



Why It's So Hard to Stop Bad Cops From Getting New Police Jobs

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Depending on the state you live in, you may be required to obtain an occupational license to become a plumber, an insurance agent, a hair braider, a manicurist, or even a racetrack employee. These licenses, which can take dozens or hundreds of hours of training to procure, afford privileged access to specific industries—and they can be revoked if certain standards aren't met. But in six states, the same standard isn't applied to one surprising profession: law enforcement.

Massachusetts, New York, New Jersey, Rhode Island, California, and Hawaii employ 26 percent of this country's law enforcement officers, **according** to the Bureau of Justice Statistics. But they have no legal authority to **revoke** the licenses of cops who have been dismissed for misconduct. And even though the other 44 states can decertify police officers, there is no nationwide mechanism allowing every police department in the country to access an applicant's work history with out-of-state departments. This information gap allows officers banned from working as police in one state to secure law enforcement employment in another state.

Police representatives would have you believe that "gypsy cops," as such officers are sometimes referred to, represent an overstated and barely existent threat at best. In March 2016, Ray McGrath, the legislative director of the International Brotherhood of Police Officers (IBPO)—one of the U.S.'s most prominent police unions—told members of the Massachusetts legislature, "It's not possible for an officer [fired for misconduct] to get another job in civil service," **according** to a state House reporter for Boston University.

But bad cops can and do find work in law enforcement. Decertified police have repeatedly slipped through the cracks to find new jobs in the profession, often by moving to another state and applying to a department lacking the resources or manpower to do a thorough background check.

Although some efforts to track police decertifications exist, they are scattered and fragmented, varying from state to state, with no unified national coordination. That's why police reform advocates have been pushing for the creation of a single, federally maintained database for more than 20 years.

Police representatives like McGrath, however, have used their political influence to resist national tracking, referring to the perennially proposed solution of a national database as a "blacklist."

At the same time, resistance to federal oversight of the country's police has roots in America's historical deference to local authority when it comes to policing—meaning that full compliance with such a project by the nation's 18,000 law enforcement agencies, scattered across state, county, and local jurisdictions, remains aspirational at best.

Decertified Cops Can and Do Find New Jobs By Crossing State Lines

It's harder than you might think for a cop to be stripped of his or her license: In **20 states** a criminal conviction is required for an officer to be decertified.

Even still, over 9,000 police officers did lose their licenses from 2009 to 2014. That's a lot of cops with stains on their records out there looking for work. And while opponents insist there's no need for a tracking system, because no agency worth its salt would hire a "bad cop," the history clearly shows that some of those bad cops are indeed able to find work after being stripped of their licenses.

In 2008, Maywood, California, hired an interim chief who had previously pleaded no contest to "charging for bogus overtime," as *The American Prospect* put it. **In 2011**, another California town—McFarland—had three officers in its employ who had been dismissed from other departments for offenses that included driving drunk and crashing a police cruiser, lying to the FBI in an investigation over alleged child porn possession, and insurance fraud. But one notorious case from 1990 encapsulates the need to watch the watchers like no other.

In the late 1980s, Chattanooga, Tennessee, Officer Stephen Lee Rollins—suspected of drug use and police brutality—made an agreement with then–Police Commissioner Tom Kennedy that he would work at least two states away if the commissioner promised to not reveal any damaging information about him. Rollins then went to work as a cop in West Palm Beach, Florida, where he and Officer Glen Thurlow (who had left another Florida department after beating a suspect badly enough to blind him in one eye) encountered hitchhiker Robert Jewett on the night of November 24, 1990.

Jewett died in custody, and Rollins and Thurlow were charged with second-degree murder.

According to testimony at the officers' trial, the victim suffered severe injuries including broken ribs, heart damage, a crushed throat, and blunt trauma to his testicles. West Palm Beach's medical examiner, Ronald Wright, testified that some of Jewett's injuries resembled torture. The officers asserted that he received these injuries while resisting arrest and that his death was an accident, and both men were **acquitted** of murder.

