

Police Officer Certification/Decertification and Misconduct Databases

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I. Executive Summary

Police officer misconduct is an issue that has attracted significant public attention in recent years and has led to renewed calls for authorities to implement more stringent certification requirements and to more systematically remove officers who engage in misconduct from service (Bergengruen, 2020; Merchant, 2020; Police Executive Research Forum, 2020; International Association of Chiefs of Police, 2006). In practice, however, limited progress has been made to date on both fronts.

With respect to certification, requirements remain highly decentralized in the absence of nationally mandated standards (Follett et al., 2020). It's not even clear as a conceptual matter what certification requirements would be most impactful to change, since so little is currently known about the determinants of officer productivity as jurisdictions define that for themselves. We know for example that more-educated officers perform better on a number of dimensions (see, for instance, Chapman, 2012), but we cannot conclude from this correlational evidence that raising the educational requirements for officer certification would lead to improvements in policing outcomes.

Existing systems employed to document officer misconduct and to track officer decertification at the state level remain similarly decentralized and low rates of decertification in most states limit their potential impact. Moreover state-level data systems would fail to prevent decertified officers from moving across state lines to take new jobs at other departments. At the national level, coordinated efforts to assemble comprehensive records on officer misconduct have relied on voluntary contributions from local law enforcement agencies, similar to the way the federal government relies on voluntary data sharing for so many justice system functions. This has limited the coverage of these misconduct databases. While there are some other implementation concerns that police unions have raised with such databases, the main barrier to implementation would seem to be a federal mandate.

While decertification databases seem to enjoy widespread support and a general sense of limited downside risk, less is known about proposals to make decertification standards more similar to the

standards used for officer dismissal. This would have the consequence of making it more difficult for fired officers to take jobs as police officers at a different department. The potential costs of that change would fall on those officers who if fired would go on to change in ways that enabled them to be good employees elsewhere (as their new jurisdiction defined it), or else would go on to departments with working conditions for which they are a better ‘fit.’ While little is known about the exact prevalence of officers in that category, they are clearly not the entirety of the fired-officer population since the data show that officers who engage in misconduct and are removed from service in one department are on average more likely to engage in misconduct again if re-hired by another department (Grunwald and Rappaport, 2020; Rabe-Hemp and Braithwaite, 2013).¹

II. Officer Certification

Officer certification is the process by which a state authority deems a prospective officer eligible to serve. One rationale for this type of policy is that there is an information problem; namely, that local jurisdictions may have a difficult time on their own determining which police applicants will go on to be productive if they were hired. (This is a common problem in labor markets and economic markets in general – the buyer in a market often has difficulty assessing product or supplier quality at the time of having to make the purchase; see Leland, 1979.) So higher-level agencies, either states or even the federal government, may be better positioned to solve this information problem and essentially share the results with localities through the certification requirements. And even if local departments can assess the quality of applicants, the larger public may not be able to do so. The dissemination of certification standards may help the general public hold departments and local governments accountable for their police hiring practices.² The downside risk would arise here if local departments and the public they serve know what they want, in which case certification standards limit their hiring discretion.

Officer certification requirements vary widely across states and there are no compulsory national standards for police officers.³ A nationally representative survey of 958 agencies conducted in 2017 found that 81.5% of surveyed agencies required a high school diploma, 6.6% required some

¹ See the Methods for Research Review report for a summary of the criteria used to assess the methodological rigor of existing research and to determine which prior studies to discuss in detail in the present report.

² Criminal justice researchers have posited that certification standards for officers are particularly valuable because local departments are financially incentivized to hire low-quality, veteran officers (including those with prior misconduct histories) rather than new recruits due to the costs that local departments must bear to train rookie officers (Goldman, 2012). If information asymmetries prevent citizens from independently assessing the quality of officer hires (or even learning about the misconduct histories of newly hired officers), licensing requirements that discourage or prohibit the hiring of such veteran officers may help to prevent this practice.

