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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-

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."

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 advantage is everything and truth-telling is considered hopelessly naiive. 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!