Despite the verdict, West Palm Beach Mayor Nancy Graham told NBC's *Dateline* in 1992 **the department was unaware of** both officers' troubled histories and would not have hired them if it had known about their checkered pasts.

Police representatives maintain that these anecdotes are cherry picked. IBPO's McGrath says those who support a national database "use these wild examples" of "somewhat outlandish" cases "that happened years ago."

He doesn't think an officer who makes a "mistake," such as being fired for drinking a single beer while on the job, should be "blackballed from being a police officer for life," and contends that since criminals are able to enter the workforce after serving their time, police officers who have been decertified for offenses that don't rise to corruption or abuse shouldn't automatically be prevented from making a living in their chosen profession.

Police Unions Block Attempts to Create a National Decertification Database

It was the West Palm Beach trial in 1991 that led to the first attempt to create a nationwide database of police decertifications. Introduced by Sen. Bob Graham (D-Fla.), the **Law Enforcement and Correctional Officers Employment Registration Act of 1995** called for a federal clearinghouse of police "employment termination data" to allow for law enforcement agencies "to conduct thorough background checks on officer applicants and to assure that only honest ethical officers are permitted to serve."

Graham's bill noted that even the **International Association of Chiefs of Police**—a worldwide association that conducts research, training, and outreach on behalf of law enforcement—conceded that officers who "violate the public trust by abusing their authority...should not be permitted to seek employment in another State or jurisdiction," and also pointed out that departments shouldn't make it easy for such officers to get new jobs by being stingy in sharing information with other departments pertaining to the officers' misconduct.

Graham's bill didn't make it out of committee.

A year later, another Florida Democrat, Rep. Harry Johnston, introduced a House **version** of the bill. During hearings before the House Judiciary Subcommittee on Crime, police union representatives **compared** the proposed legislation to the "witch hunts of Salem." Their congressional allies, most notably now-Sen. Charles Schumer (D-N.Y.), worried aloud during a hearing in July 1996 that the database would create "a major administrative burden" and be a "major invasion of privacy of police officers."

Schumer has proposed legislation on everything from energy drinks to maple syrup to e-cigarette flavors. During the hearings he said "I'm a little dubious of legislating" a bill that would assist in the prevention of hiring armed agents of the state who are granted the right to use lethal force that have been banned from working as cops elsewhere.

Schumer and police union representatives also raised concerns about the cost-effectiveness of creating a database—which at the time of the hearings 20 years ago was estimated to require a one-time startup expenditure by the federal government of \$15 million, followed by annual maintenance expenditures of approximately \$5-8 million, to ensure every department has access to the same information about decertified police. (Federal spending on local law enforcement **has averaged approximately \$687 million per year since 1998.**)

At that same hearing, union figures, including representatives of the Fraternal Order of Police and other groups, warned of creating "legislation out of anger, out of concern, or out of panic."

James A. Rhinebarger, the chairman of the **National Troopers Coalition**—a nonprofit association representing 40,000 state troopers in 38 states—in testimony before the subcommittee referred to the database as a "blacklist" and warned against throwing "the baby out with the bath water" before proposing a "Law Enforcement Officers' Bill of Rights" to ensure

"administrative due process" for officers accused of wrongdoing. (As of 2015, 14 states **guarantee** such rights to officers, and most major cities' police departments have them built into union contracts.)

One notable dissenter from the union talking points was a Colorado sheriff named Patrick Sullivan Jr., who expressed his support for the bill while noting that the prime beneficiaries of a database would be small, underfunded rural departments that simply can't perform deep digs into the carefully guarded personnel files of far-away departments.

Sullivan also made it clear that the proposed database would simply be a pointer system, containing just names, birthdates, social security numbers, and names of former employers. No "derogatory information"—such as specifics about charges of misconduct—was to be included. It would merely be a tool to assist hiring departments in correctly piecing together the backgrounds of applicants.

The House bill also died in committee.

Opposition From Cops Is Not the Only Obstacle to Reform

Two decades later, the concept of a national database of decertified police officers was revived following the August 2014 shooting death of 18-year-old Michael Brown by Ferguson, Missouri, police officer Darren Wilson.

