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## Police Violence in *The Wire*

Jonathan Masur\* and Richard H. McAdams\*\*

### Introduction

Police brutality—the unsanctioned, unlawful use of force by police against unarmed (and often defenseless) civilians—is one of the recurring motifs of The Wire.<sup>1</sup> The violence occurs in a variety of settings: occasionally the victim of the police brutality has done something to precipitate it (though the brutality is never justified), but more often the violence is unprovoked and senseless. Some police are one-time wrongdoers; others are repeat offenders. Some officers participate in the actual beatings, while others only cover up for the actions of their fellow officers. But in sum, the violence is regular and recurring, if not omnipresent. In this respect, The Wire is not dissimilar from other filmic depictions of police, such as NYPD Blue.

What is different is the cast of police officers who are involved in police brutality throughout the show. That cast includes some of the worst police, such as Thomas “Herc” Hauk and Anthony Colicchio. But it also includes some of the very best police officers on the force, officers who in other contexts, in other moments, engage in remarkable acts of altruism and generosity of spirit and who reject rule-breaking and lawlessness. Our goal is to explore these and other depictions of police violence in The Wire. Unlike other cinematic portrayals, The Wire’s explanation for police violence is not unidimensional. In The Wire, police violence is not excused, as if it were the necessary action of police who need to use all of the tools at their disposal to combat crime. Nor is it merely the product of a few “bad apples.” Rather, The Wire describes how organizational dysfunction can lead decent people to do terrible things, and how social context matters to crime—here, police crime. That is, it does for police violence what it does for all the failures of contemporary urban institutions.

We see within The Wire four structural mechanisms behind police violence, beyond the usual trope of bad apples on the force. First, there is the police code of loyalty: police operate under norms that compel them to aggressively defend one another against both bodily harm and legal responsibility for acts of violence or other violations. Second, this is toxically accompanied by a need to project power and dominance in every situation. This dominance norm reflects a hyper-masculinity common to police culture.

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<sup>1</sup> Unlawful police use of force has been the topic of much scholarly (and popular) writing. For just a small sampling, see L. Song Richardson, Police Use of Force, in 2 REFORMING CRIMINAL JUSTICE: POLICING 185 (Erik Luna, ed., 2017) (surveying the literature).

A third causal mechanism is the War on Drugs. The Wire demonstrates how this “war” is unwinnable, and how it asks police to accomplish objectives that are simply impossible. Police efforts to realize these unobtainable objectives leads them in some cases to use violent and unlawful tactics where the legal means available to them inevitably fall short. Fourth, and finally, police departments (like all the institutions the show depicts) are afflicted by a collective action problem. It is in the interest of the police department generally that citizens view the police as treating them fairly and justly, and cooperate with the police as a result. But the individual officer is the one who must engage in self-restraint, showing respect and minimizing the use of force, while only enjoying a small sliver of the benefit, because those greater benefits redound to the future reputation of the force as a whole. Once all of the officers realize that enough of their colleagues will do things that damage the reputation of the force, it appears futile to engage in self-restraint oneself.

If we (and The Wire) are correct about these causal mechanisms, the implication is that rooting out police brutality will require more than firing or disciplining the bad apples on the force. Rather, police departments will have to reverse the structural and institutional mechanisms that encourage and reinforce the tendency toward police violence. This will mean wholesale change in what police forces are attempting to accomplish, and how they go about meeting those objectives.

Our article proceeds in three parts. In Part I, we document and describe the incidents of police violence in The Wire, particularly those incidents involving police whose motives and actions are otherwise most generous or altruistic. In Part II, we explain the causal mechanisms behind those incidents of violence. In Part III, we offer tentative suggestions for reform.

## I. The Incidence of Police Violence in The Wire

Season One of The Wire includes six separate incidents of police brutality. In the second episode, just as the show is starting to gain steam, Roland Pryzbylewski (“Prez”) clubs Kevin Johnston in the eye with the handle of his police-issued firearm, just because Johnston is leaning on the police vehicle and smirking at the officers.<sup>2</sup> Johnston ends up losing his eye. In the very next episode, Preston Broadus (“Bodie”) punches Detective Patrick Mahon during a police raid.<sup>3</sup> Several police officers—including Shakima Greggs (“Kima”), Herc, and Ellis Carver—beat Bodie severely, to the point of unconsciousness.<sup>4</sup> Two episodes later, Bodie has been re-arrested, and Carver is interrogating him.<sup>5</sup> Bodie mouths off to Carver, and Carver begins beating on him, joined later by Herc. In the next episode, Bodie has been released from juvenile detention and is

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<sup>2</sup> The Wire: The Detail (HBO television broadcast June 2, 2002) (Season 1, Episode 2).

<sup>3</sup> The Wire: The Buys (HBO television broadcast June 16, 2002) (Season 1, Episode 3).

<sup>4</sup> Id.

<sup>5</sup> The Wire: The Pager (HBO television broadcast June 30, 2002) (Season 1, Episode 5).

spotted by Herc and Carver, who think he has unlawfully escaped.<sup>6</sup> Herc again grabs him and slams him on the ground, threatening to beat him even more severely. Bodie avoids this beating only by proving that he has been lawfully released from detention. In the seventh episode, Marquis Hilton (“Bird”) spews a string of vile invectives toward Kima and Jimmy McNulty.<sup>7</sup> In response, Lieutenant Cedric Daniels, Sergeant Jay Landsman, and Kima herself beat Bird to the point of unconsciousness.<sup>8</sup> Finally, in Episode Eleven, Reginald Cousins (“Bubbles”) is arrested by police officers who think he might be involved in shooting Kima.<sup>9</sup> When Bubbles does not confess (because in fact he has done nothing wrong), Detective Vernon Holley begins beating on him and is only stopped when another detective intervenes.<sup>10</sup> That is just one season of five; the others contain many more.

In addition to these examples of violence, there are multiple instances in which police officers cover up violence committed by their fellow officers. Following Prez’s beating of Johnston, Daniels instructs his subordinate Prez (as well as Herc and Carver) on how to lie about the incident and goes so far as to feed him the story he should use:

No, Officer Pryzbylewski, he did not piss you off. He made you fear for your safety and that of your fellow officers. I’m guessing now, but maybe, he was seen to pick up a bottle and menace Officers Hauk and Carver, both of whom had already sustained injuries from flying projectiles. . . . Maybe when he raised the bottle in a threatening manner, you used a Kel-Lite, not the handle of your service weapon, to incapacitate the suspect. Go practice. You fuck the bullshit up when you talk to internal, I can’t fix it. You’re on your own.<sup>11</sup>

In Season Three, Officer Kenneth Dozerman of the Western District is shot while engaging in an undercover drug purchase.<sup>12</sup> Herc remarks to some fellow officers that if they “catch up to him, he don’t come in alive.”<sup>13</sup> The shooting suspect is subsequently captured, and before he is taken downtown to be booked and put in jail, the police van containing the suspect makes an “unscheduled stop” at Western District headquarters. There, Western District police beat the suspect senseless merely as punishment for the fact that he (unknowingly) shot a police officer. In the words of William Moreland (“Bunk”), they “mistook him for a piñata.”<sup>14</sup> Bunk, the detective assigned to the case, then helps cover up this unlawful act of police brutality. In his official report describing the arrest of the suspect, he attributes the suspect’s obvious physical

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<sup>6</sup> The Wire: The Wire (HBO television broadcast July 7, 2002) (Season 1, Episode 6).

