

# LABOR MOBILITY AND THE PROBLEMS OF MODERN POLICING

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*We document and discuss the implications of a striking feature of modern American policing: the stasis of police labor forces. Using an original employment dataset assembled through public records requests, we show that, after the first few years on a job, officers rarely change employers, and intermediate officer ranks are filled almost exclusively through promotion rather than lateral hiring. Policing is like a sports league, if you removed trades and free agency and left only the draft in place.*

*We identify both nonlegal and legal causes of this phenomenon—ranging from geographic monopolies to statutory and collectively bargained rules about pensions, rank, and seniority—and discuss its normative implications. On the one hand, job stability may encourage investment in training and expertise by agencies and officers alike; it may also attract some high-quality candidates, including candidates from underrepresented backgrounds, to the profession. On the other hand, low labor mobility can foster sclerosis in police departments, entrenching old ways of policing. Limited outside options may lead officers to stay in positions that suit them poorly, decreasing morale and productivity and potentially contributing to the scale of policing harms. In turn, the lack of labor mobility makes it all the more important to police officers to retain the jobs they have. This encourages them to insist on extensive labor protections and to enforce norms like the “blue wall of silence,” which exacerbate the problem of police misconduct. We suggest reforms designed to confer the advantages of labor mobility while ameliorating its costs.*

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## INTRODUCTION

Social unrest sparked by highly publicized incidents of police violence has intensified scholarly interest in the determinants of police behavior.

Recent work examines the influence of statutory and contractual labor protections,<sup>1</sup> management,<sup>2</sup> training,<sup>3</sup> diversity,<sup>4</sup> liability insurance,<sup>5</sup> selection into the profession,<sup>6</sup> and more. In this paper, we document and discuss the implications of a feature of modern American policing that has largely escaped notice, but that we argue deserves a place in the same conversations: the stasis of police labor forces.

<sup>1</sup> See Jamein Cunningham, Donna Feir & Rob Gillezeau, Overview of Research on Collective Bargaining Rights and Law Enforcement Officer's Bills of Rights (Dec. 3, 2020), [https://craftmediabucket.s3.amazonaws.com/uploads/LEOBR\\_Cunningham\\_12\\_3\\_20.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/LEOBR_Cunningham_12_3_20.pdf) [<https://perma.cc/8Q5J-UC6Cd>] (examining the impact of legislative provisions and union contracts on police violence); see also Abdul Nasser Rad, David S. Kirk & William P. Jones, *Police Unionism, Accountability, and Misconduct*, 6 ANN. REV. OF CRIMINOLOGY 181 (2023) (analyzing union influence on excessive use of force, including collective bargaining and legislative lobbying).

<sup>2</sup> See, e.g., George Bulman, *Law Enforcement Leaders and the Racial Composition of Arrests*, 57 ECON. INQUIRY 1842 (2019) (investigating the effects of management in law enforcement and finding that the Black-to-white arrest ratio is significantly higher under white leaders); Max Kapustin, Terrence Neumann & Jens Ludwig, *Policing and Management* (Nat'l Bureau of Econ. Rsch., Working Paper No. 29851, 2022), [https://www.nber.org/system/files/working\\_papers/w29851/w29851.pdf](https://www.nber.org/system/files/working_papers/w29851/w29851.pdf) [<https://perma.cc/G2GX-MZXU>] (measuring police management quality from an organizational economic perspective).

