many years. Aggravated assaults were easily changed to simple assaults...Precinct commanders used to joke about this, but behind those statistics are real victims.”

Of course, there have always been pressures to show improvement. Yet in the charged, accusatory atmosphere of Compstat, where numbers are king, officers may feel that they have little choice but to dissemble. Indeed, complaints by commanders that they were being ridiculed in public led NYPD to [bar outsiders](#) from attending Compstat meetings. (Of course, the meetings didn’t stop.)

Camden’s abysmal finances and sky-high crime rate led the State to place the Attorney General in charge of the police. Compstat was promptly installed. During one

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of the tense meetings that the police union called “[nightmares](#)”, the AG’s representative challenged a 25-year police veteran to explain why an undercover squad arrested only one person in four days:

“Let me ask you this. You’ve been a police officer for quite some time. Does that [only one arrest] sound right?”

“No, sir.”

“No, it doesn’t. It doesn’t,” the AG’s man self-righteously concluded.

What the inquisitor didn’t ask, probably because he didn’t know any better, was the obvious: Was it a major arrest? Did it require intensive investigation? Was the suspect a particularly desirable target?

Amplified by the widespread embrace of Compstat, pressures to reach numerical objectives have displaced worthy goals and turned cops into liars. Cooking the books has also brought assumptions about crime trends into question. Long considered the world’s premier source of crime data, the UCR can’t be any more trustworthy than its weakest link, the police. Considering what’s been happening around the U.S., that’s not a reassuring notion.



Posted 5/2/10

## MORE LABS UNDER THE GUN

*Resource issues, poor oversight and pressures to produce keep plaguing crime labs*

By Julius Wachtel, (c) 2010

“Thank God it got dropped. Now I can get on with my life.” That’s what a relieved thirty-year old man [said last month](#) as he left the San Francisco courthouse, his drug charge dismissed, at least for the time being. He’s one of hundreds of beneficiaries of a scandal at the now-shuttered police drug lab, where a key employee stands accused of stealing cocaine to feed her habit.

Problems surfaced last September when veteran criminalist [Deborah Madden’s](#) supervisor and coworkers became concerned about her “erratic behavior.” Madden was frequently absent or tardy, and when present often stuck around after closing hours. She had recently broken into another analyst’s locker and when confronted offered a flimsy excuse. By November her performance had deteriorated to such an extent that prosecutors thought she was purposely sabotaging cases.

Coincidentally, a team of external auditors was in town to review the SFPD laboratory in connection with its application for [accreditation](#). They weren’t informed that Madden had taken leave to check into an alcohol rehab clinic, nor that her sister told a supervisor that she found cocaine at Madden’s residence, nor that [a discreet audit](#) of the drug lab’s books revealed cocaine was missing from at least nine cases. Indeed, a formal criminal investigation wasn’t launched until February, when officers searched Madden’s residence. That turned up a small amount of cocaine and a handgun, which she was barred from having under state law because of a [2008 misdemeanor conviction](#) for domestic abuse.

When interviewed by detectives [Madden conceded](#) filching “spilled” cocaine from five evidence samples. But she had an excuse. “I thought that I could control my drinking by using some cocaine.... I don’t think (it) worked.” Madden otherwise held firm, claiming that sloppy handling by lab employees caused “huge” losses in drug weights. “You just have to check weights of a lot of stuff, because you will see discrepancies. That’s all I’m going to say. I mean, I think you want to put everything on me, and you can’t because that’s not right.”

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The external reviewers were never told about Madden. Released in March, [their report](#) nonetheless chastised the drug lab for being understaffed and poorly managed, with three drug analysts expected to process five to seven times as much evidence as the statewide average, thus affecting the quality of their work. Evidence wasn't being properly tracked or packaged, precautions weren't being taken against tampering, and scales and other equipment weren't being regularly calibrated, making measurements uncertain.

Chief Gasçon shuttered the drug lab March 9, throwing a huge monkey wrench into case processing. That, together with Madden's alleged wrongdoing, led the D.A. to dismiss hundreds of charges. Dozens more convictions are at risk because Madden's criminal record was never disclosed to defense lawyers, depriving them of the opportunity to impeach her testimony.

So far Madden hasn't been charged with stealing drugs from the lab (she's pled guilty to felony possession of the small amount of cocaine found in her home.) Really, given how poorly the lab was run, figuring out just how much is missing, let alone what's attributable to theft and what to sloppiness, may be impossible.

In "[Labs Under the Gun](#)" we reported on misconduct and carelessness at police crime labs from Detroit to Los Angeles. Here are a few more examples:

- On March 12, 2010 Federal prosecutors revealed that six FBI lab employees may have performed shoddy work or given false or inaccurate testimony on more than 100 cases since the 1970's. The disclosure was prompted by the exoneration of [Donald Gates](#), who served nearly three decades for rape/murder thanks to testimony by FBI analyst Michael P. Malone that one of Gates' hairs was found on the victim. Only thing is, the hair wasn't his, as DNA proved twenty-eight years later.

As it turns out, prosecutors were first alerted to problems with Malone and his coworkers as early as 1997, when the DOJ Inspector General issued a stinging report discrediting analytical work in the Gates case and others. It then took *seven years* for DOJ to order prosecutors to contact defense lawyers. Even then, nothing happened. "The DOJ directed us to do something in 2004, and nothing was done," a prosecutor conceded. "This is a tragic case. As a prosecutor it kills you to see this happen."

Gates was released in December 2009.

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- There was good news on February 17, 2010: an innocent person was exonerated. There was also bad news: [Greg Taylor](#), the man being freed, had served 17 years for murder, mostly because of false testimony that blood was found on his truck.

At his trial, jurors weren't told that the presence of blood was based on a fallible screening test whose results were quickly disproven by more sophisticated analysis. There was no blood – it was a false positive. Yet the examiner who ran the tests, Duane Deaver, never let on. This wasn't the first time: he had also kept mum about contradictory findings in an earlier case that resulted in the imposition of the death penalty. (That sentence was eventually vacated by a judge who rebuked Deaver for his misleading testimony.) Thousands of cases involving the lab are now being reviewed for similar “mistakes.”

- In December 2009 the [New York State Inspector General](#) disclosed that State Crime Lab examiner Garry Veeder had been falsifying findings for a stunning *fifteen years*. Writing one year after the analyst's [suicide](#), the IG reported that Veeder made up data “to give the appearance of having conducted an analysis not actually performed.” Veeder, who had conceded being unqualified, said that he relied on “crib sheets,” that others knew it, and that taking shortcuts was commonplace.
- In January 2009 the [Los Angeles Times](#) reported that goofs by LAPD fingerprint examiners caused at least two mistaken arrests. Reviews were ordered in nearly 1,000 cases, including two dozen pending trial. Six examiners were taken off the job and one was fired. Blame for the mismatches was attributed to inadequate resources and to lapses in training and procedures.

In 2009 the National Academy of Sciences issued a [blistering report](#) criticizing some forensic science practices as bogus and most others as being far less scientific than what we've been led to believe. Virtually every technique short of DNA was said to be infused with subjectivity, from friction ridge analysis (i.e., fingerprint comparison) to the examination of hairs and fibers, bloodstain patterns and questioned documents.

That's a stunning indictment. If analysts' conclusions have as much to do with judgment as with (supposedly) infallible science, it's more critical than ever to give them the training, resources and *time* they need to do a good job. But if resource-deprived, loosey-goosey, production-oriented environments are what's considered state of the art, forensic “science” in the U.S. still has a very long way to go.

Posted 4/30/17

## ***PEOPLE DO FORENSICS***

### ***Conflicts about oversight neglect a fundamental issue***

*By Julius (Jay) Wachtel.* In 2009 the National Academies published “[Strengthening Forensic Science in the U.S. – a Path Forward](#),” a meticulously documented critique of forensic practices in the U.S. In “Better Late Than Never” [Part I](#) and [Part II](#) we discussed NIJ’s belated response to the slap-down. It took two forms. In 2013, “to enhance the practice and improve the reliability of forensic science,” NIJ and the National Institute of Standards and Technology (NIST) created the [National Commission on Forensic Science \(NCFS\)](#). Three years later DOJ [released draft rules](#) that, once published in final form, would govern the testimony of Federal forensic experts in a variety of disciplines. Although [our initial impression](#) was that the proposed regulations seemed excessively permissive, it was, after all, a start.

Full stop. On April 10, 2017 the new Administration slammed on the brakes, withdrawing the revamp and consigning it to “[archives](#).” Alas, the text of the would-be rules is inaccessible. (Go ahead, click on the links under the “uniform language” heading. No, they don’t work.) Meanwhile, in [a carefully worded statement](#), Attorney General Jeff Sessions conceded that the NCFS charter had “expired.” Meaning, in plain English, that he wasn’t renewing it. DOJ’s new boss nonetheless promised that his agency would labor to “increase the capacity of forensic science providers, improve the reliability of forensic analysis, and permit reporting of forensic results with greater specificity.” To his credit, [he did invite input](#). But the new AG said nothing about the rules proposed prior to his arrival, nor of the comments the stillborn effort likely inspired.

The NCFS got a final word. On the very next day, April 11, it published a retrospective, “[Reflecting Back - Looking Toward the Future](#)” that lists past recommendations and actions taken and provides detailed bios of former staff members, whom one assumes are looking for their next gig. Read closely and you’ll also find a few wistful yet deferential hints about what might have been. (As of this writing the report hasn’t been “archived.” But just in case DOJ ultimately deems it offensive, we placed a copy on our server. Click [here](#).)

Sessions, a former Assistant U.S. Attorney, is now the nation’s top cop. His moves – or in the case of NCFS, his failure to act – have been criticized as a transparent effort by law enforcement to control forensic science. Some who felt they were being elbowed out from the decision-making process [offered stinging criticism](#):

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- “It is unrealistic to expect that truly objective, scientifically sound standards for the use of forensic science...can be arrived at by entities centered solely within the Department of Justice.” (Federal judge Jed S. Rakoff, a former NCFS member)
- “...the department has literally decided to suspend the search for the truth...as a consequence innocent people will languish in prison or, God forbid, could be executed....” (Peter S. Neufeld, cofounder of the *Innocence Project*.)

On the other hand, many members of the establishment were pleased. Cops and prosecutors, who rely on forensics to provide actionable leads and validate their work, mostly applauded the AG. Of course, physical evidence has a mixed reputation, so the gloating was more or less tastefully restrained. Consider, for example, this extract from [a press release](#) by the National District Attorneys Association:

The National District Attorneys Association (NDAA) supports the announcement this morning by United States Attorney General Jeff Sessions that he will not renew the charter for the National Commission on Forensic Science...The Commission lacked adequate representation from the state and local practitioner community, was dominated by the defense community, and failed to produce work products of significance for the forensic science community....

One day after the NCFS shut its doors the National Academy of Sciences (remember, they're the nitpickers who rebuked forensics in 2009) released “[Fostering Integrity in Research](#).” To no one's surprise this meticulously documented report concluded that scientific researchers lie and cheat for mostly the same reasons as everyone else: to secure and retain desirable positions, achieve prominence and gain material rewards.

“Fostering Integrity” wasn't directed at forensics. But selfish motives also pervade that discipline, where the harm is direct, and the victims often plentiful:

- An early post, “[CSI They're Not](#),” reported that NYPD analysts “took shortcuts when analyzing large seizures, falsely certifying that every container of suspected drugs was tested.” Thousands of drug tests were botched while managers who realized what was going on stood by as though everything was fine.
- In “[More Labs Under the Gun](#)” we discussed the appalling case of a New York crime lab examiner who falsified reports, making up data to convey the impression that he performed analyses when he had not, *for fifteen years*. (He committed suicide when the authorities caught on.)