<sup>7</sup> The Wire: One Arrest (HBO television broadcast July 21, 2002) (Season 1, Episode 7).

<sup>8</sup> Id.

<sup>9</sup> The Wire: The Hunt (HBO television broadcast Aug. 18, 2002) (Season 1, Episode 11).

<sup>10</sup> Id.

<sup>11</sup> The Wire: The Detail, *supra* note 2 (Season 1, Episode 2).

<sup>12</sup> The Wire: All Due Respect (HBO television broadcast Sept. 26, 2004) (Season 3, Episode 2).

<sup>13</sup> Id.

<sup>14</sup> The Wire: Dead Soldiers (HBO television broadcast Oct. 3, 2004) (Season 3, Episode 3).

injuries to the arrest itself, as if the suspect had fought with police while being arrested. This is a lie, but Bunk nonetheless reads his report out loud with a smile: “Injuries were sustained while patrol officers were effecting pursuit and arrest of aforementioned suspect[s].”<sup>15</sup>

Later in Season Three, Captain Howard Colvin (“Bunny”) is having difficulty convincing the drug dealers in his district to move their operations to “Hamsterdam,” the designated areas he has set aside in which dealing will be permitted. As a means of forcing the dealers to set up shop in Hamsterdam, he instructs the officers under his command to engage in brutality and violence against any dealers who refuse to move. He then assures them that he will help cover up and defend them against any complaints of brutality:

They bring it here, or the other two free-zones, or you bang ’em senseless. Anything you need to do, you do. Up to a body that can’t walk itself out of an emergency room, I’ll back up you and your men. You understand me? . . . Whatever it takes.<sup>16</sup>

Following this statement is a montage of police violence that effectively creates Hamsterdam.

Several of the police officers who are seen beating civilians or helping to cover up beatings are terrible, sadistic people, who degrade and dehumanize the people they are supposed to protect. Officer Eddie Walker robs Randy Wagstaff and terrorizes other civilians before eventually breaking the fingers of “Donut,” a twelve-year old car thief.<sup>17</sup> Colicchio, after engaging in violence against various drug traffickers and discussing how he would like to hurt others, eventually pulls a teacher out of his car window for peacefully complaining that the police have blocked traffic.<sup>18</sup> Herc is “fighting the War on Drugs, one brutality case at a time,” in Kima’s words.<sup>19</sup> He racks up brutality complaint after brutality complaint and exhibits no redeeming features other than loyalty to his fellow officers. These three are unfit to serve in any police department. They are the canonical “bad apples.”

Yet Carver, Bunk, Kima, Bunny, and Daniels are not bad apples. They are decent human beings who strive to do their policing work well. We see Carver agonize over his inability to help Randy in Season Four;<sup>20</sup> he ultimately has the courage to write up Colicchio for assaulting the teacher in Season Five.<sup>21</sup> By the standards of the show, Bunk qualifies as an upstanding

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<sup>15</sup> *Id.* Another example of police humor about police violence comes from Lt. Dennis Melo in a conversation with Major Colvin in Season 3, Episode 3. Colvin says, “Ignorance is bliss, Lieutenant. Anyone ever tell you that?” Melo replies: “Once, but I beat the dog-piss out of the guy with a night stick.” *The Wire: Dead Soldiers*, *supra* note 14 (Season 3, Episode 3).

<sup>16</sup> *The Wire: Homecoming* (HBO television broadcast Oct. 31, 2004) (Season 3, Episode 6).

<sup>17</sup> *The Wire: Misgivings* (HBO television broadcast Nov. 19, 2006) (Season 4, Episode 10).

<sup>18</sup> *The Wire: Transitions* (HBO television broadcast Jan. 27, 2008) (Season 5, Episode 4).

<sup>19</sup> *The Wire: The Target* (HBO television broadcast June 2, 2002) (Season 1, Episode 1).

<sup>20</sup> *The Wire: Final Grades* (HBO television broadcast Dec. 10, 2006) (Season 4, Episode 13).

<sup>21</sup> *The Wire: Transitions*, *supra* note 19.

detective. He generally avoids cutting corners or engaging in illegal activity, and he seems genuinely dedicated to the mission of reducing the number of homicides in Baltimore—witness his impassioned speech castigating Omar for his involvement in so much killing.<sup>22</sup> Kima stubbornly refuses to pretend to identify one of Bunk’s suspects when she is shot in Season One, refusing to take unlawful shortcuts.<sup>23</sup> In Season Five, she has the courage to expose McNulty and Lester Freamon for concocting a sexual serial killer. She also shows genuine concern and regard for the citizens of Baltimore, most notably her confidential informant Bubbles; in Season One, just before she is shot, she tries to help him kick his drug habit and start a new life (even though this would end his usefulness as an informant).<sup>24</sup>

Bunny Colvin is one of the most noble and venerated characters in the show. He attempts a rogue legalization of drugs to reform his police department and reduce drug-related violence, and pays for it with his job.<sup>25</sup> He gets fired from a hotel security job rather than let a wealthy customer get away with assaulting a prostitute.<sup>26</sup> He joins a project aimed at helping troubled middle-schoolers and has the remarkable compassion to adopt the troubled “corner kid” Namond Brice.

Finally, Daniels is perhaps one of the principal heroes of a show that almost entirely lacks heroes. After initially appearing to place his own career prospects ahead of his public-serving mission, he becomes in many ways (but not all) the model of a public-serving police officer. He attempts to help save numerous kids from the streets, including Wallace and Kevin Johnston. Over and over again, he fights to protect his cases, and the mission of reducing crime, against interference from his superiors, often to his own career detriment.<sup>27</sup> Daniels ultimately resigns the top police position rather than run the force in the usual dysfunctional way. The viewer is meant to like and empathize with Carver, Bunk, Kima, Bunny, and Daniels, and by the end of the show most viewers do. All five of these characters are portrayed, plausibly, as the “good apples” of the police force.