<sup>3</sup> See, e.g., Oeindrila Dube, Sandy Jo MacArthur & Anuj K. Shah, *A Cognitive View of Policing* (Nat'l Bureau of Econ. Rsch., Working Paper No. 31651, 2023), [https://www.nber.org/system/files/working\\_papers/w31651/w31651.pdf](https://www.nber.org/system/files/working_papers/w31651/w31651.pdf) [<https://perma.cc/64W8-3G73>] (finding that training can lead to safer police conduct and reduced use of force); Emily Owens, David Weisburd, Karen L. Amendola & Geoffrey P. Alpert, *Can You Build a Better Cop?: Experimental Evidence on Supervision, Training, and Policing in the Community*, 17 CRIMINOLOGY & PUB. POL'Y 41 (2018) (promoting a supervisory police training program and examining its positive impact on public trust); David Weisburd, Cody W. Telep, Heather Vovak, Taryn Zastrow, Anthony A. Braga & Brandon Turchan, *Reforming the Police Through Procedural Justice Training: A Multicity Randomized Trial at Crime Hot Spots*, PROCS. NAT'L ACAD. SCIS. 1 (2022) (using a randomized police trial to confirm that intensive procedural justice training can lead to more just and less disrespectful behaviors); George Wood, Tom R. Tyler & Andrew V. Papachristos, *Procedural Justice Training Reduces Police Use of Force and Complaints Against Officers*, 117 PROCS. NAT'L ACAD. SCIS. 9815 (2020) (showing that police training reduced civilian complaints and the use of force).

<sup>4</sup> See, e.g., Bocar A. Ba, Dean Knox, Jonathan Mummolo & Roman Rivera, *The Role of Officer Race and Gender in Police-Civilian Interactions in Chicago*, 371 SCIENCE 696 (2021) (suggesting diversity reforms can decrease use of force against minority communities); Bulman, *supra* note 2; Roman Rivera, *The Effect of Minority Peers on Future Arrest Quantity and Quality* (Mar. 26, 2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4067011](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4067011) [<https://perma.cc/XMM3-A7MC>].

<sup>5</sup> See, e.g., John Rappaport, *How Private Insurers Regulate Public Police*, 130 HARV. L. REV. 1539 (2017) (assessing the effects of liability insurance on police behavior); John Rappaport, *An Insurance-Based Typology of Police Misconduct*, 2016 U. CHI. LEGAL F. 369 (examining how liability insurance as a regulatory regime can reduce police misconduct); Joanna C. Schwartz, *How Governments Pay: Lawsuits, Budgets, and Police Reform*, 63 UCLA L. REV. 1144, 1204 (2016) (examining the role of outside insurers in law enforcement reform).

<sup>6</sup> See Dhammika Dharmapala, Nuno Garoupa & Richard H. McAdams, *Punitive Police? Agency Costs, Law Enforcement, and Criminal Procedure*, 45 J. LEGAL STUD. 105, 107 (2016) (identifying circumstances when individuals with "stronger-than-average punishment preferences" self-select to become criminal law enforcement agents).

Police labor mobility (as opposed to its absence) has received some recent attention. The “wandering officer,” for example—fired from one department only to be scooped up by another—has been targeted by legislators in multiple states.<sup>7</sup> The media have closely covered the threat of mass resignations in policing,<sup>8</sup> though it is unclear how widespread these departures really are.<sup>9</sup> In reality, however, these are the exceptions rather than the rule—the dominant story of police employment is one of continuity, not change.

We assemble an original dataset of police employment in the state of Illinois from public records requests. We analyze that data to understand the extent and nature of labor mobility among law enforcement officers. As we document, labor mobility in this context is quite low. By and large, officers remain in one job until retirement. In addition, the superior officer corps in any given department is drawn almost exclusively from police who have served their entire career in that department. The vast majority of detectives, sergeants, and lieutenants are promoted from within the existing ranks of a department, rather than hired from outside. Policing is like a sports league, if you removed trades and free agency and left only the draft in place.