³ At present, all states rely on Peace Officer Standards and Training (POST) boards or similar agencies to establish guidelines and requirements for officer training, and such agencies are also responsible for officer certification (Atherley and Hickman, 2013; Hawaii State Legislature, 2018).

college credits earned, 10.5% required a 2-year degree, and 1.3% required a 4-year degree (Gardiner, 2017). Some have argued in favor of uniform standards, however, and the International Association of Directors of Law Enforcement Standards and Training (IADLEST) outlines recommended minimum standards for certification including a state and national criminal background check, a General Education Development (GED) certificate, human relations courses, and training on the “ethical use of discretion” (Follett et al, 2020).^{4,5}

Whether policing in America would be better if these standards were different, and/or more uniform across jurisdictions, is hard to say because so little is currently known about how any of these candidate requirements relate to policing outcomes. Officer education level is correlated with policing outcomes (Chapman, 2012), although that doesn’t mean that requiring higher levels of officer education will necessarily change policing outcomes the way that correlation would suggest since the correlation of education with policing outcomes could instead reflect the fact that both variables are correlated with something else about officers, which changes in education requirements wouldn’t change. Knowing more about this, and about whether the relationship between certification criteria and outcomes varies or is the same across jurisdictions, would be useful for helping jurisdictions to avoid under-investing in applicants with characteristics that are relevant for policing outcomes (or to prevent over-investing in characteristics that are irrelevant).

III. Officer Decertification/Misconduct Databases

Officer decertification is the process by which an officer’s eligibility to serve in the police force is revoked. In recent years, efforts have been undertaken to assemble comprehensive records on officer decertification (and misconduct more generally) at the national level that would prevent decertified officers from moving across state lines to take new jobs at other departments. While the National Fraternal Order of Police has publicly opposed creating a national decertification database (National Fraternal Order of Police, 2015) based on concerns related to officers’ due process rights, the key barrier to expanded coverage is the lack of mandated data sharing.

Existing databases rely on voluntary contributions from local law enforcement agencies, just as the federal government relies on voluntary data sharing from local law enforcement agencies to

⁴ The history of support for basic educational and training requirements for police officers dates back to the early 1900s when President Hoover’s Wickersham Commission concluded that the education and training of officers was necessary to improve their professionalism and performance as well as public opinion of policing (Gardiner, 2017).

⁵ As in the case of educational requirements, training requirements currently vary widely across states. 37 states permit officer certification prior to the completion of basic training (with those states allowing officers to serve between 3 and 24 months prior to basic training). Across states, the average number of state-mandated field training hours required for certification is 52 (with state requirements ranging from 0 to 960 hours) and the average yearly in-service training requirement is 21 hours (with state requirements ranging from 0 to 40 hours) (The Institute for Criminal Justice Training Reform, n.d.).

populate the FBI's Uniform Crime Reporting System, the FBI's National Data Exchange, the Law Enforcement Enterprise Portal, and various other criminal justice-related databases. The choice to make contributions voluntary likely stems from the fact that many departments lack the resources needed to comprehensively track and share the associated data (Bergengruen, 2020). As such, a mandate could generate unintended consequences by imposing costs on states and localities that lead resources to be diverted away from other policing activities. While voluntary data sharing may also promote local buy-in and assuage concerns over federal overreach, the tradeoffs associated with voluntary versus mandated data sharing have not been rigorously studied.

The National Decertification Index (NDI) currently represents the most extensive national database on officer decertification. The NDI is available upon request for police officers' consultation and provides an avenue through which states can voluntarily submit the identifying information of decertified officers. At present, the NDI database contains information on nearly 30,000 decertified officers across 45 states (IADLEST, 2021). However, there are many documented cases of non-compliance by police chiefs in reporting misconduct to state agencies (which are then tasked with sharing data with NDI) (Goldman, 2012). Moreover, in 25 states, local departments are only required to report officer separations to state agencies (Atherley and Hickman, 2013).⁶

The FBI has also leveraged voluntary sharing by local departments and states to compile a National Use-Of-Force database. This database is designed to include records on "any action that resulted in the death or serious bodily injury of a person, or the discharge of a firearm at or in the direction of a person" (FBI, 2020). As of July 2020, agencies representing 41% of all police officers (federal, state and local) have contributed data to this effort (FBI, 2020). However, the database is not designed to identify individual officers and so its capacity to inform departmental hiring processes is limited.