And yet all five of these individuals also engage in unlawful violence or help to cover it up. Carver beats Bodie repeatedly in Season One,<sup>28</sup> helps to cover up Prez’s brutality against Kevin Johnston,<sup>29</sup> and then in Season Three he threatens and then is involved in beating another

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<sup>22</sup> The Wire: Homecoming, *supra* note 16 (Season 3, Episode 6) (“And now all we got is bodies, and predatory motherfuckers like you. And out where that girl fell, I saw kids acting like Omar, calling you by name, glorifying your ass. Makes me sick, motherfucker, how far we done fell.”).

<sup>23</sup> The Wire: The Hunt, *supra* note 9 (Season 1, Episode 11).

<sup>24</sup> The Wire: The Cost (HBO television broadcast Aug. 10, 2002) (Season 1, Episode 10).

<sup>25</sup> The Wire: Mission Accomplished (HBO television broadcast Dec. 19, 2004) (Season 3, Episode 12).

<sup>26</sup> The Wire: Home Rooms (HBO television broadcast Sept. 24, 2006) (Season 4, Episode 3).

<sup>27</sup> The Wire: The Wire, *supra* note 6 (Season 1, Episode 6).

<sup>28</sup> The Wire: The Pager, *supra* note 6 (Season 1, Episode 5).

<sup>29</sup> The Wire: The Detail, *supra* note 2 (Season 1, Episode 2).

drug suspect.<sup>30</sup> Bunk helps cover up the beating of the drug dealer who shot Dozerman. Kima participates in the beatings of Bodie and Bird. Bunny authorizes his officers to use brutality and violence against drug dealers who won't move to Hamsterdam and promises to protect them from internal investigations. Daniels helps cover up Prez's violence and then participates in the beating of Bird later in the same season.

Finally, although McNulty and Freamon certainly deserve their termination from the force at the end of the series (and a criminal prosecution they avoid), The Wire leaves us with the rich irony that these two are perhaps the only significant police characters in the show never directly tainted by the use, endorsement, or concealment of police violence, and yet they are among the very few police that the institution excludes. The violations that McNulty and Freamon have committed are viewed by the police force as far more serious than the regular acts of brutality in which nearly every other officer engages. Even when Herc is finally fired from the police force in Season Four, it is not because of any of the acts of brutality he has engaged in. The immediate cause was his fruitless car stop and search of a politically connected black reverend. Although he handled the man more roughly than necessary, this was much gentler than his handling of the non-politically connected Bodie—not an occasion of “splitting heads.”<sup>31</sup> For that reason, the new Mayor Carcetti would risk upsetting the police rank and file by terminating Herc for “merely” a bad traffic stop. Instead, the Mayor authorizes a broader investigation of Herc, who is ultimately fired for forging his supervisor's signature when borrowing a surveillance camera and then inventing a fake confidential informant to cover his tracks.<sup>32</sup> The implication is that the police force cares deeply about the preservation of certain norms—such as not offending politically powerful constituencies, or perhaps honesty with one's superiors—but deterring police violence is not among them.

How audacious it is for The Wire to lure the viewer into admiring these characters but also show them committing or condoning criminal violence against suspects. Part of the show's moral complexity is that the viewer inevitably comes to respect and empathize with some police characters, even though nearly all of them are depicted as engaging in, endorsing, or covering up excessive uses of force. The Wire forces us to consider how ordinarily decent people could engage in or cover up such indecent, criminal acts. Of course, this is just par for the course for the show, which also explores how non-police characters come to commit violent acts. But, for the police, the show's explanation is that the structure of the police organization channels

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<sup>30</sup> The Wire: Time after Time (HBO television broadcast Sept. 19, 2004) (Season 3, Episode 1) (“But if you make us go into them weeds for you, or make us come back out here tomorrow night, catch you on the corner, I swear to fuckin' Christ, we will beat you longer, and harder, than you beat your own dick!”).

<sup>31</sup> See Ekow N. Yankah, Good Guys and Bad Guys: Punishing Character, Equality and the Irrelevance of Moral Character to Criminal Punishment, 25 CARDOZO L. REV. 1019 (2004).

<sup>32</sup> The Wire: That's Got His Own (HBO television broadcast Dec. 3, 2006) (Season 4, Episode 12) (“Let me ask if you remember pulling a surveillance camera from ISD, serial number AW466J-Niner. You remember that? We also need to go over your paperwork on a couple of informants. So if you don't mind coming back downtown with us . . .”).

behavior in this direction. We see quite a few causal mechanisms in The Wire, some on the surface, some a bit deeper. The next Part examines and explores those causal mechanisms.

## II. Individual and Structural Causes of Police Violence in The Wire

Most fictional depictions of police violence on television fall into two camps: an apology for the violence or the bad apple theory. As noted above, The Wire does present a few bad apples—Walker, Colicchio, and Herc. Yet through the characters of Carver, Bunk, Kima, Bunny, and Daniels, we come to see the organizational dysfunctions that produce police violence despite the decency of the individual officer. As we count them, The Wire depicts four structural causes of excessive police force: the code of loyalty, a hyper-masculine culture, the War on Drugs, and an underlying collective action problem.

### A. The Police Code of Loyalty

Perhaps because police jobs are high stress and can involve risking one's life, police have to depend on each other to an unusual degree, which produces a more intense loyalty than other professions (other than the military).<sup>33</sup> The ideology of American police is that the public cannot understand the difficulty of the job, but are too quick to judge and blame;<sup>34</sup> police believe they must therefore shield each other from public scrutiny. As a result, police forces have an intense norm against informing on a fellow officer, the so-called code of silence.<sup>35</sup> There is a corresponding norm of police management: a good commanding officer will protect his officers from outside scrutiny and discipline.

This is how it is that Daniels can behave as he does when arriving at the scene where Prez, Herc, and Carver have needlessly provoked a confrontation that resulted in Prez striking and blinding Kevin Johnston in one eye. Daniels is obviously angry at them; he is distraught when he shares the incident with his wife and learns that Johnston will lose the eye; later still, he stubbornly tries to help Johnston. But those genuine feelings do not stop him from advising Prez, Herc, and Carver explicitly how to lie, how to fabricate a story to escape accountability.

Why does he do this? Because of the entrenched code of loyalty, Daniels would lose the respect of his officers, and his ability to lead, if he did otherwise. When Daniels's wife Marla suggests that he "shoulda hung them" in the series' second episode, Daniels replies with two arguments.<sup>36</sup> First, "I hang them, I hang myself. I'm the man in charge, remember."<sup>37</sup> Here is the simplest reason for a cover-up, not limited to police: because the underlings' misbehavior makes

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<sup>33</sup> See, e.g., JOHN P. CRANK, UNDERSTANDING POLICE CULTURE 238, 283 (2004); JEROME H. SKOLNICK AND JAMES J. FYFE, ABOVE THE LAW: POLICE AND THE USE OF EXCESSIVE FORCE 89, 111, 122 (1993).