The reasons, as we explain, are a combination of nonlegal and legal factors. Police departments hold natural geographic monopolies, which limit officers’ options for lateral movement. The job requires a great deal of knowledge specific to a particular department or jurisdiction, making any given officer more valuable to her current employer than to a potential future employer. And when officers do make lateral moves, they must typically sacrifice their rank, their seniority, and often even their pensions, pursuant to the terms of protectionist statutes and collective bargaining agreements. In elucidating these explanations, we draw upon an original analysis of online police job message boards,

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<sup>7</sup> See Ben Grunwald & John Rappaport, *The Wandering Officer*, 129 YALE L.J. 1676, 1682–84 (2020); see also Assemb. B. 190, 2021 Leg., Reg. Sess. (Wis. 2021) (codified as amended at WIS. STAT. §§ 165.85, 175.65, 940.203); S. 6489, 2021 Leg., Reg. Sess. (N.Y. 2021).

<sup>8</sup> See, e.g., Emma Colton, *St. Louis Police Department Resignations Stack Up as Leaders Sound the Alarm: ‘Reaching Critical Mass,’* Fox News (Oct. 19, 2022), <https://www.foxnews.com/us/st-louis-police-department-resignations-stack-up-leaders-sound-alarm-reaching-critical-mass> [<https://perma.cc/Y6PY-BFR2>] (covering the mass resignations of police officers in St. Louis and nationwide).

<sup>9</sup> See Weihua Li & Ilica Mahajan, *Police Say Demoralized Officers Are Quitting in Droves. Labor Data Says No.*, MARSHALL PROJECT (Sept. 1, 2021), <https://www.themarshallproject.org/2021/09/01/police-say-demoralized-officers-are-quitting-in-droves-labor-data-says-no> [<https://perma.cc/X6A7-27A5>] (pointing to Bureau of Labor Statistics data showing that local police departments lost only 1% of employees, in contrast to the 6% decrease in the overall U.S. economy).



where we observe officers discussing the reasons they do or do not elect to change jobs.

The implications of low labor mobility are potentially significant. On the one hand, workforce stability can motivate both departments and officers to invest in training and expertise, particularly department-specific training. It has likely led to more professional police forces, composed of career civil servants rather than political cronies who are hired and fired with every change in administration, as in earlier eras. And it may attract some high-quality candidates, including candidates from underrepresented backgrounds, who value job stability over labor mobility.

On the other hand, low labor mobility leads to sclerosis in police departments, cutting them off from new blood and perspectives. This sclerosis may infect the careers of individual officers as well. Officers can stagnate in jobs for years after they have ceased to be effective, and it is extraordinarily difficult for them to move to other departments where their skills might be more valuable. This may sap their job performance and even breed misconduct, sometimes over a period of decades. In turn, the lack of outside options makes it all the more important for officers to hold on to the jobs they have. This encourages them to bargain and lobby for extensive workplace protections and to enforce norms such as the “blue wall of silence” that protect against workplace discipline or termination.<sup>10</sup> Those protections exacerbate the problem of police misconduct. And local governments acquiesce because low officer mobility suppresses wages and minimizes turnover costs.

The paper proceeds in four parts. In Part I, using the original dataset we have assembled, we document and analyze the extent and nature of law enforcement labor mobility. We draw upon employment data for law enforcement officers from municipal and county agencies within the state of Illinois. Substantially similar results based on Florida data are included in an appendix. In Part II, we seek to explain this low labor mobility by identifying the labor frictions police officers face. We begin with nonlegal sources of labor friction, namely those related to the nature and geography of police work. We then address legally created sources of friction, those found within relevant statutes and collective bargaining agreements. In Part III, we shift our focus from the descriptive to the normative. We analyze the benefits and costs of low police labor mobility. Unlike many studies of labor mobility, our focus is not on the benefits and costs to the firms and employees themselves

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<sup>10</sup> The “blue wall of silence” or “code of silence” refers to the norm among police officers never to incriminate a fellow officer. See, e.g., Jerome H. Skolnick, *Corruption and the Blue Code of Silence*, 3 POLICE PRAC. & RSCH. 7, 7–9 (2002).