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- Two years ago, in [an unprecedented mea culpa](#), DOJ and the FBI acknowledged that “nearly every examiner in an elite FBI forensic unit gave flawed testimony in almost all trials in which they offered evidence against criminal defendants over more than a two-decade period before 2000.” Thirty-two of the accused had been sentenced to deaths; fourteen were executed or “died in prison.”
- But the trophy goes to... “superwoman”! That’s what they called [Massachusetts state crime lab chemist Annie Dookhan](#). Hired in 2004, the self-described “overachiever” (her output was triple that of her colleagues) eventually admitted to a seven-year long string of falsification, “forging her co-workers’ initials and mixing drug samples so that her shoddy analysis matched the results she gave prosecutors.” Dookhan was suspended in 2011 and pled guilty in 2014. A few days ago the courts officially dismissed a stunning 21,587 criminal cases that had used her work product. According to the ACLU that’s an all-time record. We won’t quibble.

Anyone who’s even halfheartedly paid attention can’t help but be appalled by the numerous miscarriages of justice, up to and including wrongful execution, that have been attributed to flawed forensics. So the AG’s transparent attempt to evade outside scrutiny rings a decidedly sour note. Still, as experience suggests, it’s not enough to have a watchdog on the prowl for junk science. One must be alert to junk *scientists* as well. After all, people do forensics. So if we’re really serious about improving things, overseeing them far more closely must be job #1.

Posted 8/1/23

## **PUNISHMENT ISN'T A COP'S JOB (III)**

*Some citizens misbehave. Some cops answer in kind.*



For *Police Issues* by Julius (Jay) Wachtel. “Hi, um, I’m being followed by a police car.” According to the [Los Angeles Times](#), those were the first words spoken by Emmett Brock when 9-1-1 answered his call. February 10 had turned out to be “a miserable day” for the high-school substitute teacher. A colleague harassed him for being transgender, and he left work early. On the way home Mr. Brock drove by a traffic stop. An L.A. sheriff’s deputy was being rude to a motorist. So he flipped him off.

Things turned decidedly sour. A sheriff’s patrol car promptly got on his tail. Mr. Brock said it was the same officer, [but the deputy’s lawyer \(yes, he now has one\) denies it](#). Either way, the patrol car followed Mr. Brock turn by turn, though without activating warning lights or sounding its siren. Mr. Brock noticed its presence. Concerns over the deputy’s intentions supposedly led him to call 9-1-1 and convey what was happening. But the operator offered no help. And when Mr. Brock pulled into his intended destination, a 7-11, purportedly to buy a soft drink before going to his therapy appointment, so did the deputy. What happened was captured by the store’s external camera. (Audio from the deputy’s bodycam was subsequently inserted. Click [here](#) for the full video and [here](#) for our edited, captioned version with some slow-mo thrown in.)



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Mr. Brock parked his vehicle and the deputy pulled in behind, blocking his exit. As Mr. Brock began to step out the deputy quickly walked up and got in his face. Their conversation isn't perfectly clear, but the deputy apparently mentioned stopping Mr. Brock, and Mr. Brock countered "no, you didn't." Things moved so quickly that even in slow-mo it's impossible to say whether Mr. Brock tried to walk off. Or, as the deputy later claimed, made a fist. Nearly instantly, the deputy grabbed Mr. Brock's left arm (see top sequence). Mr. Brock protested ("hands off of me") and tried to free himself. But the deputy took him to the ground. And the fight was on. During the struggle Mr. Brock repeatedly complained that he was being hurt. But the deputy kept exerting force until he got his man in handcuffs. That took a couple of minutes.



Throughout, the officer clearly kept the upper hand. And fist. His report, which Mr. Brock's lawyer provided to *CNN*, openly admits the use of considerable force: "I punched S/Brock face and head, using both of my fists, approximately 8 times in rapid succession."

There's no evidence that Mr. Brock committed a moving traffic violation, nor that he was ever signaled to pull over. So we can't call what happened a "traffic stop." But that's how the officer characterized it, albeit after-the-fact. His purported justification was that an object (a deodorizer) hanging from Mr. Brock's rear-view mirror [obstructed his view of the roadway](#) (see California Vehicle Code [section 26708](#)).

And no, we're not making it up.

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What happened near Circleville, Ohio on July 4th. was most definitely a traffic stop. And its justification seems clear. A highway inspector [tried to stop a semitruck with a missing mudflap](#), but the vehicle's operator, Jadarrius Rose, a 23-year old Memphis man, kept going. So the highway patrol stepped in. Mr. Rose pulled over for the troopers. An officer's bodycam shows what then happened (for the full set of released bodycam videos, click [here](#). For our edited, captioned version click [here](#).)





That's right: weapons were drawn and pointed at the truck. That, Mr. Rose told *CNN*, scared him. So, just like Mr. Brock, he dialed 9-1-1. And just like Mr. Brock, he didn't find the operator's comments sufficiently comforting. So he drove off.

Then things got a bit, um, *complicated*. According to Mr. Rose, the 9-1-1 operator eventually convinced him it was o.k. to pull over. So he did. But watch the video. During round #2 a veritable legion of squad cars joined what ultimately turned into a "three-county pursuit." In his account to *CNN*, Mr. Rose said reassurances by 9-1-1 that he would be treated peacefully led him to stop. But an [ABC News release](#), which is supposedly based on the official incident report, indicates that "troopers placed stop-sticks, or spike strips, in the roadway ahead of the chase and blew out Rose's tires, forcing him to pull over."



That's not an inconsequential difference. Still, Mr. Rose voluntarily stepped out of the cab and put his hands up (left image). But he apparently hesitated when ordered to get on his knees. A Circleville K-9 officer who had joined the chase walked up with his dog and ordered Mr. Rose to comply (second image). "You're going to get the f\*\*\*g dog. Get on the ground or you'll get bit."



From a distance, a bullhorn-equipped trooper saw what was happening. [He repeatedly ordered the handler to not release his dog](#), as the suspect's hands were up. Whether the handler heard him we don't know. Either way, he promptly released the pooch. It initially ran off in the opposite direction, away from Mr. Rose (third image). It

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then stopped and turned. Although Mr. Rose had by then fallen to his knees, the handler nonetheless waved it back in (fourth image). The K-9 charged and grabbed Mr. Rose with its jaws. “I gave you three warnings, did I not?” the K-9 cop later scolded. “Did I not say *final* warning? Well, you didn’t comply, so you got the dog.”

Fortunately, Mr. Rose wasn’t seriously hurt. He faces felony charges for failure to comply with the troopers. As for the handler, he’s been fired.

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Mr. Brock, a substitute high-school teacher, and Mr. Rose, a truck driver, were gainfully employed. Neither had a known criminal record. Yet both wound up losing their jobs. Their legal scars and unsought notoriety could also impair their future prospects. Of course, neither is fully blameless. “Flipping off” a cop and refusing to pull over are risky gambits, predictably laden with consequences. And we don’t just mean of the legal kind. In the “real” world where imperfect humans reside, rude challenges – including challenges to authority – often draw rude responses. “And the fight is on” isn’t just a catchphrase: it’s an accurate depiction of what one can expect when they disrespect the limits of human nature.

But officers are trained to keep their cool, right? After all, it’s hardly a secret that keeping the peace, enforcing the law and gathering evidence in chaotic, often hostile environments is no picnic. But the George Floyd imbroglio was a powerful reminder that techniques which are intended to keep the pot from boiling over (e.g., “de-escalation”) can’t always keep cops from getting emotionally caught up in the turmoil. And, as [“Punishment \(I\)”](#) and [“Punishment \(II\)”](#) warned, turn at least some into punishers.

So, what’s available? A solution that quickly comes to mind is to simply keep cops and citizens apart. Indeed, policymakers around the U.S. have moved to minimize the frequency of these encounters. Many jurisdictions abandoned aggressive enforcement practices such as stop-and-frisk. Others have prohibited cops from stopping cars for “technical” violations. In 2020, shortly after the George Floyd debacle, [Virginia enacted a law](#) that barred car stops for minor violations such as “dangling objects from rear view mirrors that obstruct a driver’s view”. In April, Minneapolis, the community at the epicenter of the troubles, [signed a “court-enforceable agreement”](#) with the Minnesota Dept. of Human Rights that severely circumscribes pretextual stops. Consent searches during such stops are prohibited. Use of force is also limited, and officers must not use it to punish or retaliate. What’s more,



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they will no longer be trained on “[excited delirium](#)”, a medically-recognized syndrome that’s caught blame for encouraging cops to physically (and needlessly) intervene.

That shift in tone, which we discussed in “[Backing Off](#)”, “[Regulate. Don’t “Obfuscate”](#)” and “[Full Stop Ahead](#)”, has supposedly led to some unintended consequences. Police, law enforcement groups and more than a few local and state officials have warned that throttling back emboldens evildoers. Concerns that Virginia’s move made “roadways more dangerous” and “increased crime” recently [led its legislators to introduce a bill](#) that would return traffic laws to their former intrusiveness.

In the end, we’re reluctant to endorse un-craftsmanlike approaches to policing. Such as letting cops manufacture reasons for stopping persons whose behavior stirs misgivings. So what *should* be the watchwords? “Articulate” and “reasonable.” When an officer’s suspicion that something is criminally amiss rises to that level, by all means, make the stop. If not, move on. Our personal experiences suggest that’s how most cops go about their jobs, every hour of every day. Unseemly digressions (e.g., Mr. Brock and Mr. Rose) are the exceptions. In fact, three years ago, our *Police Chief* magazine essay, “[Why Do Officers Succeed?](#)” suggested that successful episodes of policing could serve as excellent templates for doing it right. Here’s an outtake:

Officers are frequently involved in encounters that, had they not been adroitly handled, would have likely turned out poorly. They regularly meet substantial challenges when gathering evidence of serious crimes. These obstacles and others are overcome almost as a matter of course. Imagine the potential benefits to the practice of policing should we probe these happy outcomes to find out why officers succeed.

Still seems like a good idea.

Posted 4/1/13

## QUANTITY, QUALITY, AND THE NYPD

### *Has a preoccupation with “numbers” compromised craftsmanship?*

*By Julius (Jay) Wachtel.* “Make cases, put people in jail, numbers. Our department right now is heavily into numbers...There are [statistics] being taken through the chain of command, ‘see how good a job we’re doing, how many people we’re putting in jail,’ that sort of thing.”

Given the controversy embroiling the NYPD, one might think that this comment was made only the other day. But it wasn’t. More than thirty years ago, narcotics officers from New York City and several other large police departments whom I interviewed for my dissertation were unanimous as to one thing: numerical productivity wasn’t the only way that bosses measured their performance, but it was far and away the most important.

By the second decade of the twentieth century so-called “scientific” management and its obsession with counting had become entrenched features of the private sector. Actually, numbers didn’t become gospel in the public sector until the 1960’s, when the new Secretary of Defense, Robert McNamara, infused the Federal government with practices brought over from Ford Motor Company, which he had served as president. During the Vietnam War, McNamara’s endless reports of bombs dropped, acres deforested and enemy killed were repeatedly offered as proof that victory was inevitable. His mea culpa in “The Fog of War” (2003) came forty years late.

Government managers jumped on the bandwagon. Policing usually consumes a majority of city budgets, and now that computers made number-crunching ridiculously easy concerns about the use of public funds could be easily addressed. Cop shops didn’t make widgets, but they did produce its equivalent, in the form of countable tickets, stops and arrests.

It wasn’t just about justifying police budgets. Reducing everything to numbers had another benefit: it made performance “evaluation” ridiculously simple. What couldn’t be counted didn’t exist. “Making cases” became the new mantra. Concerns that reductionism might fundamentally distort what cops actually do were ignored. Worries about the quality of police work were brushed aside.

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From there it was just a short step to quotas. Although informal understandings about minimum numbers of tickets, stops and arrests had always been there, systems such as Compstat, Bill Bratton's gift to the NYPD, reified counting. It wasn't just lowly beat cops who now had to take care. Sergeants, Lieutenants, Captains – every manager could be held accountable for meeting standards whose objective appearance lent a scientific imprimatur.