<sup>34</sup> PETER K. MANNING & JOHN MAANEN, POLICING: A VIEW FROM THE STREET 221–38 (1978) (referring to the police perception of citizens as suspicious persons, the asshole, and know nothings).

<sup>35</sup> See generally TONY COADY, VIOLENCE AND POLICE CULTURE (2000).

<sup>36</sup> The Wire: The Detail, *supra* note 2 (Season 1, Episode 2).

<sup>37</sup> *Id.*



the boss look bad. But second, Daniels adds: “Besides, you don’t give your people up to IID [internal affairs]. You don’t do that.”<sup>38</sup> Here is the simple statement of the silence that police loyalty demands. And when in the next episode Ervin Burrell asks him if he knew his men went into the towers at night without backup, Daniels says, “I tell you yes, I screwed up. I tell you no, I’m putting my men in the jackpot.”<sup>39</sup> He later adds: “I’m defending my own people here, that’s all.”<sup>40</sup> As the police culture defines the job, this is what he must do.

### B. A Culture of Hyper-Masculinity

The Wire repeatedly depicts the culture of policing as intensely masculine, one aspect of which is the need to project power and to dominate every situation.<sup>41</sup> The very first episode of Season One lays out the masculine perspective on how to solve crime in a conversation between Herc, Carver, and Kima (who is doing paperwork):

Carver: What he means to say is that we are an effective deterrent on the War on Drugs when we are on the street.

Herc: Fuck the motherfuckers up right?

Carver: Indeed.

Herc: Fuck the paperwork. Collect bodies, split heads.

Carver: Split ‘em wide.

Herc: The Western District way.

Carver: Aight.

Kima: You heroic motherfuckers kill me. Fighting the War on Drugs, one brutality case at a time.<sup>42</sup>

Later in the episode, when confronted with the embarrassing fact that the department has no information on Avon Barksdale, Herc’s response is simple: “I say we go down to the terrace and fuck some people up.”<sup>43</sup> In Episode Two, Herc, Carver, and Prez go to the towers for this purpose after Carver says, “You got to let these motherfuckers know who you are.”<sup>44</sup>

This masculine mindset requires massive retaliation in response to assaults of police officers. After Kima is shot, Burrell says to Daniels, “Send a message. . . . See that it is heard.”<sup>45</sup> After a day of kicking in doors, arresting suspects, seizing drugs and guns, and generally pushing people around, the commissioner says, “today a message has been sent.”<sup>46</sup> We see this message

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<sup>38</sup> Id.

<sup>39</sup> The Wire: The Buys, supra note 3 (Season 1, Episode 3).

<sup>40</sup> Id.

<sup>41</sup> See, e.g., L. Song Richardson & Phillip Atiba Goff, Interrogating Racial Violence, 12 OHIO ST. J. CRIM. L. 115, 135–38 (2014).

<sup>42</sup> The Wire: The Target, supra note 19 (Season 1, Episode 1).

<sup>43</sup> Id.

<sup>44</sup> The Wire: The Detail, supra note 2 (Season 1, Episode 2).

<sup>45</sup> The Wire: The Cost (HBO television broadcast Aug. 11, 2002) (Season 1, Episode 10).

<sup>46</sup> Id.

again when Bodie is beaten for striking Detective Mahon. Kima's participation in the beating is instructive. When others are attacking Bodie, Kima sprints to the scene from a distance and, at first glance, a viewer might expect that she intends to intervene to protect Bodie. But in fact she does the opposite: she begins beating Bodie with her night stick and yells at the other officers to "hold his arms" so he can't block the blows. As a woman, Kima is a presumptive outsider, whose physical prowess is suspect, so it should come as no surprise that she over-complies with the norm to prove herself. She is accepted as a female police detective only because she impresses her colleagues by acting like a man.

In this respect, Kima's same-sex orientation, while a burden in some ways, allows the men to understand her as being more like them. McNulty tells her that the only other female officer he knew who was "worth a damn" was also a lesbian.<sup>47</sup> Consider the respect Kima earns from this violence. Herc and Carver later have this conversation in front of Bodie:

Carver: Still draggin' from the whooping Kima put on him.

Herc: Fucked you up like a cop should, didn't she?

Carver: That's one thing about Kima, she put a hurtin' on you like a man.<sup>48</sup>

We again see the concern with masculine honor when Bird savagely insults Kima in the interrogation room, including her sexual orientation. Other suspects mouth off, but there is some line between ordinary pushing back and serious insult, and Bird crosses it. In front of other officers, Kima cannot let Bird get away with it, given the norms. So she, Daniels, and Landsman administer a beating.

### C. The War on Drugs

In The Wire, the War on Drugs has a profound negative effect on policing and police culture. The basic problem is that the war is unwinnable. As Carver puts it in the first episode, "[y]ou can't even call this shit a war. . . . Wars end."<sup>49</sup> Given addictive drugs, demand is inelastic. Given a substantial poor population, there will be supply as others step in to replace those arrested and incarcerated. Witnesses are scarce. Perhaps the war would still be winnable if police had the patience and resources to bring down gang leadership expeditiously, but the show documents the many practical and political obstacles to such success, including the fact that drug money corrupts politicians.

As a result, routine police work does not involve an officer building the trust of a community, nor developing human sources of information. Instead, it is about generating statistics to make it appear the police are winning the unwinnable war. That job does not require patience or trust, but the physicality of kicking in doors or jumping out on a corner and chasing down dealers. If politicians or police brass demand a show of "dope on the table," some quick

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<sup>47</sup> The Wire: The Buys, *supra* note 3 (Season 1, Episode 3).

<sup>48</sup> The Wire: The Pager, *supra* note 6 (Season 1, Episode 5).

<sup>49</sup> The Wire: The Target, *supra* note 19 (Season 1, Episode 1).

street-level undercover operations, “hand to hands,” will work. There is no time for anything else.

The high frequency of drug busts attracts into policing those who like the physical, confrontational part of the job, and trains and rewards them for a certain proficiency at it. Two more factors make the problem worse. One, the drug trade is violent, as inevitably occurs when traffickers cannot rely on the law to protect them from force or fraud. Two, drug traffickers are drawn from the poor of the city, who have the least opportunities for lawful employment. The poor tend disproportionately to be composed of racial minorities, in Baltimore, African-Americans. So the drug war draws police into constant physical confrontations with young and poor African-Americans, precisely the population for which those kicking in doors are most likely to demonize and dehumanize, and for which violence has the least political penalty, and sometimes a political reward.