The heavy-handed police response to protests over Brown's death led to the emergence of the Black Lives Matter movement and a national debate over militarized police forces, which **resulted in the creation** of President Obama's 11-member "Task Force on 21st Century Policing" in December of that year.

In May 2015, the task force released its **final report**. Among its recommendations was a call for the creation of a federally mandated national database of officers who have been fired for misconduct, akin to the **National Practitioner Database** that tracks malpractice and fraud in the medical profession. But despite the high-profile endorsement, obstacles remain.

Sue Rahr, a former police chief in Washington state, was one of the 11 members of the president's task force. Since leaving the force, Rahr has served as executive director of the Washington State Criminal Justice Training Commission, where she has **worked** to train police officers in de-escalation techniques and replace the "warrior" mindset with one where officers think of themselves as "guardians."

Rahr says efforts to create a federal database have stalled not just because of the resistance of police unions, but also because of Americans' reverence for federalism. "It's part of our culture and part of our national identity," she said. "We value local control in this country."

She believes that unless the federal government assumes full oversight over local law enforcement agencies, total compliance in any prospective database will be impossible to attain. However, she argues that the feds can provide financial "incentives and disincentives" to encourage compliance through federal law enforcement grants, which typically come with strings attached.

The federal government, however, already has such carrot-and-stick mechanisms at its disposal, but **refuses to deploy them**. Since 2003, states have been required to submit data pertaining to officer-involved killings of civilians to the Justice Department, but more than a dozen states have repeatedly failed to cooperate. And though the Death in Custody Reporting Act grants the attorney general the authority to revoke a portion of the federal grants funds for non-compliance, the feds have never done so.

In addition, there are legal barriers to collecting such information, and concerns about whether a mandatory database is the best way to provide oversight to police.

Jonathan Blanks, a research associate for the Cato Institute's Project on Criminal Justice, notes that Congress lacks the power to compel information from local police departments, but agrees that "the more data we have, the better we are." Blanks says that even in the absence of a national database, "there needs to be ways to move on decertification that prevent" incidents like the one in Cleveland in November 2014.

"The officer who killed [12-year-old] Tamir Rice was about to be fired from the Independence (Ohio) PD and decertified, but quit before that could happen," Blanks explains. He argues that this loophole is what enabled his hiring by the Cleveland P.D. One solution is therefore to allow departments to decertify officers regardless of whether they are fired or quit.

Finally, some free market supporters object to the idea of adding more red tape to the hiring process for cash-strapped local police departments. The Institute for Justice (I.J.) is a public interest law firm that has long supported people who are denied entry into industries because of licensing requirements. As Jeff Rowes, a senior attorney, put it, his organization opposes "occupational licensing schemes," even for police.

"The real standards for police officers that are important are not those described in some licensing issue," he says, "but rather the constitutional restraints imposed on police officers when interacting with citizens."

The National Decertification Index Alternative

Though a federally mandated database seems unlikely any time soon, an alternative exists in the form of a secret-to-the-public database maintained by the Police Officer Standards and Training (POST) agencies that operate in every state. The purpose of each state's POST agency is to set and maintain high standards for police officer certification, as well as to provide technical assistance to law enforcement.

In the states where decertification of police exists, it's the POST agencies that ultimately take such action against problem officers. In Georgia—the state that decertifies more officers than any other—the POST's website explicitly states that part of its mission is to "eliminate unqualified individuals from the law enforcement profession."

POST agencies in 38 of the 44 states with the authority to decertify officers also provide information to what's known as the National Decertification Index (NDI).

The NDI is maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST), a voluntary subset of POST officers, and is funded by the membership fees of individual POST members. It's free to use for law enforcement agencies, and the information contained therein is not disclosed to the public or the media. Moreover, it acts as a "pointer system," just like the one recommended in the ill-fated congressional bills of the mid-'90s—containing only basic identifying data of decertified officers and where they worked, which means it leaves out information such as the nature of the complaints against the officers.