Counting isn't always inappropriate. Officers should write some tickets and make some arrests, and it's probably wise to pay attention to those whose productivity seems unreasonably low. Yet bureaucracies that measure their performance with numbers are apt to look stagnant unless – you guessed it – the trend line keeps going up. It's in the nature of the counting beast: whether or not crime is on the increase, stops and arrests must keep going up.

Of course, endlessly boosting production will at some point require that officers take shortcuts. Police hamburger, though, usually gets made out of the public eye. Accusations that NYPD officers were pressured to stop citizens or pat them down without “reasonable suspicion” can't be evaluated with a calculator, so proving that cops cheated may be difficult.

What ought to be done? We know that numerical measures can easily displace other, more worthwhile criteria. Numbers must never stand alone but be carefully integrated into the definition of what it means to do a quality job. Police management styles must also change. Pressuring cops to “get numbers” breeds cynicism, devalues the craft of policing and can precipitate a moral decline in the ranks. Police, politicians and the public must come to grips with the fact that our New Centurions are not well positioned to fix fundamental social ills, and that assigning officers “mission impossibles” will lead even the best-intentioned cops to breach the moral and legal boundaries of their craft.

It seems that several badge-wearing NYPD whistleblowers have come forward and will be testifying in the current Federal civil trial about the effects of pressures to produce on officer behavior. It will be interesting to see if what they have to say will really “count.”

Posted 3/11/12

## THE NUMBERS GAME

### ***A leaked NYPD internal report confirms that crime stat's were fudged***

*By Julius (Jay) Wachtel.* It's been thirteen months since NYPD Commissioner Ray Kelly [created a panel](#) to investigate charges that the department systematically underreported serious crime. While it's yet to issue findings, it turns out that there has actually been a report all along. [As revealed days ago in the Village Voice](#), NYPD investigators submitted a damning 95-page report six months before Kelly's panel was formed. It concluded that the commander of the 81st. precinct, Deputy Inspector Steven Mauriello, had ordered officers to keep victims from filing crime reports or, if that wasn't possible, to downgrade incidents below the Part I threshold so that they would not be included in yearly crime statistics.

When viewed in their totality, a disturbing pattern is prevalent and gives credence to the allegation that crimes are being improperly reported in order to avoid index-crime classifications. This trend is indicative of a concerted effort to deliberately underreport crime in the 81st Precinct.

Flashback to 2008. NYPD officer Adrian Schoolcraft, an eight-year veteran assigned to Brooklyn's tough 81st. precinct, was getting unsatisfactory performance evaluations, [he says for resisting](#) the pressure-cooker atmosphere created by Inspector Mauriello. Preoccupied with looking good at CompStat meetings, the precinct commander was exhorting cops to make as many stop-and-frisks and write as many tickets as possible while minimizing the number of reports taken for serious crimes.

Schoolcraft complained about things to a police therapist. That soon landed him on a desk, stripped of his badge and gun. Then things got worse. A dispute with his superior on Halloween night, October 31, 2009, landed him in a psychiatric ward, where he was held for six days. NYPD then placed him on leave without pay, a status that remains in effect through the present day.

Schoolcraft sued (click [here](#) for his website.) In February 2010 [he told it all](#) to the *New York Daily News*. Its reporters confirmed instances where 81st. precinct cops made it difficult if not impossible to file crime reports. Then in May the *Village Voice* ran the first of an explosive series entitled "[The NYPD Tapes.](#)" It turns out that for the sixteen months preceding that fateful Halloween day, Schoolcraft had been wearing a hidden recorder.

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His tapes depict a department consumed with the imperative to satisfy the Gods of CompStat. One roll-call features a sergeant instructing officers to write “three seat belts, one cell phone and 11 others.” Another stars the Inspector, in his radiantly profane self:

I see eight fucking summonses for a 20-day period or a month. If you mess up, how the hell do you want me to do the right thing by you? You come in, five parkers, three A’s [minor infraction], no C’s [serious infraction], and the only 250 [stop-and-frisk] you do is when I force you to do overtime? I mean it’s a two-way street out here.

Officers kept property crimes under the Part I threshold by demanding receipts for stolen goods and by minimizing the amount of a loss. A cop who thought he was speaking in confidence said that the same trick had been used to downgrade robberies. “If it’s a robbery, they’ll make it a petty larceny...a civilian punched in the face, menaced with a gun, and his wallet was removed, and they wrote ‘lost property’.” A Lieutenant eventually came up with an even neater solution, ordering that robbery reports not be taken unless victims immediately accompanied officers to the station to speak with detectives.

Once the cat was out of the bag NYPD internal affairs descended on Schoolcraft. He secretly taped that interview, too. Here’s what an investigator said when leaving:

The mayor’s looking for it [lower crime stat’s], the police commissioner’s looking for it . . . every commanding officer wants to show it. So there’s motivation not to classify the reports for the seven major crimes. Sometimes, people get agendas and try to do what they can to avoid taking the seven major crimes.

Other officers came out with similar tales. It turns out that Schoolcraft wasn’t the only running around with a hidden tape recorder. Adil Polanco, a cop in the Bronx, [recorded supervisors and union rep’s](#) pressuring officers to make “chickenshit” arrests and avoid taking reports.

NYPD could no longer pass it off as the ramblings of a disgruntled cop. In October 2010, apparently as result of the internal investigation just disclosed by the Voice, [NYPD formally accused](#) Mauriello and four subordinates at the 81st. with suppressing crime reports. Mauriello was transferred out of the precinct. He remains on full duty, and the accusations are still unresolved.

Recent events suggest that little has been settled:

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- 02/26/12 A cop's lawsuit claims that the 42nd. precinct [uses a quota system](#) that requires cops to issue fifteen tickets, conduct two stop-and-frisks and make one arrest each month, on pain of various forms of discipline.
- 01/23/12 In response to concerns that crime reductions may be a "mirage" caused by underreporting, [NYPD issued a memo](#) requiring that officers take reports even when victims can't identify suspects or provide receipts for allegedly stolen goods. (NYPD insists that the memo simply reminds cops of correct procedures.)
- 01/18/12 CRC Press publishes "[The Crime Numbers Game: Management by Manipulation](#)," by criminologists John Eterno (a retired NYPD Captain) and Eli Silverman, "exposing the truth about crime statistics manipulation in the NYPD and the repercussions suffered by crime victims and those who blew the whistle on this corrupt practice."
- 01/08/12 NYPD [credits heavy-handed transit enforcement](#), including ticketing and arresting passengers for nuisance violations such as hogging seats, for a sharp drop of crime in the subways. But an officer contends that pressures from superiors to make at least one "collar" a month is a factor.
- 12/31/11 Crime victims complain that [NYPD officers are refusing to take reports](#). Some cops say it helps keep stat's low, with one commander calling it "the newest evolution in this numbers game."

Whether NYPD has really learned anything from this mess is hard to say. After a consistent downtrend – they reportedly fell 16 percent between 2008-09 – [robbery reports ticked up](#) 5 percent in 2010. But it's not just NYPD. News reports suggest that playing fast and loose with crime statistics (click [here](#) for Baltimore and [here](#) for Cleveland) and pressing officers to fulfill ticket and arrest quotas (click [here](#) for Los Angeles and [here](#) for Cincinnati) are common.

Fudging statistics and treating cops like assembly-line workers has profound implications for the practice of policing. Tools such as CompStat have turned measures into goals, pushing aside issues such quality and making cops into liars. There's an urgent need to reexamine the craft of policing and figure out what really "counts." It may have little to do with numbers.



Posted 5/16/10

## TOO MUCH OF A GOOD THING?

*NYPD's expansive use of stop-and-frisk  
may threaten the tactic's long-term viability*

*By Julius (Jay) Wachtel.*

“These are not unconstitutional. We are saving lives,  
and we are preventing crime.”

That's how department spokesperson [Paul J. Browne](#) justified the more than one-half million “[Terry](#)” stops done by NYPD officers in 2009. But not everyone's on board. A current [Federal lawsuit](#) by the Center for Constitutional Rights charges that the department's own statistics (NYPD must keep stop-and-frisk data in settlement of an earlier case) prove that its officers routinely and impermissibly profile persons by race.

In [Terry v. Ohio](#) (1968) the Supreme Court held that officers can temporarily detain persons for investigation when there is “reasonable suspicion” that they committed a crime or were about to do so. Persons who appear to be armed may also be patted down (hence, “stop-and-frisk.”) Later decisions have given police great leeway in making investigative stops. For example, in [U.S. v. Arvizu](#) (2002) the Court ruled that officers can apply their experience and training to make inferences and deductions. Decisions can be based on the totality of the circumstances, not just on individual factors that might point to an innocent explanation.

Last year NYPD stop-and-frisks led to 34,000 arrests, the seizure of 762 guns and the confiscation of more than 3,000 other weapons. [Eighty-seven percent](#) of those detained were black or Hispanic. Since they only comprise fifty-one percent of the city's population, to many it smacked of racial profiling. In its defense, NYPD pointed out that fully eighty-four percent of those arrested for misdemeanor assault in 2009 were also black or Hispanic. Its stops, the department insists, are proportionate to the distribution of crime by race.

There is data to support both views. A [2007 Rand study](#) found only a slight disparity in the intrusiveness and frequency of NYPD stops once differences in crime rates are taken into account. But a [1999 analysis](#) by the New York Attorney General concluded that the disparity in the frequency of stops could not be explained by racial differences in criminal propensity.

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Dueling studies aside, NYPD concedes that blacks, Hispanics and whites who are stopped are equally likely to be arrested (for all races, that's about six percent.) Indeed, blacks are less likely than whites to have weapons (1.1 versus 1.6 percent.) So why are blacks and Hispanics far more likely to be stopped in the first place? According to NYPD, that's because anti-crime sweeps usually take place in high-crime (read: poor) precincts where many minorities happen to live.

It's a truism that policing resembles making sausage. Even when cops try to be respectful, no amount of explanation can take away the humiliation of being stopped and frisked. Although NYPD executives and City Hall argue that the tactic has been instrumental in bringing violent crime to near-record lows, a recent New York Times [editorial](#) and a [column](#) written by Bob Herbert, one of the city's most influential black voices, warn that its use has driven a wedge between cops and minorities.

NYPD's aggressive posture harkens back to the grim decade of the 1960's, when heavy-handed policing lit the fuse that sparked deadly riots across the U.S. Encouraged to devise a kinder and gentler model of policing, criminologists and law enforcement executives came up with a new paradigm that brought citizens into the process of deciding what police ought to be doing, and how. The brave new era of [community policing](#) was born.

It wasn't long, though, before observers complained that the newfangled approach was of little help in reducing crime and violence. Spurred for more tangible solutions, academics and practitioners devised [problem-oriented policing](#), a strategy that seeks to identify "problems," which may include but are not limited to crime, and fashion responses, which may include but are not limited to the police. But despite its attempts at practicality, POP's rhetorical load is substantial, while its strategic approach is not much different than what savvy police managers have been doing all along.

Then [CompStat](#) arrived. To be sure, police have always used pin maps and such to deploy officers. CompStat elevated the technology. More importantly, it prescribed a human (but, some argue, not necessarily *humane*) process for devising strategic responses to crime and holding commanders accountable for results. It was introduced, incidentally, by the NYPD.

Compstat [has been criticized](#) for placing unseemly pressures on the police. Its preoccupation with place, though, resonated with criminologists who had long believed that geography was critical. Soon there was a new kid on the block: [hot-spot policing](#). An updated, more sophisticated version of a strategy known as selective enforcement, it encourages police to fashion responses that take into account the factors that bind

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geography to crime. It's not just that a certain kind of crime happens at a certain time and place, but *why*.

After forty years of ideological struggle and experimentation vigorous policing has come back in style. For an example look no further than the [campaign pledge](#) by Philadelphia Mayor Michael Nutter to attack the city's violence epidemic with hot spot policing and "stop, question and frisk" His call to action has been echoed in cities across the U.S. From [Newark](#), to [Philadelphia](#), to [Detroit](#), [Omaha](#) and [San Francisco](#), police are using a variety of aggressive strategies including stop-and-frisk to restore the peace and get guns off the street.

