

# Wandering cops shuffle between departments, abuse citizens

Timothy Loehmann wanted to be a police officer like his dad. The Independence, Ohio, police department hired him but the chief found that Loehmann “could not cope” with firearms and showed a “dangerous lack of composure.” Independence allowed Loehmann to quietly leave the department. But nearby Cleveland hired Loehmann without checking his background. So it was Loehmann who responded to 12-year-old Tamir Rice playing with a toy gun in a park and gunned the boy down.

The Cleveland department’s failure to check Loehmann’s background is an example of one of the biggest roadblocks to police accountability – “wandering cops” who lose their jobs in one place only to be rehired and to kill or abuse citizens in another.

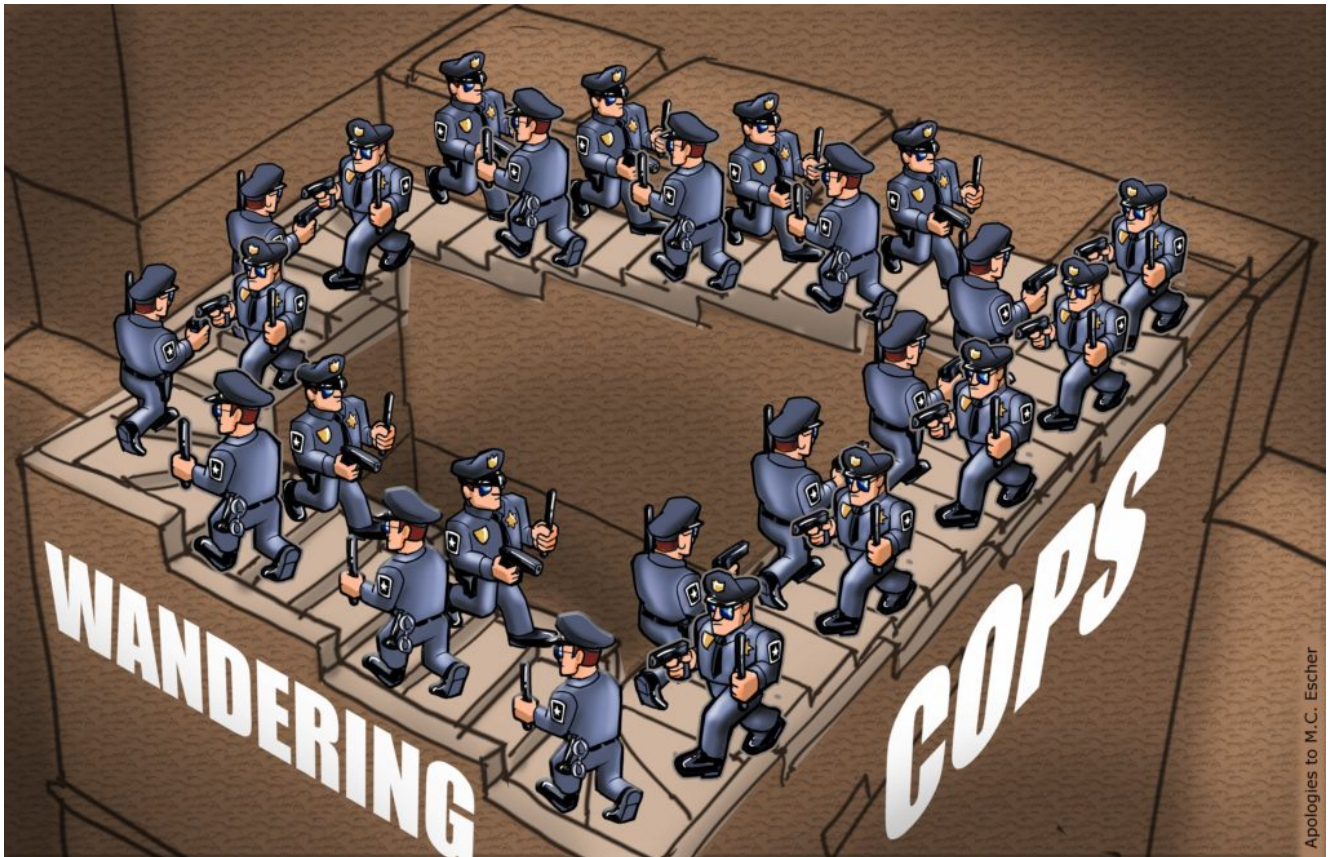


Illustration by Steve Edwards

Jason VanDyke had been investigated for 25 citizen complaints in the 14 years before murdering Laquan McDonald on a Chicago street in 2014.

