

Posted 4/13/17

WHY DO COPS SUCCEED?

Shifting resources from finding fault to studying success

By Julius (Jay) Wachtel. It didn't take long for current political struggles to spill over into policing. Despite [a last-minute appeal](#) by the new A.G., Jeff Sessions, to suspend an agreement negotiated by his predecessor, a Federal Judge [approved a consent decree](#) that places Baltimore cops under Federal oversight.

Let's back up a bit. In 1994 the special litigation section of the U.S. Justice Department's civil rights division began conducting "[pattern and practice](#)" [investigations](#) of allegedly ill-behaving police departments in the U.S. When its inquiries develop evidence of serious, chronic misconduct DOJ can negotiate a settlement or, should the opposing party balk, file a lawsuit in Federal court. In the end contested matters are often settled with a consent decree, signed off by a judge, requiring that a department correct underlying problems and assigning a "monitor" to make sure they do.

Overseeing the police has developed into a major aspect of DOJ's mission. [DOJ's website](#) reveals thirty-seven open investigations (many more are being conducted in corrections, juvenile justice and other areas.) Twenty law enforcement agencies [have been released from supervision](#) in past years. Among these is Pittsburgh, whose officers were accused of harassing black residents in the mid-1990's. That controversy led to [the first-ever consent decree](#). Agreed to by both parties and issued in 1997, [it called for a host of improvements](#) in management and supervision, community relations, officer training and the processing and investigation of citizen complaints. Such orders became routine, as did the multi-year terms of Federal supervision that are typically imposed (DOJ's oversight of Pittsburgh PD didn't conclude until June 2005.)

As one might expect, episodes of misconduct litigated by DOJ tend to be particularly notable. One that hit particularly close to your blogger's home was [the Rampart scandal](#) of the late 1990's, when a rogue LAPD team brutally (and, as it turns out, corruptly) set out to reclaim the streets of a violence-plagued area. That debacle led to [a 2001 consent decree](#). DOJ found LAPD's culture and management so wanting that [a "transition agreement"](#) negotiated eight years later, which reassigned monitoring to city investigators, actually prolonged Federal oversight. (It finally came to an end in May 2013. Click [here](#) for the fascinating wrap-up story in the *Los Angeles Times*.)

Back to Baltimore. In August 2016 it agreed in principle to a package of reforms that would ostensibly bring its police practices into compliance with Federal law. That plan was an outgrowth of a two-year DOJ inquiry which revealed that some Baltimore cops used excessive force, engaged in biased policing and, among other things, did a shoddy job investigating sexual assaults. However, when Jeff Sessions took the reins at Justice a judge had yet to sign off on the decree. Sessions, who had promised to reduce DOJ's role in supervising local police, quickly moved to place the matter on hold. His move proved too late and the agreement went into effect.

According to news reports, DOJ's new leader worries that Federal meddling has actually made things worse: "We need, so far as we can, in my view, help police departments get better, not diminish their effectiveness. And I'm afraid we've done some of that. So we're going to try to pull back on this, and I don't think it's wrong or mean or insensitive to civil rights or human rights." To back up his concerns, Sessions points to a rise in violence in many cities. In our badly polarized land, though, whether or not an increase has occurred is a matter of debate (for our most recent takes on this click [here](#), [here](#) and [here](#).) Even if one concedes that violence is worse in some areas its implications are in dispute. In the above-cited news story, the AG's opinion that increased violence was "driving a sense that we're in danger" was in effect challenged by the reporter, who pointed out that national crime rates "remain near historic lows."

It's not only minorities and the "liberal media" who support Federal oversight. In Baltimore, police commissioner Ken Davis referred to Sessions' bid to quash the consent agreement as "a punch in the gut." In Chicago, city leaders have come out strongly in favor of Federal intervention. Faced with accusations that the Windy City's cops habitually used excessive force while managers looked the other way, Mayor Rahm Emanuel called the findings "a moment of truth." His sentiment was echoed by police superintendent Eddie Johnson, who said he was "optimistic and hopeful about the direction that we're heading in" but also "realistic about the fact that there is much, much, much more work that needs to be done." Lori E. Lightfoot, president of the Chicago Police Board, promised that would be accomplished: "We are going to demand that the reforms happen."

But if they do, will they last? Federal intervention may have a salutary influence on police conduct in the short run. But in Pittsburgh promised improvements apparently didn't last. Meanwhile Pittsburgh (and Chicago, and Baltimore) have experienced disturbing increases in gun violence. Under such circumstances, adopting a kinder and gentler approach may be, as PERF Director Chuck Wexler suggests, like "stepping on the brake and stepping on the accelerator at the same time":

I do know, having talked to [Pittsburgh PD] Commissioner Davis, that they are intent on taking this consent decree seriously. But they also realize you can't tell a neighborhood group that is complaining about drugs and gang activity, "We'll get to you in a few years once we implement constitutional policing."

Granting DOJ supervisory authority over local law enforcement has given rise to a profitable industry of oversight. [In one reported example](#), the consulting firm that investigated Cleveland PD earned \$4.9 million for its efforts. In addition, each of fifteen "experts" hired to monitor the department's compliance with the consent decree was paid a tidy \$250 per hour; their first month's bill exceeded \$100,000.

DOJ's interventions may also have troubled shelf lives. Good cops (we assume they're in the vast majority) tend to look on the broad slap-downs as uninformed assaults on a demanding craft. And as the experience in Pittsburgh suggests, the fault-finding process may not be the best platform for lasting reform. When police-citizen encounters go seriously wrong, or when enforcement policies or practices seem to discriminate against groups, it's tempting to blame the "usual suspects": say, poor training, lousy hiring, or racial animus. But researchers know that findings from retrospective studies must be generalized with great care. In the complex environment of policing one can speculate about policies and motives and muse about "what-ifs" until the cows come home. But the danger of confirmation bias – affirming what's most convenient to believe – always lurks.

Setting out to collect evidence of wrongdoing inevitably focuses on why cops and agencies fail. Resetting behavior and improving things in the long run requires knowing something more: why cops and agencies *succeed*. [As we've often pointed out](#), officers take risks and accomplish great things every day, with little fanfare:

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. Still, countless cop-citizen encounters occur every day. Many could have turned out [poorly] but, thanks to very craftsmanlike police work and considerable risk-taking, they're resolved peacefully. Indeed, as we've repeatedly pointed out, if officers were completely risk-averse dead citizens would line the sidewalks at the end of each shift.

Systematically examining examples of good policing could prove very informative. How do agencies and officers get the job done without using excessive force or causing needless offense? By all means, pursue biased and brutal policing with vigor. But if the new Administration is really serious about making lasting improvements, perhaps a few

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of the resources currently allocated to finding fault could be redirected to studying success.

What say you, DOJ?