In Season Three, Bunny Colvin repeatedly articulates the view that the drug war has ruined policing because physically aggressive street-level enforcement disrupts the work of building police-community relationships. All of this is the background for why Bunny shockingly authorizes unlawful violence. Frustrated beyond endurance by the drug war, he attempts to set up a legalized drug zone. But his experiment is stymied before it can begin by the fact that the mid-level drug dealers won’t send their “corner boys” to Hamsterdam because they don’t trust police promises of non-enforcement (nor is there any reason for them to trust police). Desperate to de-escalate the drug war, and lower violence, he sees no other way to get started except to use violence. The end does not justify the means, but it does explain how a decent person rationalizes the use of violence as a means.

#### D. A Collective Action Problem

Finally, we come to the most abstract cause of police violence, which might be understood as the basic background condition for the causes already noted: a gap between what is good for the police force as a whole and what is good for the individual officer.

We agree with the claims made by a well-known academic literature on procedural justice that a police force as a whole (and the public) benefit from public respect for and trust in police.<sup>50</sup> The greater the respect and trust, the more the public cooperates with and assists the police, as by reporting crime and serving as witnesses, or simply not running when an officer

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<sup>50</sup> TOM R. TYLER & STEVEN BLADER, COOPERATION IN GROUPS: PROCEDURAL JUSTICE, SOCIAL IDENTITY, AND BEHAVIORAL ENGAGEMENT (2013); TOM R. TYLER & YUEN J. HUO, TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS (2002); Jacinta M. Gau, Procedural Justice and Police Legitimacy: A Test of Measurement and Structure, 39 AM. J. CRIM. JUST. 187 (2014); Eric J. Miller, Encountering Resistance: Contesting Policing and Procedural Justice, 2016 U. CHI. LEGAL F. 295 (2016); Stephen J. Schulhofer et al., American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative, 101 J. CRIM L. & CRIMINOLOGY 335 (2011); Jason Sunshine & Tom Tyler, Moral Solidarity, Identification with the Community, and the Importance of Procedural Justice: The Police as Prototypical Representatives of a Group's Moral Values, 66 SOC. PSYCHOL. Q. 153 (2003);

approaches. The police earn that trust and respect by providing citizens with procedural justice, meaning that the police treat citizens fairly and with respect, at the very least by avoiding violence where possible and otherwise minimizing its use. Thus, to a police department, the overall costs of procedural justice are more than offset by the benefits. The force collectively benefits more from gaining the respect and cooperation of the citizenry than from indulging the desire of individual officers to be rude and excessively aggressive.

But what is true of the collective is not necessarily true of the individual. In an interaction with a citizen, an officer experiences the costs more than the benefits. Treating someone fairly and with respect need not and should not be costly, of course. But it will be for an officer who is tired or stressed, or who actually does not respect the citizen at issue, if not from simple bigotry, then perhaps because he feels he is not receiving the respect he deserves from the citizen. To avoid unnecessary force, the officer needs to restrain and control his irritation or anger, and his impatience, which make the officer want to use violence. The officer incurs all the costs of this effort, but not the benefit, because the future cooperation and assistance of citizens is spread to the entire department.

One might think that the close-knit group of police officers would be able to solve this classic collective action problem with an appropriate norm of civil behavior towards citizens. This probably occurs in some departments. But there is no guarantee. In particular, the norm of loyalty discussed above may block any such civility norm because its enforcement would entail disclosing that another officer had violated it. The code of silence that compels police to cover up the misconduct of fellow officers to prevent outside accountability spills over into protecting fellow officers from internal accountability, thus preventing the force from solving its own collective action problem.<sup>51</sup>

We can state the point with an example. It is collectively good for the police force if suspects do not flee. Most officers don't want to chase someone, exerting themselves and risking injury. Whenever an officer humiliates or injures a suspect who has not fled, that creates an incentive for future suspects to flee. Yet while the officer gets whatever benefit he gets from being rude or violent, he spreads the costs to all the officers in the force, the ones who have to chase fleeing suspects in the future. It is thus good for the force for the officer refrain from using force, but that is not necessarily what the individual officer will want to do.

A scene with Carver illustrates. He stands on a police car in Season Three, and threatens to beat a very young suspect who has successfully evaded a large number of officers. Carver yells a proposal to the hiding suspect that the officers will beat him if he fails to turn himself in and they find him later, but they will not beat him if he turns himself in.<sup>52</sup> We don't learn

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<sup>51</sup> See Richard H. McAdams, *The Origin, Development, and Regulation of Norms*, 96 MICH. L. REV. 338, 421–24 (1997) (describing how a police norm of silence can be enforced up to levels that harm a police force).

<sup>52</sup> *The Wire: Time After Time*, *supra* note 30 (Season 3, Episode 1) (“If you march your ass out here right now and put the bracelets on, we will not kick the living shit out of you. But if you make us go into them weeds for you, or if

whether the suspect turned himself in or was caught, but we do learn that he was beaten—a few scenes later, he appears in the precinct house with facial injuries.<sup>53</sup> Whichever officer it was who administered the beating, he may have gained from indulging a desire to retaliate against a juvenile who embarrassed the police by successfully fleeing for a while. But it would have been better for the department for the officers to keep their word, so future suspects would have less reason to flee.

In conclusion, The Wire does not present police violence merely as the result of a few bad apples, but as a part of ever-present structural issues that incentivize police to act this way.

### III. Suggestions for Reform

As the previous Part indicates, the problem of police violence is more structural and systematic than the mere existence of a few bad apples on the force. Certainly, every police force should identify and fire those officers who engage in unlawful acts of brutality against citizens (and they should be prosecuted as well). But while removing the bad apples from the force should reduce police brutality, it would not end it. Other police would continue to engage in the same type of violence, for reasons other than sadism and a desire to exert power. More importantly, the institutional culture and structure of the police force would continue to produce officers who engage in acts of unlawful violence. Accordingly, disciplining and firing officers who engage in unlawful violence is a starting point but not an endpoint. In this Part, we discuss other possible solutions to the problem of police violence. We offer one suggestion to match each of the causal mechanisms we described in Part II.

#### A. The Police Code of Loyalty

Organization-wide norms such as the police code of loyalty can be extraordinarily difficult or impossible to dislodge.<sup>54</sup> The problem is that the norm is self-reinforcing, as more senior police officers indoctrinate subsequent generations of younger officers in the same norms. Rather than attempting to alter this code from the inside, we recommend attacking it from the outside. Police departments and prosecutors' offices should aggressively investigate and prosecute acts of police misconduct, and then supplement this step by also pursuing police officers who help to cover up misconduct. That is, they should try to break the code of loyalty by substantially raising the costs of stonewalling or lying to investigators.