(though these are not unimportant). Rather, we center our analysis on the benefits and costs to the communities being policed—the externalities, both positive and negative, generated by the stagnation of police labor. It is difficult to estimate the net effect with any certainty—a question future empirical researchers might explore—but the benefits and especially the costs are potentially significant and ought to be taken seriously. Finally, in Part IV, we suggest potential reforms that might increase officer mobility while ameliorating the costs of doing so.

## I

### THE EXTENT AND NATURE OF POLICE LABOR MOBILITY

In this Part, we use data from Illinois to analyze the extent and nature of law enforcement labor mobility. We show, most importantly, that police officers change jobs infrequently. An officer, once hired to police in one jurisdiction, is unlikely to take a policing job elsewhere. This is true even in small, compact jurisdictions, such as the Chicago suburbs, where towns with populations in the tens of thousands abut one another with no obvious boundaries. Among other things, this means that senior, commanding officers typically have been promoted from within the force, rather than hired from outside. The result is that police departments are relatively insular, with the same officers serving together over many years.

We provide evidence on labor market mobility using administrative data from the Illinois Law Enforcement Training and Standards Board (ILETSB).<sup>11</sup> First, we briefly describe the data. We then present our main empirical results on police officers' professional trajectories within Illinois policing. To show that the patterns observed in Illinois are not unique, we provide in an Appendix similar analyses, with similar results, using administrative data from Florida.

#### A. Data

Our primary data source comes from ILETSB, which is charged with developing and promoting training standards within law enforcement and corrections in Illinois.<sup>12</sup> As part of these efforts, the agency collects and maintains training histories, employment histories, and departmental rosters for all Illinois law enforcement agencies.

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<sup>11</sup> ILL. L. ENF'T TRAINING & STANDARDS BD., <https://www.ptb.illinois.gov> [<https://perma.cc/Z5K8-A3W4>].

<sup>12</sup> *Id.* We thank Keith Wallace, Information and Technology Support Specialist at ILETSB, for providing the data and sharing many institutional insights.

We obtained these data in March of 2021. Our main sample consists of officers working full-time jobs in law enforcement—not including corrections, court security, or auxiliary work—that began in 2000 or later. To focus on the most common types of policing jobs, in constructing each officer's employment history, we include only stints at municipal and county agencies; we exclude jobs at universities, park districts, and other specialized agencies. We also omit employment stints at agencies that disbanded at any time in 2000 or after.<sup>13</sup> For each officer, we have information on all qualifying employment stints and employment-related events (i.e., hiring, separation, status change), as well as sex, race, date of birth, and educational attainment.<sup>14</sup> These data allow us to trace 20 years of police officer career trajectories within Illinois. Specifically, we can observe the universe of both internal promotions and lateral transfers for Illinois officers starting in 2000. The Data Appendix contains further details on the construction of our main sample as well as summary statistics about the officers in that sample.

The data do have some limitations. The first is that, by construction, we can observe police officer career trajectories within Illinois, but we do not observe employment outside the state or transfers across state lines. That said, for reasons we explain in Part II, interstate transfers are likely rare, and almost certainly rarer than in-state moves. Second, and relatedly, the data do not document mobility in states other than Illinois. Officer movement could look different in states with different geographic, legal, or cultural characteristics. Replication of the principal results using data from Florida, a southern state with a weaker union environment, partially addresses this concern, but does not eliminate it entirely.<sup>15</sup> Third, the data are designed to capture flows rather than stocks of employees. That is, we have information on hires, status changes, and separations, but if none of these events happens, we do not observe an officer. We have 20 years of data, which reduces the likelihood of missing officers, but we may still be missing some. To provide a benchmark for our measurements, in Figure A1, we show the relationship between our imputed

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<sup>13</sup> This happens in 17 out of more than 1,500 agencies in Illinois.

<sup>14</sup> Status changes include promotions, movement between part-time and full-time work, and changes in name or educational attainment.