The problem? Not every law enforcement agency bothers to submit data to the index, or to check it before making hiring decisions. A study conducted by Matthew Hickman, a former Department of Justice (DOJ) statistician who is now a criminal justice professor at Seattle University, found that 10 POST agencies reported never querying the NDI when vetting law enforcement applicants.

Mike Becar, IADLEST's executive director, says he'd like to see increased participation, but there are a number of hurdles to overcome, including the fact that most local agencies are unaware of the NDI's existence. He also says certain states' POST agencies have decided it's a drain on resources to contribute to the index. The state-by-state discrepancies significantly limit the database's effectiveness.

Like Rahr, Hickman says the problem is the dispersed nature of police control. He says the "patchwork of different departments doing different things" is "an ugly reflection of local control." Besides the fact that not everyone uses the NDI, his study revealed that over half of the 1,847 police decertifications in 2015 came from just two states: Florida and Georgia. Louisiana, Mississippi, and Wyoming didn't decertify a single officer.

That eye-popping discrepancy doesn't mean that Florida and Georgia are home to staggering numbers of the nation's worst cops. Instead, these states have clearer guidelines and stronger enforcement when it comes to policing bad cops than other states do.

Further confounding efforts to understand nationwide trends is the fact that Georgia—despite decertifying 562 officers 2015—does not contribute its data to the NDI.

Why doesn't the state's POST agency pitch in? Becar says officials refused his offer to help them automate their system, which would have relieved the concern that using the NDI was too much of a drain on its manpower. A representative with Georgia's POST declined to comment for this article.

"In order to make [the NDI] as useful as possible, all 50 states need to be contributing and those that don't have the authority to decertify need to have that authority," says Becar, who previously spent 39 years in Idaho law enforcement. "There's a lot of police officers out there that are committing unethical acts—some of them criminal felony and misdemeanor violations—and they're getting terminated from the agency, but there's no record of it. Other states don't find out about it."

Still, the NDI has had some success in keeping decertified police from getting new jobs in law enforcement.

One particularly notable case involves Sean Sullivan, who was an officer at a small-town Oregon police department before being convicted of two counts of harassment in 2005. (According to *The New York Times*, he was "caught kissing a 10-year-old girl on the mouth.") He was subsequently decertified by the Oregon POST.

Three months later, Sullivan was hired as a police chief in Cedar Vale, Kansas, a town with a population of little more than 500. But when Kansas POST officers caught wind of his past, they queried the NDI, followed up with Oregon authorities, and had him **removed** from his new position.

Police Unions Choose to See No Evil

It's true that very small agencies often face slim pickings when it comes to qualified applicants for law enforcement roles, but some hard-up police departments would simply prefer to take the see-no-evil approach.

Roger Goldman, **professor emeritus** at the Saint Louis University School of Law and a former president of the St. Louis American Civil Liberties Union (ACLU), has been studying police licensing and decertification for decades, and helps states write related policies. Goldman thinks it's no coincidence that the six states that lack decertification authority are all heavily Democratic and thus less inclined to do battle with public sector unions—including police unions.

Goldman says that "behind closed doors" the union bosses will tell you they "want to get rid of the bad apples," but "union presidents cannot run for office on more regulation."

He argues that the NDI is vitally important for keeping bad cops off the job, but hardly a panacea given how limited its data are. Cops who have been suspended for misconduct or who struck deals to quietly resign from their positions rather than be administratively dismissed remain untrackable.

Indeed, any database that focuses exclusively on decertification will miss an entire category of cops dismissed for bad behavior. "I think some people are under the misimpression that if a cop gets fired for anything really bad, they're going to get decertified, and that is not the case," the presidential task force's Rahr says. "It's a very narrow range of behavior that will cause them to lose their certification." She adds that she doesn't believe that every officer who is fired for cause should be barred from the profession for life, but that the inconsistent standards from state to state have eroded public confidence in the system.