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you make us come back out here tomorrow night, catch you on a corner, I swear to fucking Christ, we will beat you longer and harder than you beat your own dick!").

<sup>53</sup> Id. The suspect has a butterfly bandage above his eye and complains that the police "whooped my ass." Here replies: "The Western District way."

<sup>54</sup> See, e.g., Lawrence Lessig, The Regulation of Social Meaning, 62 U. CHI. L. REV. 943 (1995).

One initial step, which most major police departments have already adopted, is to have an independent internal affairs department, outside of the normal police hierarchy, that is charged with investigating charges of police misconduct. Separating these investigators from the normal police department structure should reduce the influence of the police code of loyalty and permit the investigators to bring charges in cases where officers within the chain of command would normally stay their hands.

As a stark example of what not to do, consider the recent United States Department of Justice Report (“Report”) on the Chicago Police Department (“CPD”).<sup>55</sup> The Report noted that the Mayor of Chicago and the President of the police union conceded the existence of a “code of silence” within the CPD.<sup>56</sup> A cause and symptom of that code was the fact that investigators of police misconduct did not enforce the obligation to be truthful with investigators. “Rather than aggressively enforcing and seeking discharge for violations of CPD’s Rule 14, which prohibits making false statements, enforcement in this area is rarely taken seriously and is largely ignored.”<sup>57</sup> Tellingly for the code of silence, investigators failed to

hold witness officers responsible for covering up misconduct of others. . . .  
Indeed, our investigation revealed that there were only 98 Rule 14 charges sustained over the last five years. Only one of these sustained cases was initiated by IPRA [the Independent Police Review Authority] against an officer witness who IPRA discovered lied to cover up misconduct of another. Moreover, in many of the cases where Rule 14 charges were brought and sustained against accused officers for lying, the discipline imposed was less than discharge. Almost one-third of all the sustained Rule 14 cases had a recommended punishment of 25-day suspension or less, and some of the discharge recommendations were reduced or overturned on appeal. . . .

Not only are Rule 14 investigations not encouraged, but past IPRA leadership prohibited investigators from initiating such Rule 14 investigations without obtaining approval from the IPRA Chief Administrator, sending a strong message to investigators not to expand their investigations into collateral Rule 14 charges. Such Rule 14 requests required a de facto higher standard of proof and were rarely approved. . . .

Furthermore, even in the rare case where a Rule 14 charge is made and results in a sustained finding, officers face little risk that such finding will impact their ability to testify in criminal cases in support of the prosecution. We learned in our investigation that there is no system in place to ensure that all officer

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<sup>55</sup> U.S. DEP’T OF JUSTICE CIVIL RIGHTS DIV. & U.S. ATTORNEY’S OFFICE FOR THE N. DIST. OF ILL., INVESTIGATION OF THE CHICAGO POLICE DEPARTMENT (Jan. 13, 2017), <https://www.justice.gov/opa/file/925846/download> [<https://perma.cc/AV2R-BH37>].

<sup>56</sup> Id. at 75.

<sup>57</sup> Id.

disciplinary findings bearing on credibility, including Rule 14 findings, are supplied to the State's Attorney's Office and criminal defendants, even though this is required under *Giglio v. United States*, 405 U.S. 150 (1972). . . .<sup>58</sup>

To some extent, Chicago has addressed these concerns in the creation of the Civilian Office of Police Accountability ("COPA") to replace IPRA, though it is too soon to measure any improvement.<sup>59</sup> Yet the DOJ report implies some obvious structural solutions to the code of silence: diligently investigate false statements by police witnesses, significantly punish those who lie, and disclose evidence of lying to criminal defendants (which is its own sanction as it is a career detriment not to be able to testify credibly).

In *The Wire*, by contrast, the Internal Investigations Division ("IID") is not even as good as IPRA or COPA. While IPRA and COPA are at least independent, IID is located within the police department, and the head of that division reports to the head of the Criminal Investigations Division, the Deputy Commissioner for Operations, and the Commissioner himself. *The Wire* depicts the head of IID as an agent of the Commissioner and Deputy Commissioner for Operations, often to the detriment of officers who incur the wrath of the higher-ups. (In one notable scene, detectives refer to him as the "angel of death.")<sup>60</sup> It is thus a simple matter for police officials to barter an arrangement that protects Prez when convenient and ends Herc's career when that becomes politically expedient.

Of course, independent investigative units such as COPA are not enough—there must be independent decision-makers in prosecutors' offices as well. County and state prosecutors rely upon cooperation from the police when prosecuting criminal defendants, and so they are often just as reluctant to prosecute officers for wrongdoing as police are to investigate that wrongdoing. Ideally, then, states and municipalities would have standing independent counsel who are empowered to investigate and prosecute police misconduct whenever it arises. Here, most jurisdictions fall well short. Many have legal provisions that allow for the appointment of special prosecutors in particular cases, but the same code of loyalty that prevents prosecutors from aggressively pursuing police misconduct weighs against any decision to appoint a special prosecutor as well.

Finally, it is particularly important that prosecutors charge not only the police officer who has engaged in the misconduct, but any officer who helped cover up the initial officer's actions, with the crimes of perjury or obstruction of justice. Doing so would significantly raise the costs of abiding by the police code of loyalty and convince police to cooperate with investigations rather than risk their own careers and freedom. Such prosecutions are generally rare, but there

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<sup>58</sup> *Id.* at 76–77 (emphasis added).

<sup>59</sup> CIVILIAN OFF. POLICE ACCOUNTABILITY (2018), <http://www.chicagocopa.org/> [<https://perma.cc/UY3N-ZBR3>].

<sup>60</sup> *The Wire: Lessons* (HBO television broadcast July 28, 2002) (Season 1, Episode 8).

are notable exceptions. For instance, three of the Chicago police officers who helped cover up the shooting of Laquan McDonald have been indicted for conspiracy and obstruction of justice.<sup>61</sup> At the same time, the statement by the special prosecutor who brought the indictments is telling. She explained: “The indictment makes clear that these defendants did more than merely obey an unofficial ‘code of silence,’ rather it alleges that they lied about what occurred to prevent independent criminal investigators from learning the truth.”<sup>62</sup> We must reach a point at which abiding by even the “mere” code of silence, and not just overt lying, can place a police officer in danger of losing his or her job.