Whether the establishment of comprehensive national databases on police decertification and misconduct that rely on mandated data sharing would ultimately improve policing outcomes represents an important avenue for future research. At present, the costs associated with mandated (as opposed to voluntary) data sharing are not well-understood and it is not clear to what degree a national decertification/misconduct database would influence officer hiring and mobility patterns in practice.

⁶ In the absence of a comprehensive national database, departments may also rely on public records to identify officers with misconduct histories. With regards to the public availability of officer records, 12 states make records on officer misconduct generally available via public records requests. In 15 states, such records are made available to the public in a limited capacity, and misconduct records are generally prohibited from public release in 23 states (WNYC, 2015).

IV. Officer Decertification Standards

In setting decertification standards, state authorities must consider the associated costs and benefits of allowing officers who have been fired or engaged in misconduct to be re-hired by other departments. By permitting officers to do so, authorities may impose costs on citizens by placing them at greater risk of future harm. At the same time, providing officers with the opportunity to be re-hired elsewhere may benefit those officers who are able to learn from their prior behavior. Officers may also benefit from the opportunity to be re-hired elsewhere if officer-department fit is an important determinant of officer outcomes. For example, it may be the case that a given officer does not have the attributes needed to serve effectively in a high-crime, high-stress jurisdiction, but may be capable of performing well in an alternative jurisdiction in which crime rates are lower and associated stressors are more limited.

While some legal scholars support national standards that mandate officer decertification based on specified misconduct violations, no such standards currently exist. A 2013 survey of the 45 state POST agencies which had the authority to decertify officers at that time found that nearly all (96%) could decertify officers for felony convictions but that there were differences across states in the remaining permitted justifications for decertification. Across agencies, 78% could decertify officers for misdemeanor convictions, 69% could decertify officers for failure to meet training or qualification requirements, 51% could decertify officers for misconduct, and 44% could decertify officers for prior termination of employment for cause (Atherley and Hickman, 2013). There is also striking heterogeneity in decertification practices across states. At present, a number of states (California, Rhode Island, Hawaii, and New Jersey) do not decertify *any* officers at the state level (Follett et al., 2020), while others have formal state decertification processes that are used extremely infrequently (Maryland decertified one officer between 2015 and 2019) (Merchant, 2020).

While we lack rigorous evidence on the degree to which officers learn from prior misconduct or seek employment in departments better suited to their skillsets after being fired, existing research makes clear that some officers with prior misconduct histories remain more likely to engage in misconduct again if given a second chance. One particularly comprehensive recent study used 30 years of data on full-time Florida police officers to show that officers who were fired from one department were more likely to next find work in smaller departments with fewer resources and with larger communities of color (Grunwald and Rappaport, 2020). These re-hired officers were subsequently more likely to be fired again or to receive a complaint for a “moral character violation” as compared to rookie officers or officers hired as veterans who had never previously been fired. In more limited samples, other researchers have arrived at similar conclusions. In a study focused on instances of repeat police sexual violence (PSV), researchers found that repeat

PSV offenders were more likely to have had a previous police position that they left because of allegations of PSV (Rabe-Hemp and Braithwaite, 2013).⁷

Whether moving the standards for officer decertification closer to the standards for officer dismissal would be welfare-improving is uncertain. In particular, we do not have a clear understanding of the particular forms of past misconduct that put an officer at higher risk of future misconduct, and we have no rigorous evidence that can be used to quantify the benefits that may accrue to officers and departments when officers who have been previously fired are able to learn from their prior behavior or to find a department in which they can better perform. Changes in decertification standards may also change the pool of prospective officers (and the pool of officers willing to work in high-crime, high-stress settings in particular). In addition, changes in decertification standards could improve police behavior if officers are less likely to engage in misconduct or could worsen policing productivity if officers engage in more defensive and less effective policing practices to minimize the likelihood of misconduct violations. The net consequences of changes in decertification standards are ultimately an empirical question and more research is needed to quantify the tradeoffs associated with changes in these standards.

⁷ Similarly, an ethnographic study in the St. Louis area recorded multiple officers describing the common practice of discredited officers moving to the area called North County, where there are high crime and violence rates and fewer benefits, leading to more officer openings (Shockey-Eckles, 2011).

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