That's the good news. The bad news is that from Newark, to Philadelphia, to Detroit, Omaha and San Francisco.... Benefits don't come without costs. Stop-and-frisk is no doubt effective, yet as recent events in New York City demonstrate it's not without potentially serious consequences. An inherently elastic notion whose limits officers frequently test, *Terry* is more than ripe for abuse. Of course, whether NYPD's enthusiastic embrace has stretched stop-and-frisk beyond what the Supremes intended will be the subject of litigation for a long time to come. Let's hope that events on the ground don't make the decision moot.

Posted 7/20/20

## TURNING COPS INTO LIARS

*Keeping score can distort what officers do*



**Quality is Job 1.**

*For Police Issues by Julius (Jay) Wachtel.* What do “Adrian Flores, Jasean Carter, Dontae Kelly, Juan Garcia, Lamonte Jenkins, Jameis Beatrice, Wilford Jones, Jameal Quaran, Rapaul Winston, Marquis James, Devon Canzalez, Ramon Gutierrez, Hector Amaya, Wilmer Francisco, Julio Espinosa, Gerald Matthews and Jorge Rodriguez” have in common?

If you guessed “they don’t exist!” give yourself a pat on the back. [A massive complaint](#) filed by the L.A. County D.A. alleges that these seventeen characters were “fictional persons” brought to life by three LAPD officers who during the period March 2018 to January 2019 submitted field interview cards falsely claiming that each had been stopped and duly identified as a gang member.

So what do “Jaron P., Angelo M., Chris C., Kivon W., Alden O., Isiah B., Lawrence J., Antonio M., John S., Gadseel Q., Jose Q., Justin H., Emmanuel B., Bryan G., Jose J., Billi J., Alejandro R. and Andres A.” have in common?

If you guessed “they’re real, but not gang members” have one on us! According to the complaint, these were real people whom the officers falsely labeled as belonging to a street gang. Officers had helpfully supplied each one’s purported moniker (e.g., “Dub Bird”) and, for most, described their gang tattoos.

Natch, once the jig was up each F.I. card became a separate felony count of “Preparing False Documentary Evidence” ([Calif. Penal Code section 134.](#)) Officers also included false gang affiliations in crime reports; each became a felony count of “Filing a False Report” ([P.C. 118.1.](#)) Including conspiracy ([P.C. 182\[a\]\[5\]](#)), the cop who apparently led the enterprise was charged with *fifty-nine* counts. One of his partners was included in thirteen; another in five.

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In all, the damage done seems substantial. In addition to influencing enforcement and prosecutorial decisions, the bogus data was entered into the statewide [Cal Gangs database](#), becoming a source of misleading information and saddling dozens with unearned “gang” labels that could, among other things, make them vulnerable to enhanced sentencing should they be convicted of crimes in the future. Concerns about abundant falsehoods recently led the State Attorney General [to strip all LAPD contributions](#) from the database.

As things stand, there won't be any more. In “[Recipe for Disaster](#)” we discussed how the mess first came to light. According to [a January 7 LAPD news release](#), an internal inquiry began when a mother contested the accuracy of an official letter informing her that her son was a gangster. As they compared officer body-cam videos with field interview cards – [the technique that prosecutors say](#) underpinned the charges – internal affairs investigators came to believe that as many as [twenty members](#) of LAPD's elite “Metro” group had been exaggerating their productivity by simply making things up. While some of the inconsistencies were ultimately attributed to errors and such, there was no mistaking a fifty-nine count criminal complaint. And once that lid blew LAPD Chief Michel Moore decided to withdraw his agency from CalGangs altogether.

By this point, complaints from Black citizens that they were being unfairly targeted had led the chief to reorient Metro from stop-and-frisk to other approaches (see [Scapegoat, Part I.](#)) But it's not as though LAPD can simply back off from crime-fighting. Major-city violence has definitely taken a turn for the worse. Through July 11 [LAPD reported](#) 151 homicides compared with 134 during the same period last year. An even sharper increase has beset New York City. [Through July 12](#) its portal reports 203 murders and 634 shootings compared with 165 and 394 during that period in 2019. [Commenting on the spike](#), NYPD Commissioner Dermot Shea blamed areas “overrun by gangs”:

There is a lot of gang activity, a lot of drug activity. It's bad people with guns, and it doesn't get any simpler than that. People settling scores, spraying a crowd.

Ditto Chicago. [Its Compstat pages](#) report 385 murders and 1541 shootings in 2020 through July 12 compared with 260 and 1059 during the same period in 2019. (Click [here](#) for the *Tribune* story.) As [academics occasionally concede](#), intensively policing troubled areas (i.e., “hot spots”) can tamp down violence. So while the Windy City's Black police chief, David Brown, says he's sensitive to the concerns of the post-George Floyd era, the appalling forty-eight percent increase in killings led him [to revisit the](#)

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[concept](#) of a citywide violence suppression team that could prevent and if necessary deal with flare-ups. Um, a “Metro” group, so to speak.

New York City, Los Angeles and Chicago maintain public Compstat portals that offer detailed statistics on crimes including murder, sexual assault, robbery, aggravated battery, burglary, theft and motor vehicle theft. Data is aggregated weekly, and the manner of its display enables ready comparisons over periods as long as four years. Bottom line: these are the numbers, and numbers don't lie! Although aggregate crime statistics obscure the fact that many neighborhoods remain disproportionately impacted by violence (see, for example, [“Place Matters”](#)) New York and Los Angeles are fond of bragging about their [“crime drops.”](#) Police brass inevitably feel judged (and undoubtedly *are* judged) by crime numbers, their change over time, and how their cities compare with other places. Should they feel discontent, subtle and not-so-subtle pressures to assign serious crimes to lesser categories can flow through the ranks (see, for example [“Cooking the Books”](#)). Transforming “aggravated” assaults into “simple” assaults – or, even better, not reporting them altogether – can help everyone's prospects, from a lowly precinct Captain all the way to the chief. And, come election time, even the mayor!

Such tricks have their limits. It's a lot tougher to ignore bodies as they pile up. So even in today's atmosphere, when calls for the police to back off seem pervasive, the “bluest” of the media will jump on the cops should things spin murderously astray. Consider, for example, this July 16 piece in the *New York Times*: [“Shootings Have Soared. Is the N.Y.P.D. Pulling Back?”](#) Here's a small slice of its pan:

Arrests have declined drastically this summer, falling 62 percent across the board for the last four weeks compared with the same period last year, police data show...Gun arrests have dropped 67 percent during the same four weeks compared with last year, even as shootings have continued to spiral upward.

Despite its reputation as a police scold, the *Times* is sparing no effort to disparage officers for supposedly doing less. For a bit of whiplash, keep in mind that it was criticism from the “blues” [that drove NYPD to disband](#) a citywide anti-crime unit that focused on getting guns off the street. A mere month later, the same commissioner who pulled the plug is [planning to reverse course](#).

He'll discover what police well know. To have a *real* effect on violence requires more than filling out cards. It calls for smartly targeted stops that yield [a substantial increase in desirable outcomes](#) such as gun seizures and arrests. But making more such stops legally – that is, with adequate justification – can prove challenging under the best of

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circumstances. Now consider the [charged, production-oriented environment](#) officers faced in Metro:

Multiple law enforcement sources told NBCLA's I-Team that Metro Division officers had been pressured by their commanders to show that their patrols were productive. Officers assembled daily statistics about the number of people they stopped and questioned, the number of contacts with gang members, the number of arrests, and other metrics.

While the LAPD hierarchy “denied there was pressure to produce any particular type of statistics,” the potentials for abuse are obvious. Your blogger was well aware of pressures to produce throughout his law enforcement career. Indeed, they became fodder for his doctoral dissertation, “Production and Craftsmanship in Police Narcotics Enforcement” (for an article based on this work click [here](#).) What he discovered wasn't exactly new: doing a “quality” job in policing is like doing “quality” work [in any other craft](#). Say, woodworking. It requires attention to detail and a commitment to do one's best without cheating or taking shortcuts. Should outcomes prove less than perfect good cops own up to their mistakes, do what they can to fix things, and hopefully use what they learned to prevent flub-ups in the future.

Where to start? We must define precisely what “quality” means for each task, from patrol to the chief. If counting has a place – after all, for duties such as traffic enforcement, numbers can be useful – its role must be clearly articulated. One could use the process your blogger recently articulated in *Police Chief* magazine (“Why do Officers Succeed?” Click [here](#) and scroll to p. 26. Or [contact](#) the writer and ask for a .pdf).

In this numbers-obsessed, Compstat-driven era, “productivity metrics” have reached absurdist heights (for an example click [here](#).) They've provided officers so inclined an impetus for out-and-out lying, as exemplified in the accusations against LAPD Metro's “three bad apples.” More broadly, society's obsession with counting, [which we've traced](#) to a late defense secretary's obsession with counting “bombs dropped, acres deforested and enemy killed” during the Vietnam war has displaced other, far more worthy objectives. Like [building safe planes](#). And [dispensing the right drugs](#). And, in policing, properly arresting the truly deserving. Let's quote one of the narcotics detectives we interviewed for that long-ago dissertation ([article, p. 269](#)):

Make cases, put people in jail, numbers. Our department right now is heavily into numbers. It's not so much the quality of the case but it's how many cases you do...because there are stat's being taken through the chain of command.

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Imploring officers to do quality work while our fingers are crossed behind our backs can only contribute to the cynicism. Management's commitment to do "well" instead of "more" must be genuine. As that old Ford ditty goes, let's truly make quality "Job #1"!



Posted 11/29/23

## WARNING: (FRAIL) HUMANS AT WORK

*Amid chaos and uncertainty, the presence of a gun can prove lethal*



*For Police Issues by Julius (Jay) Wachtel.* Adrian Abelar concedes that he had a pistol in hand when he stepped out of his vehicle on that fateful day in September 2021. But [his lawsuit](#) against the L.A. County Sheriff's Department insists that his intentions were actually benign:

As plaintiff complied with Deputy 1's direction to exit, he discarded a handgun, tossing it away from himself and the Mazda. (pg. 4)

Alas, that's definitely *not* how the deputies saw it. According to the [video compilation](#) posted by the L.A. County Sheriff's Department, Deputy #1 ordered Abelar out of the car. And when he saw that the man had a gun in hand, the deputy frantically (and repeatedly) yelled "gun!":





Deputy #1 and his partner (Deputy #2) instantly wrestled Abelar to the ground. Deputy #3 (identified by the Sheriff and in the lawsuit as Deputy Yen Liu) then fired once. Discharged about *six seconds* after Deputy #1 yelled “gun”, her bullet struck Abelar, who was lying on his stomach, in the back. Thankfully, the wound wasn’t fatal.

*Should* Deputy Liu have fired? We’ll come to that later. First, let’s explore what brought the deputies to the auto body shop where the encounter took place. According to the Sheriff’s video compilation and “[transparency summary](#)”, the shop’s owner had telephoned the sheriff’s station to report that a man, later identified as Abelar, brought in his car and demanded it be promptly repaired because he was wanted for murder:

...Alright, I got a body shop. I got a guy on my property who’s telling me fix his car right away because he’s up for attempted murder, and the cops are chasing him all over the neighborhood. He just pulled into the back of my shop a half hour ago, needs wheel bearings and I just want him out of here because I just had a “Redacted”, and so if you guys could just roll by he’s in a 2009 Black Mazda 4-door, he’s about 6-2, about 110 pounds, very very light skin with a tank top his girlfriend is in his car; get them off my property please...

The deputies’ response was delayed, and the shop owner called back to complain. When the badge-wearers finally arrived, they found Abelar and his girlfriend seated in a car that was clearly undergoing repairs. Its left front wheel was gone and the front end was jacked up.