Daniel Pantaleo had seven citizens' complaints in the five years before Eric Garner died from his chokehold in 2014.

Michael Robbins, who shot Kenneth Ross Jr. in the back as he fled through a park in Gardena, California, had shot three people under questionable circumstances in his previous job in Orange County.

The Ross killing had consequences. State Sen. Steven Bradford, D-Calif., who grew up near the park where Robbins chased Ross, called Robbins' rehiring in Gardena an example of the "wash, rinse, repeat" cycle of problematic officers who repeat their abusive policing in new places with tragic results.

It took an intense, two year legislative fight for Bradford to overcome opposition from the state's powerful police unions and pass the Kenneth Ross Jr. Police Decertification Act of

2021, which seeks to stop abusive officers from wandering from department to department, only to abuse again.

In September, California Gov. Gavin Newsom signed a new law, which resurrects license decertification after a three decade hiatus. That leaves only three states – Hawaii, New Jersey and Rhode Island – without decertification mechanisms that can stem the flow of wandering cops.

Nationwide decertification of abusive officers would be an important step toward police accountability, experts say, but the decertification process still doesn't work well even with 47 states having passed laws. The reason is that records of police officers losing their licenses are mostly kept secret and are seldom reviewed before hiring.

## **National decertification index**

There is a straightforward solution to wandering officers, experts say:

- A national database open to the public with the names of all officers decertified for misconduct.
- A requirement that all law enforcement agencies check that database before hiring.

But that solution has proved elusive. Most states keep the names of disciplined officers secret, and the vast majority of departments do not fully investigate the background of an officer they are hiring. Police chiefs, who have found it difficult to rid their departments of problem officers, generally support stronger laws. Police unions oppose them, arguing that past allegations – many of them denied – shouldn't follow officers throughout their careers.

The International Association of Directors of Law Enforcement Standards and Training, an Idaho-based nonprofit, has created a national response to the problem of wandering cops: the

National Decertification Index (NDI). Forty-seven states provide records of misconduct on about 31,000 officers so that states can check the NDI database to see if an officer applying for a job has had previous problems.

But experts say the NDI database is badly flawed. For one thing, most departments don't check it before hiring. For another, the names in the database are not public. For a third, a few big states, such as New Jersey, are not in the system.

The NDI database has another flaw. It omits police misconduct that is not serious enough for an officer to be decertified. In many states, only conviction of a felony leads to decertification. So serious misbehavior that falls short of a felony is not included in the database.

The nation takes a much more rigorous approach to its regulation of health care practitioners, who also deal in life and death but don't carry guns, says Roger Goldman, professor emeritus at Saint Louis University School of Law and expert on police licensing. Goldman has waged a four decade crusade to expand decertification nationwide.

The President's Task Force on 21st Century Policing, commissioned by President Barack Obama after a series of police killings in 2014, called for the federal government via the Department of Justice to follow Goldman's recommendation to partner with and beef up the NDI database – making it truly national. Police unions, however, opposed this recommendation as unfair to officers who face false allegations. The reform hasn't happened.

"It's a real mess for chiefs of police departments," says David A. Harris, a law professor at the University of Pittsburgh and police expert. "You go to any chiefs of police conference and every table has the same discussion: 'I fired this guy and we got him back because it was overturned in

union arbitration.'”

The NDI database publishes a public brochure, illustrating the potential of an effective database. It features the case of Sean Sullivan, who was caught in 2004 kissing a 10-year-old girl on the mouth in Coquille, Oregon. He was convicted on two counts of harassment and ordered to surrender his Oregon police officer certification and never work as a police officer again. The state of Oregon entered his name into the NDI database.

But that didn't stop Sullivan. First he tried to get a job in Klawock, Alaska, claiming he had never been convicted of a crime. Then he not only got a job as a police officer but as the police chief of Cedar Vale, Kansas. There he was investigated for a relationship with a 13 or 14-year-old girl. She refused to cooperate with the investigation, however, and Sullivan was eventually convicted of the lesser charges of burglary and criminal conspiracy. When the NDI database record from Oregon came to light, Sullivan was fired from police work. He later ended up in prison in Washington state for drug crimes.

## **'Second chance PD' – McFARLAND, California**

Sixty-two years ago, California led the nation in decertification. But strong police union opposition defanged the law in the 1990s and dismantled it in 2003.