<sup>15</sup> *Table 5. Union Affiliation of Employed Wage and Salary Workers by State*, U.S. BUREAU OF LAB. STATS. (Jan. 19, 2023), <https://www.bls.gov/news.release/union2.t05.htm> [<https://perma.cc/A38T-QSMBJ>] (illustrating different union environments, as the percentage of employed individuals who are members of unions in Illinois is more than double that in Florida in both 2021 and 2022).

officer counts<sup>16</sup> and counts reported in the U.S. Census Bureau’s Annual Survey of Public Employment & Payroll (ASPEP).<sup>17</sup> While overall, our estimates are highly correlated with ASPEP’s counts, we tend to undercount the number of officers relative to ASPEP, especially in earlier years.<sup>18</sup> This likely reflects the fact that we do not observe officers who were hired before 2000 unless and until they experience an employment-related event.

*B. Main Results*

Our empirical analysis is designed to explore the frequency, distribution, timing, and nature of lateral movement by law enforcement officers in Illinois. We begin by examining how many jobs Illinois officers hold during the course of a career. For this analysis, we use only police officers whose first job in Illinois policing was in 2010 or earlier, so that we have at least ten years to observe their movements in our data; this represents 53% of our main sample. Table 1 reports our findings.<sup>19</sup>

TABLE 1. PERCENTAGE OF OFFICERS WHO WORKED IN 1, 2, 3, OR 4+ AGENCIES, AMONG OFFICERS WHOSE FIRST ILLINOIS POLICING JOB WAS IN 2010 OR EARLIER

Number of agencies	% of officers
1	70.1
2	21.3
3	6.3
4+	2.3
Total	100.0
Observations	18,332

<sup>16</sup> In our data, we observe an officer’s start and end dates, when these are reported. We calculate the number of “active” law enforcement officers in year X as the number of people whose start date is before year X and end date is after year X (or has not yet occurred).

<sup>17</sup> ANN. SURV. OF PUB. EMP. & PAYROLL (ASPEP), <https://www.census.gov/programs-surveys/apes.html> [<https://perma.cc/E9M9-JKLS>]. ASPEP collects data “on all civilian employees of all federal government agencies[,] . . . all agencies of the 50 state governments, and more than 90,000 local governments.” DUREN BANKS, JOSHUA HENDRIX, MATTHEW HICKMAN & TRACEY KYCKELHAHN, U.S. DEP’T OF JUST., NCJ 249681, NATIONAL SOURCES OF LAW ENFORCEMENT EMPLOYMENT DATA 4 (2016), <https://bjs.ojp.gov/content/pub/pdf/nsleed.pdf> [<https://perma.cc/P6QB-G4H5>]. The ASPEP response rate tends to be fairly high: In 2012, for example, “the federal government and all 50 states had ASPEP unit response rates of 100%, and the local government response rate was 81%.” *Id.*

<sup>18</sup> The correlation coefficients between official counts and number of active officers in 2020 and 2005 are 0.92 and 0.76, respectively.

<sup>19</sup> Appendix Table A1 reports our corresponding findings for Florida.

Close to three-quarters of officers worked in only one agency, while only 9% worked at three or more. Of course, this analysis does not capture all jobs police officers might have held; in particular, it does not include jobs outside policing or (as mentioned) policing jobs outside Illinois. But in combination with the other results we will present, this is the outline of a picture of limited labor mobility among law enforcement personnel.

Table 2 breaks out mobility patterns by sex, race, ethnicity, and education level, for officers whose start date at a given agency was in March 2016 or earlier, giving us at least five years of observation.<sup>20</sup> We find greater lateral mobility for men than women, for white than Black officers, and for Black officers than officers of Hispanic descent.<sup>21</sup> Five years after starting a job, white male officers are relatively less likely than others to be working at the same place and more likely to be working at another agency in Illinois. The differences, moreover, seem principally attributable to voluntary rather than involuntary moves. Mobility is also greater for officers with lower educational attainment.