Deputy #1 spoke with Abelar. During their interaction, which went on for about five minutes, Abelar was evasive throughout. He purposely misspelled his last name (“v” instead of “b”), furnished an incorrect birth-date, and falsely asserted that the shop had his driver license. That caused a brief delay as deputies confirmed that no, it

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didn't.

Why was Abelar deceptive? Here's a summary of his Los Angeles Superior Court cases, which we gathered through a paid [online search](#):

Off./arr.	Case no.	Charges	Dispo.
9/21/13	XSEVA 131982	Lewd act on child (mult. counts), assault with deadly wpn	1/13/14: Pled nolo to PC273a (F); willful cruelty to child; 4 yrs. prison, 5 yrs. prob.
8/21/14	DOWVA 136527	Injuring spouse, cohabitant	9/8/14: Pled nolo to PC273.5a (F); 2 yrs. prison, 3 yrs. prob.
6/8/15	DOWVA 139332	Criminal threats, brandish replica gun	6/22/15: Pled nolo to PC422(a) – <del>crim</del> threats (F); 2 yrs. prison.
2/3/18	LACBA 465278	Take vehicle w/o consent	2/23/18: Pled nolo to VC10851(a) – take vehicle (F), 2 yrs. prison
10/7/20	DOWVA 154423	Poss. drugs for sale, poss. gun & ammo. by narco. Addict	3/6/21: Pled nolo to PC29088(a) – gun poss. by addict (F); 16 mos. prison
11/25/20	LACOES 05230	Will. cruelty to child, batt. On peace ofcr., false inf. to peace ofcr., burg 2 <sup>nd</sup> . deg.	1/27/21: Pled nolo to PC148.9 – false ID to peace ofc. (M); 128 days jail
9/2/21	REV1PB 03537	Probation violation	Probation warrant issued; 11/10/21 revoked & reinstated
2/22/22	REV2PB 00664	Probation violation	3/24/22: Revoked & reinstated
6/13/22	REV2PB 02421	Probation violation, warrant request	8/19/22: No bail warrant issued

Abelar was a convicted felon. His 2014 conviction for felony child cruelty would prohibit his possession of a firearm. Six years later he was convicted of gun possession by an addict. And while he wasn't wanted for "murder," he *was* wanted for violating the term of probation that was imposed after a 2020 conviction for furnishing



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false ID to police.

During Abelar's most recent tangle, the three deputies who responded didn't know who Abelar really was, nor that he was armed with the pistol depicted above until it was literally too late. Their subject's deceptive demeanor, though, seemed clear from the start. Here's how the Sheriff's video set out the initial five-minute encounter:

ABELAR DID NOT HAVE IDENTIFICATION AND PROVIDED FALSE INFORMATION REGARDING THE SPELLING OF HIS NAME AND HIS DATE OF BIRTH TO THE DEPUTIES.

AFTER SPEAKING TO ABELAR FOR APPROXIMATELY FIVE MINUTES, THE DEPUTIES DECIDED TO DIRECT HIM TO STEP OUT OF THE VEHICLE IN ORDER TO IDENTIFY HIM AND DETERMINE IF HE IN FACT HAD A WARRANT FOR HIS ARREST.

ONE OF THE DEPUTIES OPENED THE DRIVER'S SIDE DOOR OF THE MAZDA AND ASKED ABELAR TO STEP OUT. ABELAR SUDDENLY EXITED THE CAR ARMED WITH A HANDGUN IN HIS RIGHT HAND.

THE DEPUTY YELLED, "GUN, GUN, GUN" AND A SHORT PHYSICAL STRUGGLE ENSUED. BOTH THE DEPUTY AND ABELAR FELL TO THE GROUND NEXT TO THE DRIVER'S SIDE DOOR, AND A DEPUTY-INVOLVED SHOOTING OCCURRED.



At the end of those five minutes, Deputy #1 ordered Abelar out of the car. As Abelar began to exit, the deputy realized that the man was gripping a gun in his lowered right hand. Deputy #1 instantly began yelling "gun!" and took Abelar to the

ground. Deputy #2 jumped in to help. During this process, which took all of five seconds, Abelar's pistol fell away. Deputy #3, however, was a few steps off. *She may have never seen the gun.* But what she knew for sure was what Deputy #1's "gun, gun, gun" alert forcefully conveyed *six seconds* earlier: that deceitful, violent man who told the body shop owner that he was wanted for murder was *armed*.

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If so, would her ostensibly defensible reason for shooting Abelar overcome the fact that he had, seconds earlier, been disarmed?

Adrian Abelar survived his wound. Alas, uses of force gone astray often prove needlessly lethal. An instance that stands out for its tactical complexity is the [2020 killing of Breonna Taylor](#) by Louisville police officers who were serving a no-knock search warrant at the apartment she shared with her boyfriend, Kenneth Walker. As it turns out, the warrant was, evidence-wise, deeply flawed. But our attention here is on the situation officers encountered when, seconds after making entry, they were fired on by Mr. Walker, who said he thought they were intruders. His bullet struck an officer in the leg. Police unleashed a barrage of return fire. Their shots missed Mr. Walker but fatally wounded Ms. Taylor, who was unarmed but had appeared alongside him. Shots fired by Detective Brett Hankinson entered an adjoining apartment. Although they struck no one, he wound up being the only officer prosecuted in this case.

As one might expect, ordinary citizens were stymied by the unforgiving circumstances that Detective Hankinson and his colleagues had faced. Hankinson was acquitted of state endangerment charges, and his Federal trial for civil rights violations [recently ended with a hung jury](#).

Back to Abelar. Deputy #3 seemingly got caught up in a complex, life-threatening situation not unlike what the Louisville cops faced. But there's a hitch. Check out the voice-over caption that accompanies the 12:06 frame of the sheriff's video (its accompanying background image was purposely blurred out):

**(Deputy) Put your gun away (male groaning)**

“Put your gun away” was rapidly uttered by a male. It seems that seconds after Deputy #3 fired, one of her colleagues told her to holster her pistol. His comments carried a clear implication of disapproval.

To be sure, another deputy might have handled things differently. From the beginning (see, for example, [“When Cops Kill”](#)) we've emphasized that differences in personality, experience and training greatly affect how officers react. What's more, even “routine” policing is packed with chaos and citizen noncompliance. And while the post-Floyd era has led agencies to try to “fix” things by fashioning ever-more-complex rules to guide the police response, what the deputies faced on September 21, 2021 was decidedly extreme. We thus struggle to come up with a procedural “fix” that would have guaranteed a chronically misbehaving gunslinger came out unscathed.

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Well, there *is* one approach. Set rule-making aside. Make in-depth, broadly-based, no-holds-barred discussions of the unforgiving circumstances that officers often encounter a major component of training and, as well, a routine part of every roll-call. Be sure to throw *everything* into the mix, including the foibles of citizens *and* cops. And by all means, don't feel compelled to preordain (or even offer) "solutions." You see, it's precisely the "unsolvable" that we must squarely face.

Posted 8/24/23

## WHAT COPS FACE

*America's violent atmosphere can distort officer decisions*



For *Police Issues* by Julius (Jay) Wachtel. In April 2023, following his return from tours in Afghanistan and Iraq, former Minnesota Army National Guardsman Jake Wallin [was sworn in as a Fargo, North Dakota police officer](#). He was twenty-three years old. Three months later, on July 14, Officer Wallin was shot and killed, and officers Tyler Hawes and Andrew Dotas were wounded as they awaited a tow truck to remove a car involved in the collision to which they had been dispatched. (One of the involved drivers was also wounded.)

That vehicle, which sat in the middle of the road, was attended by a fourth officer, Zach Robinson. His bodycam soon captured the most disturbing images one could imagine. (Click [here](#) for bodycam-only and [here](#) for the press conference and narrated bodycam.) This sequence tracks the encounter:



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As traffic peacefully streams by the disabled vehicle (1), the shooter, a 37-year old local man, unobtrusively sits behind the wheel of a car parked in an adjacent lot (2). Meanwhile Officers Wallin, Hawes and Dotas are on foot nearby, awaiting the tow truck (3). Bursts of gunfire suddenly shatter the calm. Bullets strike each of the three officers and one of the drivers involved in the collision (4). Their origin, an AR-15 type rifle wielded by Mohamad Barakat, the sole occupant of the parked car, is equipped with an accessory “binary trigger” that discharges a second round as pressure is released. That in effect transformed his already lethal rifle into a machinegun. Barakat had also brought more than enough ammunition – 1,800 rounds were found in his car – to engage in a protracted gunfight (our introductory image depicts the arsenal found in his home.)

That he didn’t was due to Officer Robinson’s heroic and highly talented efforts. Instantly jumping into the fray, he quickly spotted Barakat, then fired a string of shots using the disabled vehicle as a shield. Barakat, who had stepped out of his car, was fatally wounded (5-8). Officer Robinson then scrambled across the road and, bravely exposing himself to return gunfire, continued engaging the gunman as he crawled behind the vehicle to its driver’s side (9-11).

[According to North Dakota Attorney General Drew Wrigley](#), Barakat was motivated by generalized feelings of hatred and picked on the crash scene “by happenstance”. His Internet searches over the years had featured keywords including “kill fast,” “explosive ammo,” “incendiary rounds,” “mass shooting events,” and, on the day preceding his attack, “area events where there are crowds.” That last search brought up [Fargo’s downtown street fair](#), which was taking place nearby and was in its second day. Barakat had also expressed interest in the city’s “[Red River Valley Fair](#),” a ten-day event that began July 7th.

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Officer Robinson’s heroic response was absolutely correct. Alas, police shootings are often criticized, and often for good reason. A recent, noteworthy example is the August 5, 2023 fatal shooting by Denver police of Brandon Cole. This sequence tracks that encounter (click [here](#) for the video):





A 9-1-1 caller reported that Mr. Cole, 36, had pushed his wife off her wheelchair and attacked his teenage son. Two one-officer police cars responded (the images are from the second cop’s bodycam). They found the situation depicted in the first image. Mr. Cole’s wife was sitting on the curb. She asked for an ambulance [but reportedly implored the officers](#) “don’t pull your gun out on my husband, please.”

Mr. Cole, though, was aggressive from the start. He retrieved an object from his car, then walked towards the first officer, wielding what both cops thought was a knife (2-4). Although the second officer addressed Mr. Cole by his first name, he refused to stop. So while she covered things with her pistol, the first cop discharged his Taser (5-6). Alas, [one of its probes apparently missed](#). Despite more orders to stop, Mr. Cole then went after the second cop, “knife” in hand (7-9). She fired as he reached the sidewalk, inflicting fatal wounds (10-11). Mr. Cole’s weapon (it’s circled in red in the last two images) turned out to be a black marker.

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Mr. Cole’s pretend knife is reminiscent of an episode in Los Angeles last year. On July 18 a 9-1-1 caller [reported that he was being bothered](#) by an aggressive “dark-skinned guy with dreadlocks” to leave. But when he told the man to leave he replied “I’ll leave when I

want. You can leave”, then pulled out a black pistol. Here’s a sequence of images from an officer bodycam (click [here](#) for the original video, and [here](#) for our annotated version):



The first image portrays Jermaine Petit walking away from two officers who trail behind. A vehicle occupied by a Sergeant and another cop follow along (2). One of the cops (we don’t know which) draws close (3) and notices that Mr. Petit’s “pistol” (fourth image, circled in red) isn’t a firearm. It was a car part (see left). But in the rapidly evolving situation – watch the video and notice how quickly things moved along – the officer’s “it’s not a gun bro” comment (5) was apparently lost in translation. One of the officers on foot replied “huh?”, then ordered Mr. Cole to “drop it” (6). And as their quarry stepped into the street (7), a careless gesture likely provoked the sergeant in the car and an officer on foot to open fire (8).

Fortunately, Mr. Petit survived. He would get to celebrate his 40th. birthday.