The consequences of lacking decertification for decades became clear when California passed Senate Bill 1421 in 2018, requiring the release of records of officers convicted of habitual sexual abuse and use-of-force violations. A media consortium found that 80 officers in the state had been convicted of crimes. All told, 630 convicted criminals had been officers in the decade from 2008-2018.

One department in California, in McFarland, epitomized the problem. It earned the title "Second Chance PD."

In the two years after the department was created in 2009, it hired 13 officers who had been forced out of previous positions across the country. Chief David Oberhoffer, a veteran of the department in San Francisco, hired most of them: including Ron Navarreta, who had been fired from the Inglewood Police Department because of a child pornography investigation. Police records showed he admitted to viewing pictures of naked children, but his computer could not be located and no charges had been filed.

Chief Oberhoffer said he knew about the investigation when he hired Navarreta, but wasn't convinced by the evidence and thought Inglewood might have had a grudge against him.

Other officers hired in McFarland included an officer accused of having sex with a teen Police Explorer Scout; an officer accused of threatening to put women in jail if they didn't have sex with him; an officer involved in a Los Angeles Police Department burglary ring; an officer who filed a bogus insurance claim for a car he dumped in Mexico; and an officer convicted of pulling a gun on his stepdaughter's friends.

After Oberhoffer, the city promoted Gregory Herrington whose record included a DUI conviction in Georgia and being fired for dishonesty in Banning, a Riverside County department. Herrington, a former Marine, came in vowing to improve the department's reputation, which he described as being "in the toilet bowl." But he ended up hiring three of his buddies from Banning who were also involved in dishonesty.

Leonard Purvis – the police chief who cleaned out Banning – couldn't believe eight of his dishonest officers ended up in McFarland, two as chiefs. He wrote to the toothless state Peace Officer Standards and Training office. It replied: "The decision whether to appoint an individual as a peace officer

rests with the agency head. Differences of opinion can exist regarding whether or not an individual should be appointed as a peace officer.”

## **The Muni-Shuffle – St. Louis to St. Ann, Missouri**

In St. Louis, wandering police are so common that there is a name for this phenomenon: “the Muni-Shuffle.”

St. Ann, a small suburb of about 14,000 near the St. Louis airport, is the refuge of many officers who have shuffled their way out of bigger departments in nearby St. Louis and St. Louis County.

One was Eddie Boyd III, who as a St. Louis officer pistol-whipped a 12-year-old girl in the face in 2006. He said it was an accident. In 2007, he struck another child in the face with his gun and handcuffs before falsifying a police report, according to Missouri state decertification records. Boyd faced a state decertification order, but a jury ruled in his favor in a lawsuit involving one of the pistol-whipping incidents, and he was allowed to keep his badge.

The St. Ann department hired Boyd. From there Boyd shuffled his way to nearby Ferguson in 2012. He was on the force there when Michael Brown was killed by another Ferguson policeman in 2014. A Ferguson woman sued Boyd, saying he arrested her for asking for his name at the scene of a traffic accident. The Justice Department also cited Boyd in its finding of a pattern of unconstitutional policing by the Ferguson department.

Boyd issued nine citations in Ferguson to Fred Watson, an employee of the National Geospatial-Intelligence Agency. Watson had just finished playing a pick-up game of basketball and got into his car when Boyd arrived to cite him for not wearing a seat belt and a host of other unfounded violations. Watson said Boyd drew his gun and pointed it at Watson’s head

for using his cell phone. Ferguson police responded that they only hire officers after they “undergo extensive investigation.”

Another St. Louis police officer who found refuge in St. Ann was Christopher Tanner, who shot Black former St. Louis Officer Milton Green at Green’s home in 2017. A police chase sped into Green’s neighborhood while he was off duty working on his car in his driveway. A white officer arrived and ordered Green to the ground, forcing him to drop his service revolver. No sooner had that officer allowed Green to get up and retrieve his gun than Tanner arrived, told him to drop his pistol and immediately shot him. Green sued the city in 2019.

Tanner was soon joined in St. Ann by Jonathan Foote, who resigned from the St. Louis Police Department after a traffic stop led to a crash in which a bystander was killed. Then there was Christopher Childers, fired from the St. Louis department after assaulting another officer by firing a stun gun at her in her patrol car. He had also initiated a chase that resulted in the death of a bystander. St. Ann fired Childers recently for overdosing on opioids.