Does information about officers who have been disciplined for misconduct have to be disclosed to the public—or at least to prospective employers in law enforcement? In 2014, the Illinois Supreme Court ruled that such transparency is required, and the records of Chicago P.D. misconduct dating back to 1967 are now available, and a small portion of them can even be accessed online via the user-friendly **Citizens Police Database Project**.

But Chicago's police unions are crying foul, citing contracts with the city—achieved through collective bargaining between the union, politicians, and various unaccountable bureaucrats—

that require the destruction of police misconduct files after a certain period of time. In a subsequent 2014 lawsuit, Chicago's **Fraternal Order of Police** claimed its officers would suffer "irreparable injury" and "public humiliation and loss of prestige in their employment" should documentation of their misconduct become public.

The story is similar in California, where the intransigence of police unions led to the unheralded death of a bill that would have given the public access to records of confirmed police misconduct cases in the Golden State for officers charged with the most serious offenses, including racial profiling and illegal searches. The release of information on shootings and other violent incidents involving police would also have been required.

Mike Durant, president of the Peace Officers Research Association of California, told *The Wall Street Journal* that the bill's failure **proved** "how ill-conceived" it was. "This was not union thuggery in the legislature," he said. But Peter Bibring of the California ACLU offered a different explanation for the bill's downfall, telling the *Journal* that "legislators caved to the law-enforcement lobby and let the blue wall of silence endure in California."

"I don't believe that police unions represent the majority of police officers in their viewpoint," says former Redondo Beach, California, Lieutenant Diane Goldstein. She contends these groups have "evolved as collective bargaining unions into very politically powerful entities" but doesn't think they should be legally permitted to engage in lobbying. "There is no other union in our nation that has the power to kill people," Goldstein says. "They should not be able to oppose these types of measures because it goes outside of the scope of the law enforcement mission."

So Is This the Best We Can Do?

Criminal justice reform has become an increasingly bipartisan issue, with **Sens. Rand Paul (R-Ky.) and Cory Booker (D-N.J.)** teaming up to introduce sentencing reform legislation, and **Sens. Charles Grassley (R-Iowa) and Sheldon Whitehouse (D-R.I.)** working together to drum up support for a bill that would keep juveniles from being housed with adult prisoners. But the efforts of a handful of congresspeople are probably not going to be able to undo more than 200 years of American deference to localized authority. This means it's unlikely we'll ever see total transparency from the many thousands of individual law enforcement agencies in the U.S. The arguments against total federal control over policing are not without merit. Few things could be more local than police work. The kind of community policing that works in rural America isn't replicable in a densely populated urban area. One size truly does not fit all.

"Police should not be singled out in the American workforce," insists IBPO union leader McGrath. "Where does the federal government oversee any other profession?"

Reforms may have to emerge at a local level, rather than via top-down federal mandates. Fortunately, there are some signs of life on that front. In McGrath's deep-blue state of Massachusetts—one of the six states *without* the power to decertify police who engage in misconduct—**Republican State Rep. David Vieira** has introduced a bill to mandate statewide education standards for all incoming officers, as well as institute protocols for issuing and revoking police licenses.

"We regulate every profession from barbers to doctors to lawyers," Vieira **told** *The MetroWest Daily News*, "and there's no reason why law enforcement officials shouldn't have a licensing authority like that as well."

Even some police acknowledge that theirs is a unique profession, worthy of the highest levels of scrutiny. "A peace officer has more power than anyone out there to take a person's life and liberty in a split-second decision," notes IADLEST chief Mike Becar.

It seems fitting that the NDI—a voluntary, member-supported system—will soon be used in the very city that sparked the renewed calls for a mandatory nationwide database. As part of the Justice Department's federal consent decree, which was **accepted** by the city of Ferguson "to ensure constitutional policing," the police department is now required to consult the NDI for any future hires.

The federal government can't impose a consent decree on every single police department. But hopefully enough of them will see the value in participating in the index even without a mandate. After all, bad cops contribute to the negative public perception that increasingly plagues the entire profession, and good cops have nothing to fear from the modest transparency the NDI provides.