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We addressed pretend weapons five years ago in “[There’s No Pretending a Gun](#)”. Two weeks before that, “[A Reason? Or Just an Excuse?](#)” explored why officers occasionally mistake ordinary objects like cellphones for a gun. Two years before that there was “[Working Scared](#)”. Here’s an outtake:

What experienced cops well know, but for reasons of decorum rarely articulate, is that the real world isn’t the academy: on the mean streets officers must accept risks that instructors warn against, and doing so occasionally gets cops hurt or killed. Your blogger is unaware of any tolerable approach to policing a democratic

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society that resolves this dilemma, but if he learns of such a thing he will certainly pass it on.

Cops *do* get hurt and killed, and it's more than "occasionally." In our gun-beset land, preventives are few. Mohamad Barakat (legally) possessed a veritable arsenal. Even that "binary trigger" was legal. So when Mr. Barakat felt impelled to mount a terrorist attack, he instantly outgunned any ordinary cop on patrol.

Of course, cops well know that evildoers are apt to be better armed. Still, some officers are more skilled than others. Their personalities also vary. "[Working Scared](#)" emphasized that individual differences matter. But grab another look at the Denver and Los Angeles videos. Things were moving *very* quickly. Mr. Cole and Mr. Petit ignored officers' supplications and commands, and those vaunted "[de-escalation](#)" practices weren't an option. Both miscreants also clearly posed a threat to ordinary citizens. So that cure we once advanced – [backing off and letting suspects go](#) – wasn't in the cards.

Neither Mr. Cole nor Mr. Petit presented a clear-cut armed threat. Neither did they co-operate with police. Mr. Cole, though, was at first dealt with more sternly.

- As a colleague covered him with her pistol, the first officer on scene fired his Taser, but, as we noted, unsuccessfully. Mr. Cole then redirected his attention to the other cop. Unfortunately, he closed in on her so quickly that even if she had a Taser, switching to it could have been too risky. So she shot him.
- Although they seemingly had several opportunities to do so, officers didn't try to use a Taser against Mr. Petit. Perhaps the device was unavailable. His reported possession of a "pistol" may have also discouraged them from the distractions involved in deploying a non-lethal device.

One day ago, at a news conference in Fargo, Attorney General Merrick B. Garland [expressed his heartfelt condolences](#) over the murder of officer Jake Wallin and the wounding of his colleagues. He also praised officer Robinson, whose heroism "saved the community from what could have been a catastrophic result." But the A.G. didn't venture into correctives. As cops well know, in our gun-besotted land, remedies other than bravery are few.

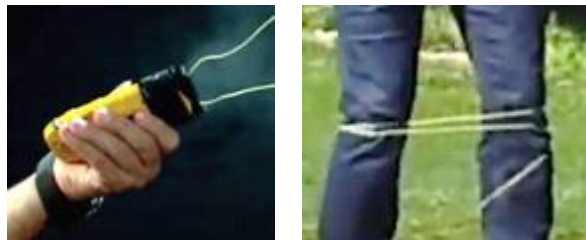
So what is available?

- [Assault weapons laws](#). Most recently, "[Are We Helpless to Prevent Massacres?](#)" conveyed our distressing conclusion that "lawmaking is not a solution." That holds true in even supposedly "strong-law" states such as California ([#1 in gun](#)

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[law strength per Giffords](#)), where loopholes such as we mentioned in “[Loopholes are \(Still\) Lethal](#)” allow the sale and possession of highly lethal .223 caliber semi-automatic rifles like the weapon used by Barakat.

- Extreme Risk Protection Orders. We’re unaware that the authorities had any advance notice that Mr. Cole or Mr. Petit were likely to lethally misbehave. On the other hand, [Mohamad Barakat was well known](#). In 2021 an anonymous tip about his “mental state”, use of “threatening language” and gun possession led to his interview by Fargo detectives. Barakat “denied any ill-intentions.” But, like Mr. Cole and Mr. Petit, he lacked a criminal record prohibiting gun possession, and the matter was dropped. Then, last September, his home kitchen caught on fire. Firefighters came across a “significant amount” of ammunition, several assault rifles and two large propane cylinders that seemed out of place. But there was no follow-through, and his threatening Internet activities were apparently undiscovered until it was too late. Even had they been known, preventative efforts would have been difficult, [as North Dakota lacks a “Red Flag” law](#) that would enable a judge to order guns seized before disaster strikes.
- Non-lethal weapons. It’s not just Tasers anymore. There’s now [BolaWrap](#), a gun-



like device which shoots a long Kevlar cord that wraps around a target’s arms or legs, disabling without causing injury. LAPD, [which touted its adoption four years ago](#), recently reported that patrol officers [successfully used it fourteen times](#) during a one-year trial period. Still, to be truly effective, non-lethal means must be quickly deployed, perhaps far sooner than present rules allow. In a post-Floyd atmosphere that discourages the use of force, that presents a substantial hurdle for even the most seemingly benign devices. So while LAPD Chief Michel Moore bragged about BolaWrap’s deployment to officers who patrol Metro, the city’s transit system, Metro officials emphasized that its use is yet to be approved.

Of course, prevention is the best option. But as rookies quickly discover, ill-intended characters can easily arm themselves to the teeth. Moreover, cops are human. Their toolbox is limited. Given the highly conflicted situations they often face, and the lack of voluntary compliance they often experience, it’s no surprise that their lethal-force

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decisions will occasionally go astray. Last month we posted "[San Antonio Blues](#)," which analyzed the police killing of a distraught, ill-behaving citizen whose "weapon" was a...hammer. This tragedy occurred in one of the beset city's poorest, most violence-stricken neighborhoods. And as one might expect, that's where police shootings were most frequent:

Does this let the three ex-cops "off the hook"? Certainly not. But to prevent endless replays, we must openly acknowledge that the disorder and lack of compliance common in poverty-stricken areas can poison officer decision-making and distort their response. However, the ultimate "fix" lies outside of policing. As we habitually preach in our Neighborhoods essays, a concerted effort to improve the socioeconomics of poor places is Job #1. Not-so-incidentally, that could also improve the dodgy behavior of some citizens. And good cops would find that most welcome!

In "[On the One hand...But On the Other](#)" and "[Regulate. Don't Obfuscate](#)" we mentioned that the Floyd episode has fueled a toxic atmosphere, promoting a disengagement that can ill-serve the public and rules that threaten to impair cops' ability to protect themselves. But make rules all you wish. For real solutions, one must address the socioeconomic environment in which cops labor. There really *is* no third choice.

Posted 9/5/23

## WHEN (VERY) HARD HEADS COLLIDE (II)

*What should cops do when miscreants refuse to comply?  
Refuse to comply?*



*For Police Issues by Julius (Jay) Wachtel.* Other than depicting a police officer's backside, what else is unusual about this picture? Look closely. That shiny Lexus two Ohio cops tangled with on August 24 lacks a rear license plate. According to Blendon Township police Chief John Belford, it lacked a front license plate as well (click [here](#) for his video statement and [here](#) for our transcript). Indeed, the vehicle was probably unregistered. According to police accounts and records we dug up in municipal court files – we'll get into that below – its driver and sole occupant, twenty-one year old Ta'Kiya Young, was likely unlicensed.

But first, let's examine the circumstances that led to the ultimately tragic encounter (click [here](#) for the police chief's initial Facebook statement, posted one day after the event, and [here](#) for his follow-up account.) [Blendon Township](#), a prosperous community of about 10,000 residents, lies about sixteen miles northeast of Columbus, the state capital. Blendon's smallish, full-service [police department](#) employs seventeen sworn officers, including two detectives and eleven patrol officers. Chief Belford reported that immediately preceding their contact with Ms. Young, two patrol officers were in the Kroger parking lot, helping a locked-out citizen get back into their car. That's when a Kroger employee ran up and informed them that Ms. Young, who was walking up to her nearby Lexus (it was parked in a handicapped slot) stole liquor from the store. She had supposedly been in the company of other shoplifters, but they already fled.

So the cops shifted their attention. Here's a sequence of images from their [bodycams](#):

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Time hh:mm:ss	Image #	Bodycam Officer #	Event
18:27:55	1	2	Ms. Young enters her car
18:28:03	2-4, 6, 7	2	Officer 2 walks up, starts ordering her out
18:28:11	5	2	Officer 1 walks by
18:28:18	8, 9	1	Officer 1 positions in front of the vehicle
18:28:27	10	2	Vehicle starts moving
18:28:28	11, 12	1	Officer 1 fires one shot through windshield, fatally wounding Ms. Young
18:28:29	13, 14	2	Officer 1 struck, pushed aside by vehicle

Things happened very quickly. Eight seconds after Officer 2 began ordering Ms. Young to exit her vehicle, Officer 1 walked by and planted himself in front of the car (a clearly poor move that we'll come to later). Only nine seconds after that, the car began to move. Veering sharply to the right, it knocked Officer 1 aside. Having already unholstered his gun, he instantly fired. His round penetrated the windshield (images 11 and 12) and fatally wounded Ms. Young. Even so, she managed to safely steer the car to the shopping center's walkway and, as the officers ran alongside, bring it to a halt. Ms. Young was locked inside, so the cops broke in to render aid. Alas, it proved too late.

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Police haven't mentioned finding any ill-gotten merchandise in Ms. Young's car. According to her lawyer, [there was none](#), as she had been observed leaving the liquor in the store. Her decision to do so may have been spurred by employee reaction to the large-scale shoplift in which she allegedly participated. But the absence of loot certainly provides grist for the lawsuit being filed by her family.

Ms. Young *did* refuse to cooperate with police. Her flight also placed Officer 1 at great risk. Had she decisively stepped on the gas or failed to swing the vehicle away, he might have been killed. Her reckless behavior reflects an unfortunate pattern of conduct that's been documented in the municipal courts of [Franklin](#) and [Sandusky](#) counties:

Off. date	Case no.	Charge	Dispo
8/20/23	CRB 013483	Viol. protect. Order	Dismissed (deceased)
7/25/23	Unk.	Red light viol.	Unk.
1/5/23	CRB 000200	Viol. protect. Order	Dismissed (deceased)
10/14/22	CRB 016143	Petty theft	Diversion prog., then warrant, then dismissed (deceased)
12/29/21	TRD 100254	60 mph in a 35 mph zone	FTA warrant, \$242 fine
4/18/21	CRB 005169	Flee/elude officer; disorderly conduct	Guilty, 4 days jail, fine
4/18/21	TRD 111193	59 mph in a 35 mph zone	See above
1/3/21	TRD 100300	102 mph in a 65 mph zone	\$192 fine

We've often cautioned about the chaotic nature of police-citizen encounters (see, for example, "[Routinely Chaotic](#)"). Ditto, citizens' frequent reluctance to peacefully comply ("[Fair but Firm](#)"). Ditto, the risk that rushed responses might cause needless harm. ("[Speed Kills](#)"). Here, all three concerns seem to apply. Still, the circumstances that Officers 1 and 2 faced were unforgiving from the start. An alleged participant in a major shoplift episode was about to drive away. Worse still, neither officer had apparently connected with Ms. Young in the past, and her vehicle's lack of license plates deprived them of some potentially very useful information.



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Even so, Officer 2 (their names have not as yet been released) didn't treat the situation as a dangerous felony stop. He hurried to the driver's door and, without drawing his gun, ordered Ms. Young from the vehicle. But she refused to exit. And kept refusing. Officer 2 apparently tried to open the car's door (see images 7-9 above). But it was locked.

Officer 1 noticed. Perhaps to emphasize the seriousness of the situation, or simply as a bully tactic, he placed himself in front of the vehicle and drew his pistol. As one might expect, police trainers [have condemned his approach](#). While drawing a gun might be justified, accepted practices clearly rule out standing in front of a suspect's car. (Imagine what would have happened had Ms. Young *really* stepped on the gas.) Still, once the vehicle began to move and he got bumped, firing a shot could be justified as self-defense. Blendon PD's relevant [use of force rules](#) are typical for the genre. Here's an extract:

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

A horrific outcome had been eminently avoidable. That it wasn't can be attributed to the unholy combination of two *very* hard heads: one a citizen's; the other a cop's. We wrote about a like pair fourteen years ago ("[When Very Hard Heads Collide](#)"). But for a notorious recent example there's the paradigm-shifting episode involving Minneapolis cops and George Floyd ("[Punishment Isn't a Cop's Job](#)"). It started out in a similar fashion, with officers responding to a call about a shoplifter who wouldn't give things back. Rookie cop Thomas Lane, the first officer on scene (he's now in Federal prison) managed to get Mr. Floyd out of his car and onto the sidewalk, no harm done. Unfortunately, Mr. Floyd (he had a substantial criminal record) soon stopped playing nice. That frustrated a senior cop (Derek Chauvin, now also imprisoned). So he came up with a "better idea."