St. Ann’s elected Police Chief Aaron Jimenez also hired Officer Ellis Brown III after he was forced out of the St. Louis Police Department and his state certification was suspended. Brown had lied about a 2016 incident in which he had tailed a car, which accelerated, crashed and started burning. Instead of calling for help, Brown fled the scene and then claimed in a report that he hadn’t been there. Brown was also one of two officers who shot Kajieme Powell to death in St. Louis after responding to a shoplifting complaint in 2014. Brown said he acted in self-defense because Powell had a knife, but the killing led to street protests. Finally, 19 of Brown’s questionable search warrants were thrown out because he used the same language in each.

After being hired by St. Ann, Brown was convicted in June



2021 in federal court for violating the civil rights of a suspect by beating him after a chase. Bank video captured Brown repeatedly kicking the suspect, who lay prone after attempting to flee on foot at the end of a 20-minute vehicle pursuit. A federal judge sentenced Brown to six years in prison this past November.

In 2017, the St. Ann department hired Mark Jakob, one of two St. Louis County police officers fired for lying about a high-speed chase that resulted in two deaths. The officers initially claimed not to have been involved in the chase, but an activist group released video showing they were.

Chief Jimenez's department favors aggressive tactics such as police chases. Despite its small size, St. Ann police conduct as many high-speed chases as the nearby St. Louis and St. Louis County departments, which are 20 times bigger. Jimenez has said publicly that he checks officers' backgrounds, but that he hired officers like Tanner and Brown because they hadn't been fired.

There is one chase a week in St. Ann and one crash every two weeks, sometimes with deadly consequences, the Post-Dispatch reported.

Finally, St. Ann hired Iraqi war veteran Joshua Daniel Becherer, a member of the St. Louis Police Department SWAT team that in 2017 killed Isaiah Hammett in a controversial no-knock raid. Later that year, Becherer resigned from the St. Louis department after his arrest for domestic assault: for pointing a loaded rifle at a woman's face and threatening to kill her.

Becherer is a good example of how an officer's past misdeeds are kept secret from the public.

None of this information about Becherer was released by the Peace Officer Standards and Training office in Missouri. In fact, the only things about police officers that are open to

the public under Missouri's Sunshine law are the names of officers, license status and the law enforcement agencies where officers are employed.

## **Wandering cops are widespread**

How prevalent are wandering officers?

A recent study in the Yale Law Journal last year by Ben Grunwald, an assistant professor at Duke University School of Law, and John Rappaport, assistant professor at the University of Chicago Law School, provided the first systematic answer: Wandering officers are prevalent and often run into disciplinary problems after they are rehired.

The professors studied data in Florida, a state that took important steps to impose accountability on police officers after riots in Liberty City in 1980 left 18 people dead. Those riots followed the acquittal of officers prosecuted for the death of Arthur McDuffie, a 33-year-old Black salesman beaten by police after they chased him for traffic violations while he tried to get away on his black and orange Kawasaki motorcycle. The four officers tried had 47 previous citizen complaints against them.

Partly as a result, Florida enacted a strong police decertification law in 1980 in order to prevent officers with discipline problems from moving from department to department.

Despite that law, many officers fired in one department are rehired and run afoul of police discipline again, the Yale study found. It concluded:

"In any given year over the last three decades, an average of roughly 1,100 full-time law enforcement officers in Florida walk the streets having been fired in the past – and almost 800 having been fired for misconduct, not counting the many who were fired and reinstated in arbitration. These officers ... are subsequently fired and subjected to 'moral character'

complaints at elevated rates relative to both officers hired as rookies and veterans with clean professional histories.”

## **Decertification not always the answer**

A recent police decertification dispute in Texas is a reminder that decertification is no panacea. Officers in that state who engage in wrongdoing have sometimes used their police licenses to bargain themselves out of prison time. They surrender their license for reduced charges or probation.

An investigation by KXAN-TV found that in 245 cases from 2015 to 2018, officers had “used their licenses to leverage a lesser sentence in a plea bargain. More than 30 officers surrendered their licenses in lieu of prosecution or to halt an investigation.”

One such officer was Larry Linley, a DA investigator in Fort Bend County. He was originally charged with four counts of sexual assault for repeated instances of improperly touching an 11-year-old and taking pornographic videos. In 2017, he pleaded guilty to a reduced charge of one count of injury to a child in return for surrendering his license. He received no additional jail time.

Legislation designed to give the Texas decertification board more power was introduced, but the strongest proposals were bottled up. The Combined Law Enforcement Associations of Texas (CLEAT) testified against the bills, stating, “All of the legislation we see this session is a direct attack on working cops and is punitive in nature.”

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