## B. The Culture of Masculinity

As we described above, police forces are afflicted by a sometimes toxic culture of masculinity. Officers feel the need to demonstrate their dominance over the population they are meant to serve. Any slight, no matter how small, can be taken as a challenge to a police officer’s authority and is liable to be met with violence. As we noted above, culture is notoriously sticky, and institutions can tend to attract new members who value the existing organizational culture.<sup>63</sup> Altering police culture will not be easy and will not happen quickly. However, one potential approach might be for police forces to hire more female police officers. This was the recommendation of a commission headed by Warren Christopher that was tasked with studying and responding to the riots that broke out in Los Angeles following the acquittal of several Los Angeles police in the beating of Rodney King.<sup>64</sup> The Christopher Commission found that a culture of extreme masculinity within the Los Angeles police department was one of the driving forces behind police violence, and it recommended hiring more female officers as one potential solution.<sup>65</sup>

The Wire paints a nuanced picture of the effects of female officers on the force. The Wire demonstrates that female officers can be as brutal as their male counterparts. Kima illustrates this possibility. Because she feels pressured to prove herself as an equal in this male-dominated culture, she overcompensates by being quick to resort to excessive force. Note again that Herc and Carver specifically praise Kima by saying that she can beat a suspect “like a man.” (On the other hand, it is Kima who has the moral courage to break the code of silence in Season Five

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<sup>61</sup> 3 Cops Indicted for Obstruction of Justice in Laquan McDonald Shooting, CBS CHI. (June 27, 2017), <http://chicago.cbslocal.com/2017/06/27/laquan-mcdonald-officers-indicted-obstruction-of-justice/> [<https://perma.cc/NWZ5-EX2V>].

<sup>62</sup> Id.

<sup>63</sup> Dhammika Dharmapala & Nuno Garoupa, Punitive Police: Agency Costs, Law Enforcement, and Criminal Procedure, 45 J. LEGAL STUD. 105 (2016).

<sup>64</sup> INDEP. COMM. ON THE L.A. POLICE DEP’T, REPORT OF THE INDEP. COMM. ON THE L.A. POLICE DEP’T (1991), <https://archive.org/details/ChristopherCommissionLAPD> [<https://perma.cc/TVD7-766Z>] [hereinafter CHRISTOPHER COMMISSION REPORT]; see also NAT’L CTR. FOR WOMEN & POLICING, HIRING AND RETAINING MORE WOMEN: THE ADVANTAGES TO LAW ENFORCEMENT AGENCIES 4 (2003) (suggesting that female police officers would be less confrontational and authoritarian).

<sup>65</sup> CHRISTOPHER COMMISSION REPORT, supra note 64.



when she turns in Freamon and McNulty for their fraudulent creation of a serial killer.) In any event, The Wire also gives us Beadie Russell, who exemplifies the ideal of an officer who feels no compulsion to prove herself through violence. The Wire also highlights the importance of peer groups. It is perhaps no coincidence that Beadie becomes acculturated to the Baltimore police force through Freamon, Bunk, and McNulty, none of whom engages in a single act of unlawful violence throughout the entire show. Had her initial assignment been to the narcotics division or a police district, where violence is rampant, she might have learned different behaviors.

In fact, there is substantial research to support The Wire's portrayal of women in police forces. One study on female police officers in Canada revealed that most women felt significant pressure to conform their behavior to fit masculine norms.<sup>66</sup> Those police who identified themselves as "one of the guys" reported greater job satisfaction and better career outcomes.<sup>67</sup> Research on the Israeli and Swedish militaries, which are similarly integrated on the basis of gender, revealed similar findings.<sup>68</sup> These effects are reinforced through police training, which tends to reinforce the aggressive, "masculine" aspects of the job.<sup>69</sup> Accordingly, the job of police officer will likely be most attractive to women who favor the existing, aggressive culture.<sup>70</sup> And any person who is hired—male or female—will tend to become socialized toward the use of violence as a means of asserting dominance.

The Wire thus suggests that hiring more female police officers will not be an automatic panacea. If they wish to alter the culture of extreme masculinity, police forces will have to take additional steps. One such measure would be to alter the way in which officers are trained, emphasizing nonviolent conflict resolution over force. Another would be to focus on the personalities of applicants to the police force and attempt to select for officers who will not be quick to resort to force. Finally, diversifying police forces to include more women might

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<sup>66</sup> Lesley J. Bikos, "I Took the Blue Pill" The Effect of the Hegemonic Masculine Police Culture on Canadian Police women's Identities (July 2016) (unpublished M.A. Research Paper, Western University) (on file with Western Libraries, Western University), [https://ir.lib.uwo.ca/sociology\\_masrp/7/](https://ir.lib.uwo.ca/sociology_masrp/7/) [<https://perma.cc/Q62S-DET3>].

<sup>67</sup> Id.

<sup>68</sup> Mimmi Granat, "They Are More Afraid of Losing Women Than of Having Women": How the Structural Transformation of the Swedish Armed Forces has Affected the Experience for Female Recruits (2016) (unpublished Master's thesis, Swedish Defence University) (on file with author), <http://www.diva-portal.org/smash/record.jsf?pid=diva2%3A937411&dsid=8877> [<https://perma.cc/BPU3-WXBQ>]; Orna Sasson-Levy & Sarit Amram-Katz, Gender Integration in Israeli Officer Training: Degendering and Regendering the Military, 33 J. WOMEN CULTURE & SOC'Y, 105 (2007).

<sup>69</sup> Anastasia Prokos & Irene Padavic, 'There Oughtta Be a Law Against Bitches': Masculinity Lessons in Police Academy Training, 9 GENDER, WORK & ORG. 439, 446–54 (2002); Michael F. Aiello, Policing the Masculine Frontier: Cultural Criminological Analysis of the Gendered Performance of Policing, 10 CRIME, MEDIA, CULTURE 59, 72–74 (2014).

<sup>70</sup> See Dhammika Dharmapala, Nuno Garoupa, & Richard H. McAdams, Punitive Police? Agency Costs, Law Enforcement, and Criminal Procedure, 45 J. LEGAL STUD. 105 (2016) (arguing that police with punitive tendencies will select into police forces).

nonetheless be an improvement on the status quo.<sup>71</sup> Police departments should take their cues from The Wire regarding the importance of peer groups and hire a substantial numbers of female officers, enough to constitute a critical mass within the force as a whole, or at least some subunits. If enough officers are concentrated within particular units of the police force, they might have the effect of shifting the norms that lead police to resort to violence.

### C. The War on Drugs

If the War on Drugs is having pernicious effects on policing and police behavior, an obvious potential response is to end the war. That, however, is easier said than done. The Wire aptly demonstrates the futility of trying to “prevail” against drug dealers and drug use.