What's the fix? Three years ago our *Police Chief* op-ed "[Why do Officers Succeed?](#)" pointed out that cops successfully handle fraught situations involving misbehaving citizens every minute of every day. While tactical blunders *do* happen (our [Strategy & Tactics](#) essays are riddled with examples) Officer 1's purposeful, obviously dangerous positioning seemed clearly intended to convey a message. And to the cop's likely dismay, his challenge was accepted. But there's no need to craft yet another elaborate set of rules. The solution is really quite straightforward. Impress on our public servants that society can't afford non-compliance with accepted procedures, and especially by its

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badge-wearers. In the fraught atmosphere that characterizes present-day America, their blunders truly *are* an invitation to disaster.

Posted 2/10/18

## WHY DO COPS LIE?

*Often, for the same reasons as their managers*

*By Julius (Jay) Wachtel.* As a retired Fed who investigated gun trafficking, your blogger was dismayed to learn about the implosion of Baltimore PD's Gun Trace Task Force. After pleading guilty to racketeering charges, three former members of that once-celebrated team [were recently back in Federal court](#), testifying against colleagues who deny being involved in a years-long scheme that involved lying about probable cause, extorting suspects and stealing large sums of cash.

Meanwhile a once-promising law enforcement career unraveled in a New York courtroom. In a stunning verdict, jurors unanimously agreed that NYPD Detective Kevin Desormeau [lied to a grand jury](#) when he testified that he and his partner observed someone selling drugs. That falsehood, which was used to justify a body search that did turn up contraband, was exposed by a surveillance camera that faithfully recorded how the cops really encountered the man. Desormeau and his colleague – she was convicted of a lesser crime but acquitted by the judge – aren't done; both are pending trial for lying in a case about illegal gun possession.

This isn't the first time that NYPD's finest have been accused of fudging. In its 1995 [report on police corruption](#), the city's Mollen Commission warned that police lying was leading judges and jurors to hold "skeptical views of police testimony, which potentially could result in the dismissal of those criminal cases where police officers were the sole prosecution witnesses." (p. 68)

Nearly two decades later, little had apparently changed. A New York judge who presided at the bench trial of a detective who allegedly planted drugs [admitted he was unnerved](#) by evidence of widespread police wrongdoing: "I thought I was not naïve. But even this court was shocked, not only by the seeming pervasive scope of misconduct but even more distressingly by the seeming casualness by which such conduct is employed."

Yes, he found the cop guilty. And that too seemed quickly forgotten. Three years later, [a report](#) by NYC's Civilian Complaint Review Board concluded that false statements by police were on the increase. Their findings became gist for [a major story](#) by New York Public Radio. It was troublingly entitled "The Hard Truth About Cops Who Lie."

What's been called "testilying" brings us to the front door of yet another NYPD sleuth, Detective Louis Scarcella. An acclaimed long-time homicide investigator with a once-

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enviable track record, his “[propensity to embellish or fabricate statements](#)” (that’s what a judge said in 2015) has so far led to the reversal of eight convictions, most recently last July, when prosecutors accused him of lying about what a witness said. Scarcella’s reputation first took a turn for the worse in 2013 when a man he helped convict was freed after serving twenty-three years. “What’s important to me is that this fellow should not be in prison one day longer,” said the Brooklyn D.A., [whose investigators had concluded](#) that the exoneree’s protests that he was “framed” by police might actually be true. Now [there’s even talk of vacating a conviction](#) not because of what Scarcella did in a case, but simply because his reputation for being loose with the facts wasn’t disclosed to the defense.

According to the [Knapp Commission](#), police corruption comes in two flavors. “Meat Eaters” aggressively use their badge to line their pockets, while “grass eaters” confine themselves to lesser sins, say, accepting a tenner to forego writing a ticket. Still, one could hope that after the twentieth century’s deplorable legacy of police misconduct – New York, Chicago, Detroit and Los Angeles come to mind – America’s cops finally turned the corner. Indeed, Baltimore-like episodes of out-and-out, self-serving venality, which seem an integral part of old-time policing, are now relatively rare. Neither Detective Desormeau nor his partner reportedly extorted anyone. As for Detective Scarcella, he’s not been accused of any crimes, only of doing shoddy work.

Taking the long view, things seem a lot better. Most cops now make a pretty decent living, and hiring standards have definitely been upgraded. Still, given the many examples of serious misconduct, there’s obviously reason to worry. Selfishness, after all, is embedded in the human DNA. Maybe we don’t recognize much of “the new police corruption” because the causes and forms have transformed. Maybe we simply don’t want to know.

Let’s return to the [New York Times account](#) about Detective Desormeau:

At his trial, prosecutors suggested that Detective Desormeau had decided that making lots of arrests was the route to glory in the New York Police Department, which was why he decided to falsify evidence.

Desormeau’s lawyer was clearly hoping that his client’s untruths, which he characterized during closing arguments as “just a little white lie,” would be justified by the arrestee’s unsavory past, which reportedly includes prison time for killing two men. But the implication that the partners were pursuing a greater social good was challenged by prosecutors, who accused the pair of being “only interested in advancing their careers by getting high arrest statistics and getting promoted.”

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Before that pesky surveillance camera intervened, Desormeau had a decidedly bright future. In the [Compstat-besotted, number-counting NYPD](#), a department where officers are expected to meet arrest quotas (and, until the Feds intervened, [make as many stop-and-frisks as possible](#)), and detectives are expected to [make lots of arrests](#), a medal of valor holder with more than 350 career arrests would definitely be on track for big things.

Let's not just pick on NYPD. In November 2012 two LAPD partners, both in the middle of promising careers, [were convicted](#) of planting drugs and lying about it in court. Again, a surveillance video saved the day, catching the pair as they allegedly manipulated evidence while engaged in a telling verbal exchange. "Be creative in your writing," said one. "Oh yeah, don't worry" replied the other.

We're not arguing that all cops are potentially evil. For most, public service is undoubtedly the main motivator. On the other hand, officers *are* people. Offering temptations such as favored assignments or promotions will inevitably encourage some to take shortcuts. "[Confirmation bias](#)," that all-too-human tendency to quickly resolve ambiguities in a way that furthers one's own interests and beliefs, has led to everything from the needless use of force [to "helping" witnesses identify the person](#) whom a cop "knows" must have done it.

In every line of work incentives must be carefully managed so that employee "wants" don't steer the ship. That's especially true in policing, where the consequences of reckless, hasty or ill-informed decisions can easily prove catastrophic. But we can't expect officers to toe the line when their agency's foundation has been compromised by morally unsound practices such as ticket and arrest quotas. This unfortunate but well-known management approach, which is intended to raise "productivity," once [drove an angry New York City cop](#) to secretly tape his superiors, with predictable consequences. And consider the seemingly contradictory but equally entrenched practice of [downgrading serious crimes](#) – say, by pressuring officers to reclassify aggravated assaults to simple assaults – so that departments can take credit for falling crime rates. (For a recent take check out the "Be Careful What You Brag About" two-parter, below.)

Why set arrest quotas? Why fudge crime statistics? Chiefs also have bosses. Mayors and city managers control department purse strings and select their chiefs. If manipulating stat's can make things look good for everybody, well...

As law enforcement professionals (that's what your blogger, retired or not, still considers himself) we like to think that we're different. Yet the picture we've laid out seems like it came straight out of "[Three Billboards](#)." (If you haven't seen it, go!) What's more, it's not just the cops. Deception is an integral aspect of our legal system, where

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advantage is everything and truth-telling is considered hopelessly naive. Imagine how long a civil attorney would last if she was always fully transparent with opposing parties. Or what would happen to a defense lawyer who demanded that his clients tell police the whole truth, and nothing but.

Ah, back to policing. Being a cop is, at heart, a *craft*. Craftspersons are supposed to pay exquisite attention to detail and be committed to the excellence of their product. Yet as the painter Robert Williams once lamented, “you’ve got legions of people who have lost craftsmanship. They’ve lost the romance of what they’re doing. The virtuosity.” (*Los Angeles Times Magazine*, June 5, 2005, p. 7.) How can we get law enforcement back on track? Let’s skip over controls. Here’s an approach that usually goes unconsidered: craftsmanship. To honor their true and only “client” – the public – police executives must forget about numbers and get back to emphasizing *quality*. Offering unwavering support for doing things as they *ought* to be done would go a long way towards helping officers navigate the moral dilemmas and resist the unholy pressures that have tarnished their highly demanding vocation. Their *craft*.

By the way, if you’re hankering for an in-depth assessment of the quantity/quality conundrum (it likens police work to, of all things, woodcarving) click [here](#). Also let us know what you think. Use the “contact” link and we’ll post your comments. And thanks!

Posted 2/8/24

## WRONG PLACE, WRONG TIME, WRONG COP

*Recent exonerees set soul-wrenching records for length of wrongful imprisonment*



Glynn Simmons

Don Roberts

*For Police Issues by Julius (Jay) Wachtel.* “There never really was any real evidence. Just being a Black kid in the wrong place at the wrong time.” [That’s how lawyer John Coyle explained](#) how his client, Mr. Glynn Simmons, came to be wrongfully convicted for murdering an employee and wounding a customer during the December 30, 1974 armed robbery of an Edmond, Oklahoma liquor store. Mr. Simmons, a 22-year old resident of Louisiana, and his alleged crime partner, Don Roberts, a 21-year old who lived in Texas, were charged with the crime two months later. Their arrest was based on their identification by a customer who viewed them during a live lineup. Belinda Brown, then 18, had been shopping for tequila and was wounded during the holdup.

Mr. Simmons and Mr. Roberts wound up in that lineup in a most unorthodox way. Robberies had beset Edmond. Several weeks after the liquor store holdup police obtained a confession from a local man to two other robbery-murders. He and his brother, whom police suspected of being a helpmate, had recently attended a party in Oklahoma City, and officers sought to identify everyone present. It so happened that the get-together took place at the residence of Mr. Simmons’ aunt, who lived in Oklahoma. Mr. Simmons, who had recently relocated from Louisiana, was there. So was Mr. Roberts, with whom Mr. Simmons was then unacquainted.

There were actually *two* witnesses to the liquor store robbery: Ms. Brown and an employee who came through unscathed. At first, neither offered much promise. Ms. Brown complained that “...if I waited much longer” she wouldn’t be able to remember

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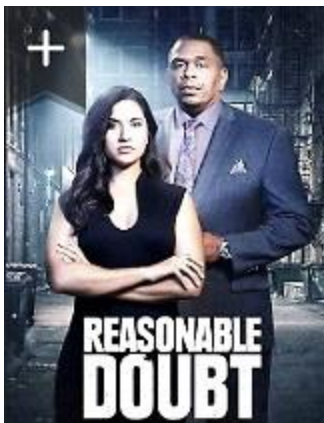
the robbers' faces because "it would get all jumbled up in my mind and it wouldn't be the same." And the employee said that she froze on the robbers' guns and would be unable to recognize their faces.

More than a month later police staged eight live lineups of persons who attended the party. According to a police report that was withheld from the defense, Ms. Brown identified six persons, including Mr. Simmons, Mr. Roberts, and the recently confessed murderer, as being the (two) perpetrators. Ms. Brown conceded she was uncertain and said that she "wanted to think about the identification 'overnight'."

