

A Proactive Approach to Abusive Policing

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An ugly and sadly familiar cycle is playing out across the nation this week: A black man dies at the hands of a police officer. Recordings of the tragedy go viral. Neighborhoods burn.

The officers involved in George Floyd's killing were swiftly fired, though that decision may still be reversed after an arbitration process. But cities need the authority to identify problematic officers and intervene *before* a tragedy occurs. Po-

lice get to use force—including deadly force—under circumstances in which private citizens cannot. They also typically have a mountain of statutory and contractual protections surrounding their employment and discipline. Foremost among these are limitations on how civilian complaints of misconduct can be investigated and used in managing the police force.

In a peer-reviewed academic paper examining civilian complaints against the police in Chicago, we identify officers who, after accounting for experience and assignment history, receive excessive complaints. We find that officers with the most complaints—the worst 5% in particular—are far more likely than other officers to have large civil judgments leveled against them later in their careers. They are also more likely to be cited for dereliction of duty and off-duty misconduct. We estimate that in Chicago the worst 5% of officers account for a third of all civilian complaints. In short, such officers are likely to be bad apples.

Because civilian complaints are meaningful predictors of serious misconduct, they can be combined with other metrics—such as civil-rights lawsuits, supervisor complaints and serious off-duty misconduct—to get problematic officers off the streets or into retraining. Examples of avoidable tragedies abound. Jason van Dyke, the Chicago police officer who was recorded shooting the unarmed 17-year-old Laquan

McDonald in 2014, was in the worst 3% of Chicago officers for civilian complaints before the shooting occurred. Derek Chauvin, the police officer filmed kneeling on Floyd's neck for nearly nine minutes, was among the worst 10% of Minneapolis officers for civilian complaints, according to our rough calculations.

Departments need leeway to investigate and act on civilian complaints and target frequent offenders.

Unfortunately, Chicago, Minneapolis and many other cities don't take civilian complaints as seriously as they should. State laws and union contracts often prohibit leaders from making use of complaints unless they're "sustained"—found to have merit by an investigator—after a long and highly regulated investigation. Moreover, even for the rare civilian complaint that is sustained, any major disciplinary consequences are typically subject to lengthy arbitration or appeals.

In Chicago, we calculate that around 2% of civilian complaints are sustained. The majority of sustained allegations result in a one-day suspension or less. Minneapolis follows the same pattern, with around 1% of civilian complaints resulting in discipline.

Further, jurisdictions often place

barriers that make it difficult to file a complaint in the first place. Illinois law requires complaints to be dismissed unless supported by a sworn statement, and a 2016 investigation in Minneapolis found that citizens were frequently turned away from police precincts or otherwise discouraged when trying to file complaints. How much of Mr. Chauvin's misconduct went unreported due to the barriers to reporting and investigation? Could a more open and effective monitoring system have more clearly identified Mr. Chauvin as a problem before Floyd's killing?

States can stop this ugly dynamic by changing laws and taking on police unions. Legislatures must give police departments greater latitude to investigate civilian complaints and use them in personnel decisions. If departments had the authority to identify problematic officers and intervene before a tragedy occurs, mayors and police chiefs would face greater democratic accountability for police misconduct. The killing of George Floyd and its aftermath should force policy makers and the public to reconsider whether it's a good idea to combine police powers with a system of limited oversight and discipline. In our view, it isn't.

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