At the same time, it offers an alternative: de-penalization, which is to say, ceasing to arrest and incarcerate individuals involved in the sale and consumption of drugs. The model is Hamsterdam, Bunny Colvin’s experiment in allowing dealers and users free rein within limited geographic areas of the city. The Wire suggests that Hamsterdam offers a way forward in the never-ending fight against drugs, and one that would lead to a reduction in police violence. At the same time, the show depicts the tradeoffs involved in such a step: rampant drug use and an accompanying public health crisis. As John Bronsteen explains in another paper in this volume, the costs from de-penalizing drug use might easily outstrip the benefits.<sup>72</sup>

If victory in the War on Drugs is impossible, and surrender is too costly, what then? One approach might be to simply lower expectations. As we have described, police violence is driven in part by ongoing political demands for progress in the War on Drugs—more arrests, less crime, fewer dealers on the corners, etc. These demands are impossible to meet, and this causes the police to resort to unlawful violence. The focus on the War on Drugs to the exclusion of other crimes also creates incentives for individuals who enjoy violence to join the police force. It might be possible to alter this dynamic if, instead, the public—and thus politicians as well—came to understand that the drug trade is an unavoidable background signal in American life. If police departments were not constantly under pressure to fight and win the drug war, they might not find themselves so frequently in physical confrontations with drug dealers and drug users. And even if the police did not give up entirely on policing the drug trade, as Bunny’s officers do in Season Three, the police department might nonetheless shift its emphasis subtly in the direction of other crimes and other skills. It might attract, hire, and train police officers who are more capable of solving burglaries and robberies, rather than merely “collect bodies, split

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<sup>71</sup> See Linda Waugh, Andrew Ede, Avril Alley, Police Culture, Women Police and Attitudes Towards Misconduct, 1 INT’L J. POLICE SCI. & MGMT. 288 (1998); Nancy LeTourneau, The Role of Feminism in Police Reform, WASH. MONTHLY (July 8, 2015).

<sup>72</sup> John Bronsteen, Would “Hamsterdam” Work? Drug Depenalization in The Wire and in Real Life, 2017 U. Chi. Legal F. --- (forthcoming 2017).

heads,” as Herc puts it.<sup>73</sup> This is admittedly at best only a partial solution. But in the face of an unwinnable war, a partial solution may be all that is possible.

#### D. Collective Action Problems

Finally, as we noted, police forces are beset by a particularly intractable form of collective action problem. Even though it is in the police force’s interest (and society’s interest) that citizens be treated with respect and not subjected to unlawful violence, any individual officer might believe it is in his own interest to do the opposite. The most obvious (and perhaps best) solution to this collective action problem is simply to sanction police officers who engage in unlawful violence. They should be suspended, fired, and in many cases prosecuted criminally. Yet, as The Wire demonstrates and as much research has shown, there are many practical impediments to successfully and comprehensively implementing such a plan.<sup>74</sup> Police will cover up one another’s misdeeds, and they are protected by union contracts and laws that make it difficult to impose punitive sanctions on them for unlawful behavior. It is at least worth considering supplemental approaches.

One such approach might be to use carrots, rather than sticks, to induce positive police behavior. Perhaps each police officer might be offered a monthly behavioral bonus, some fraction of that officer’s salary. Each time a citizen swears out a complaint accusing the police officer of using excessive force, that monthly bonus is reduced by a fixed amount—regardless of whether or not the citizen complaint is upheld or found to have merit.<sup>75</sup> The effect would be to align individual officer incentives with the incentives of the police force as a whole, almost as if they held stock options pegged to the value of the institution. Each time an officer engages in unlawful or excessive use of force, the officer stands to lose a small amount of money at minimum, just as the police force is harmed to some degree. In addition, by offering the bonus up front and then reducing it when there was a complaint, police would likely feel as they had already earned the bonus and would be reluctant to surrender it. The system would exploit the tendency toward loss aversion: individuals tend to behave in risk-averse fashion when they feel as though they have something to lose. Here, that risk aversion should manifest itself through police efforts to engage in any behavior that might trigger a civilian complaint.<sup>76</sup>

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<sup>73</sup> The Wire: The Target, *supra* note 19 (Season 1, Episode 1).

<sup>74</sup> Among other things, police political power and collective bargaining produce rules that impede efforts at investigation and accountability. See, e.g., Aziz Z. Huq & Richard H. McAdams, Litigating the Blue Wall of Silence: How to Challenge the Police Privilege to Delay Investigation, 2016 U. CHI. LEGAL FORUM 213 (2016); Dhammika Dharmapala, Richard H. McAdams, & John Rappaport, The Effect of Collective Bargaining Rights on Law Enforcement: Evidence from Florida (Jan. 2018) (unpublished manuscript) (on file with author).

<sup>75</sup> The bonus could be adjusted up or down for various officers to compensate for the fact that some are engaged in work that is more likely to bring them into contact with potential complainants than others. Also, it would remain possible to prosecute citizens for making knowingly false statements of fact in such complaints.

<sup>76</sup> There is always a risk that such a system might be used against good police officers as well. For instance, criminals could conceivably file substantial numbers of complaints against police who have done nothing wrong, in

Small monetary fines might seem like weak beer in the face of the social scourge that is police violence. We do not dispute that characterization, and we certainly do not believe that this system of bonuses and fines should displace or lessen efforts to fire or imprison bad police. Our point is merely that there may be value in attempting to reward police who treat citizens with respect, above and beyond sanctioning those who engage in unlawful violence. Belts are nice, but suspenders never hurt.

#### IV. Conclusion

For years, scholars, activists, and commentators have debated whether the problem of unlawful police brutality is traceable merely to a few bad apples, or whether it represents more systemic or structural problems within American police forces. The Wire comes down firmly on the structural side of this debate. It demonstrates how the norms and codes of policing can drive even “good” police officers to do terrible things to criminal suspects. And it lays bare the collective action problem at the heart of police departments. In these respects, The Wire was a television show before its time. The Wire began describing the deeply rooted problem of police brutality in its first episodes, which aired in the summer of 2002. It was not until twelve years later, the summer of 2014, when the death of Michael Brown and the Black Lives Matter movement thrust these issues before the general public in a way that could no longer be ignored.

It is not in the nature of The Wire to suggest a way forward; The Wire is not a hopeful show. Nonetheless, we believe that it is possible to combat the toxic cultures of masculinity and loyalty, the collective action problem, and the unceasing War on Drugs that lie at the heart of systemic police brutality. The solutions will be politically difficult, and it is entirely possible that we will continue to lack the political will to achieve them. But as activists such as DeRay Mckesson—this Symposium’s keynote speaker—continue to mobilize and organize for change, they seem nearer than at any point in the sixteen years since The Wire first aired.

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an attempt to dissuade those police officers from properly doing their jobs. We have doubts that even the most sophisticated criminal organizations would take such a step and place their members in such direct contact with the police, but such prospects cannot be ruled out. If this became a serious problem, police departments might need to deploy a more complicated algorithm to determine which complaints to credit and which to ignore.