No matter. By the June, 1975 trial date Ms. Brown had become certain that Mr. Simmons and Mr. Roberts were the bandits. Although her original description of Mr. Simmons as large and corpulent was way off (he's a small man), she confidently identified both defendants in court.

Mr. Simmons' primary defense was the testimony of four Louisiana-based friends who confirmed that he was still living there when the Edmond robbery took place. But two other friends weren't called, and affidavits from five others never came into play. (Mr. Simmons' lawyer was disbarred years later for poor performance, although apparently not over this case.) Indeed, Ms. Brown's identification constituted the sole evidence of the defendants' guilt. But she must have impressed jurors, as it took them only a bit over two hours to convict Mr. Simmons and Mr. Roberts. That shocked the prosecutor. He later conceded being troubled by the manner in which they were identified: "...quite candidly, it was one of the few cases I have been involved in that the verdict a week later could easily have been different."

But it wasn't. Mr. Simmons and Mr. Roberts wound up on death row. Fortunately, a state supreme court ruling about the death penalty reduced their punishment to life without parole. Don Roberts was paroled in 2008 after serving 33 years. Mr. Simmons, though, remained behind bars. Ultimately it was that secret, damning police report that made the difference. And, as well, the implication, backed by a comparison of gun calibers, that the man who confessed to the robbery-murders and his brother were the *real* culprits.



In April, 2023 the Oklahoma County D.A. [petitioned for Mr. Simmons' release](#) over a "Brady" violation, meaning the State's failure to reveal exculpatory information. On July 23, 2023, after serving "forty eight-years, one month and 18 days," [Mr. Simmons was released on bond](#). And in December a judge ruled



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that there was “clear and convincing evidence” of Mr. Simmons’ innocence and absolved him altogether. Want more? “[A State of Denial](#),” the September 13, 2021 episode of *Investigation Discovery*’s “Reasonable Doubt” reality-TV series, is about this case.

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“[On behalf of the criminal justice system, and I’m sure this means very little to you, I’m going to apologize.](#)” On November 25, 2019, thirty-six years after their imprisonment for shooting and killing a 14-year old boy, Alfred Chestnut, Andrew Stewart and Ransom Watkins were declared innocent and freed. Judge Charles Peters’ move was hardly controversial. After all, it had been sought by Baltimore’s chief prosecutor, Marilyn Mosby, [who agreed with innocence project attorneys](#) that the case had been deeply flawed from the start:

I’m sorry. The system failed them. They should have never had to see the inside of a jail cell. We will do everything in our power not only to release them, but to support them as they re-acclimate into society.

Just how that “failure” came to be involved two chronic causes of wrongful conviction: police pressure on eyewitnesses, and, as in the case of Glynn Simmons and Don Roberts, the withholding of key evidence. [It’s not that police had little to go on.](#) After all, the killing, whose objective was supposedly to steal the wearer’s desirable Georgetown University jacket, took place during class hours. And the three defendants – they were then sixteen, and each was a former student – happened to be at the school visiting. What’s more, when approached by police, Chestnut was wearing just such a jacket.

But Chestnut and his friends denied any involvement. As for the jacket, the youth claimed it had been a gift (his mother later confirmed it with sales receipts). A school

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security guard also said that, before the killing took place, he escorted the three visitors outside and locked the door. But the focus on them persisted. On two successive days police showed a photo lineup to two of three boys who had been walking with the victim. (One wasn't there when the killer approached, and the other two ran off when he drew his gun.) None identified any of the three. But one did pick out another youth, 18-year old Michael Willis, whom the security guard observed across the street after the killing.

Still, Chestnut, Stewart and Watkins remained very much in the cross-hairs. We know nothing about their reputation, nor why they had switched to a different school. Their behavior, though, did get them kicked out on that fateful day. And there *was* that jacket. Officers soon struck gold. A fourth student said that she saw the shooting take place and identified the three from the lineup. And when the original set of witnesses was brought back for a third go-around, they confirmed it. What's more, the youth who picked out Michael Willis said he only did so because Willis was "from the neighborhood." Case solved!

At trial a defense investigator testified that two of the prosecution's witnesses told him that the accused was *not* involved. Another reportedly claimed that he was told not to speak with the defense. Defense lawyers also brought in three students whose accounts contradicted the prosecution's version of events. One said that he saw two other boys try to take the victim's jacket. But Michael Willis, whom authorities now believe was the killer, was unmolested. And after accumulating a substantial arrest record, he was himself murdered in 2002.



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Why did "the system" fail Glynn Simmons, Don Roberts, Alfred Chestnut, Andrew Stewart and Ransom Watkins? And, as our "[Wrongful Conviction](#)" essays have reported, so many others? Let's self-plagiarize from "[Damn the Evidence - Full Speed Ahead!](#)":

When serious crimes aren't promptly resolved, pressures mount from within and outside the ranks, to say nothing about forces within oneself. That's when "confirmation bias," the natural tendency to "interpret events in a way that affirms one's predilections and beliefs" rears its ugly head. Should detectives fall prey, they may accept "evidence" that might otherwise seem sketchy or

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implausible (“[House of Cards](#)” and “[Guilty Until Proven Innocent](#)”). And as our guardians rush along, pressuring witnesses and turning “no” and “maybe” into “yes”, what’s inconsistent gets disputed or is simply ignored (“[Can We Outlaw Wrongful Convictions II](#)”). Indeed, that’s how a “house of cards” gets built (“[The Ten Deadly Sins](#)”).

Eyewitness identification – that is, mis-identification – was a key factor in both cases. In past decades, “separating the wheat from the chaff” was, even more so than today, a matter of all-too-fallible human judgment. Thirty-plus years ago DNA was “in its infancy.” And there were no video cameras recording everyday life. Assessing the accuracy of citizen observations was wholly left to the cops. Naturally, detectives are under pressure to solve crimes, and especially crimes of violence. Sometimes, though, there are several potential evil-doers. Stir in that nasty, all-too-human predilection for “confirmation bias,” and it really does create “[A Recipe For Disaster](#)”.

We can’t get into the heads of the officers whose misfires cost innocent men decades in prison. [But journalists who dug deeply into the second example](#) claim that Baltimore’s detectives had fomented a deviant, reckless subculture that relied on coercion and intimidation to get witnesses to go along. Still, what shapes the initial decision to pick on, say, Jack instead of Bob? In our experience “on the street,” such choices are often influenced by suspects’ criminal records. Alas, what we’ve read about these cases doesn’t mention whether the innocents had previously tangled with the law. And it gets trickier. Consider the first case. Edmond’s cops had recently corralled an admitted armed robber. He and his brother are now believed to have committed the liquor store murder. Why weren’t they targeted from the very start? Could it be because eyewitnesses didn’t pick them out?

Detectives often face complexities. After all, that’s what “detecting” is all about. Alas, when they encounter a “whodunit”, the pressures of the job - after all, they *do* have other cases - can provoke a move to simplify things. Yet *all* kinds of policing are complex. Consider the ambiguities and lack of compliance that patrol officers encounter every hour of every day. What’s the solution? *quality* policing, meaning a craftsmanlike approach to the job. It’s definitely *not* (and must *not* be) about “making numbers”. That can generate disasters such as wrongful convictions. Or, turning to other demanding occupations, cause airplane parts to fly off mid-air. Here’s what a retired Boeing engineer [said about the recent 737 Max-9 imbroglio](#):

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...I would argue that the most like scenario is that the employees felt rushed, and employees were feeling rushed because the corporation is pressuring the factories to produce these planes and pump them out the door.

Alas, productivity is often relied on, in policing and elsewhere, to evaluate performance. Want to read more about the influence of the “numbers game” on policing? Download [“Production and Craftsmanship in Police Narcotics Enforcement”](#). And let us know what you think!

## YOU CAN'T "MANAGE" YOUR WAY OUT OF RAMPART

### *Pressures from above and a drive to succeed can distort officer behavior*

*By Julius (Jay) Wachtel.* New York City. Washington, D.C. New Orleans. Los Angeles. What do these four cities have in common? Police misconduct. Since inception of the first regularized force in the U.S., in New Amsterdam, later New York City, cycles of what criminologist Lawrence Sherman termed "scandal and reform" have plagued the police in urban America.

On each occasion, civilian and police investigating commissions conducted thorough probes. And after much chest-thumping and self-flagellation, each pointed to the same list of "usual suspects": poor hiring practices, lax supervision, ineffective internal inspection mechanisms, the absence of executive leadership, and so on.

Assistant Attorney General Bill Lee's recent ultimatum to the City follows this tradition: "Serious deficiencies in LAPD policies and procedures for training, supervising, and investigating and disciplining police officers foster and perpetuate officer misconduct." Other than for his rankling insistence on external oversight, Mr. Lee's dicta that more management is better management mirrors the conclusions of LAPD's own, exhaustive Board of Inquiry report, at present the mea culpa to beat.

Why is the needle still stuck on the same track? What has been the benefit of extending police training so that rookies now endure academies lasting six months or more? Of spending hundreds of millions to support the National Institute of Justice? Of millions spent on police executive training at the FBI Academy and elsewhere? Of the proliferation of college criminal justice curricula, where it is now possible to earn everything from an A.A. to a Ph.D.? And yes, of raising police salaries from mere subsistence to a level that allows a majority of police to enjoy the perquisites of the middle class?

Adopting ever-more stringent standards seems sensible. Sometimes we need to rearrange the deck chairs. But how far should we go? Install a Sergeant in the back seat of every patrol car? Um, no, he might get co-opted. How about a Lieutenant instead? Better yet, let's clone the Chief and...

As every parent knows, merely tightening the screws cannot, in the long haul, overcome the forces that impel misconduct. This is equally true for policing. Thirty years ago, political scientist James Q. Wilson's landmark study, "Varieties of Police

Behavior" suggested that police work is shaped by the environment. Simply put, we get the style of law enforcement that the community - or at least its politicians and more influential members - expects.

So-called "aggressive" policing could not have taken place in New York City in the absence of a demand to stem street crime. Abuses at Rampart did not start with a conspiracy between rogue officers. They began with a problem of crime and violence that beset Pico-Union. Into this web of fear and disorder we dispatched officers - members of the ineptly named CRASH - whose mission it was to reclaim the streets for the good folks.

Did we supply officers with special tools to help them accomplish their task? Of course not, since none exist. Yet our expectations remained high. Police officers gain satisfaction from success. Their work is also judged by superiors, who are more interested in numbers of arrests than in narrative expositions, the latter being difficult to pass up the chain of command and virtually impossible to use in budget fights at City Hall.

Officers who volunteer for specialized crime-fighting assignments want to do more than take reports - they want to make a difference. For some, the poisonous brew of inadequate tools and pressures to produce can have predictable consequences. Their dilemma is characterized by criminologist Carl Klockars as the "Dirty Harry" problem: given a lack of means, how to achieve good ends. Harry solved this problem by adopting bad means. Real officers on a crusade have rationalized virtually anything that promised to secure the desired outcome, including brutality and planting evidence. As their moral decay progressed, many even justified clearly self-serving behaviors such as stealing money and evidence.

What is to be done? By all means, apply whatever management remedies are available. But for a long-term solution, look to the environment of policing, and particularly to the self-induced and agency-generated pressures that can spur vulnerable practitioners to cross the line.

For example:

- Examine the mission. If it cannot be done - and done well - with the resources at hand, reconsider the approach. Emphasize conventional tactics, particularly uniformed patrol, and lobby forcefully for lasting remedies such as economic, social and educational investment.
- To reduce the pressure to breach ethical boundaries, set realistic objectives. Quantitative measures can corrode officer ethics and distort the nature of their

work. Instead of just counting "numbers" employ qualitative measures of performance. It may be less convenient than checking boxes on a form, but in policing there is no satisfactory alternative.

- Don't exaggerate. Chiefs and command staffs must insure that they and their fellow decision-makers in City government are educated about policing and have realistic expectations about what the police can accomplish.

Yes, critical self-study is a good thing. But failure to attend to the forces that drive police work only promises to deliver an even thicker set of "mea culpas" the next time around.