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<sup>20</sup> Appendix Table A2 reports similar analyses for Florida.

<sup>21</sup> Unless specified otherwise, the differences we report are statistically significant at the 5% level. This appears to be consistent with mobility patterns in other industries as well, though the reasons may differ from industry to industry. *See generally* Henry S. Farber, *The Analysis of Interfirm Worker Mobility*, 12 J. LAB. ECON 554, 567 (1994) (finding that in the context of worker mobility, females show less mobility than males at every experience level, while non-white workers show less mobility than white workers after their first year).

TABLE 2. SOCIODEMOGRAPHICS AND EMPLOYMENT STATUS, 5 YEARS AFTER  
START DATE AT AN AGENCY

	All	Male	Female	White	Black	Hispanic	HS	College	Assoc	BA
Still working	0.70	0.69	0.75	0.67	0.72	0.84	0.61	0.70	0.73	0.71
Left	0.25	0.26	0.19	0.28	0.21	0.13	0.33	0.24	0.22	0.26
Fired	0.03	0.03	0.05	0.03	0.07	0.03	0.05	0.04	0.03	0.03
Left IL	0.22	0.23	0.20	0.24	0.23	0.13	0.28	0.21	0.20	0.22
New job in IL	0.08	0.08	0.05	0.09	0.06	0.03	0.12	0.09	0.07	0.06
Observations	24,630	21,136	3,494	18,843	2,488	2,837	3,980	5,240	3,819	9,447

Note that these analyses look different in Florida: As shown in Appendix Table A2, there we find smaller differences across sex, race, and ethnicity than we do in Illinois (though the differences are directionally similar). The demographic patterns we report in Table 2 should therefore be interpreted as suggestive only.

Figures 1 and 2 present the yearly probability of leaving a job, by time spent at an agency.<sup>22</sup>

FIGURE 1. FRACTION OF OFFICERS LEAVING THEIR AGENCY EACH YEAR, BY NUMBER OF YEARS ON THE JOB

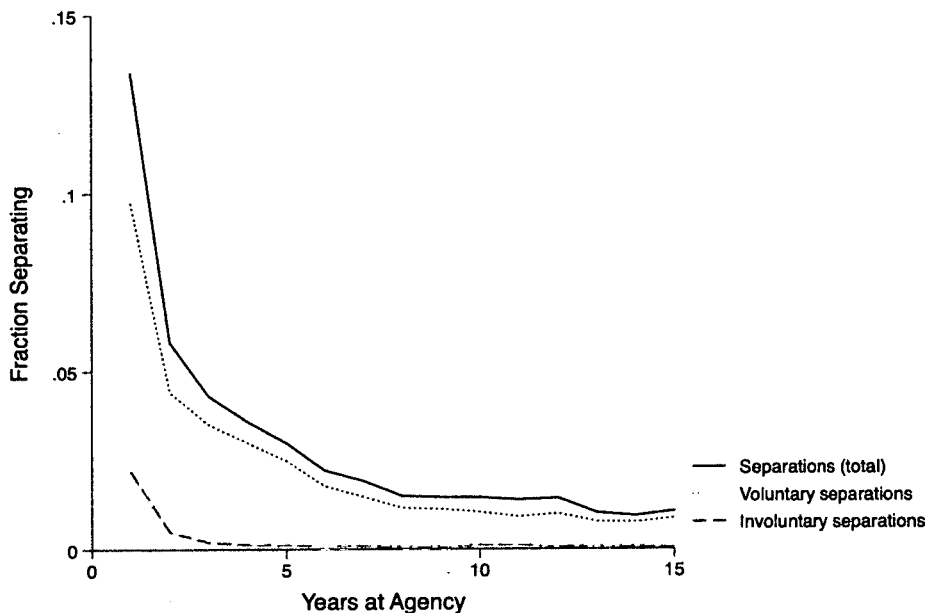
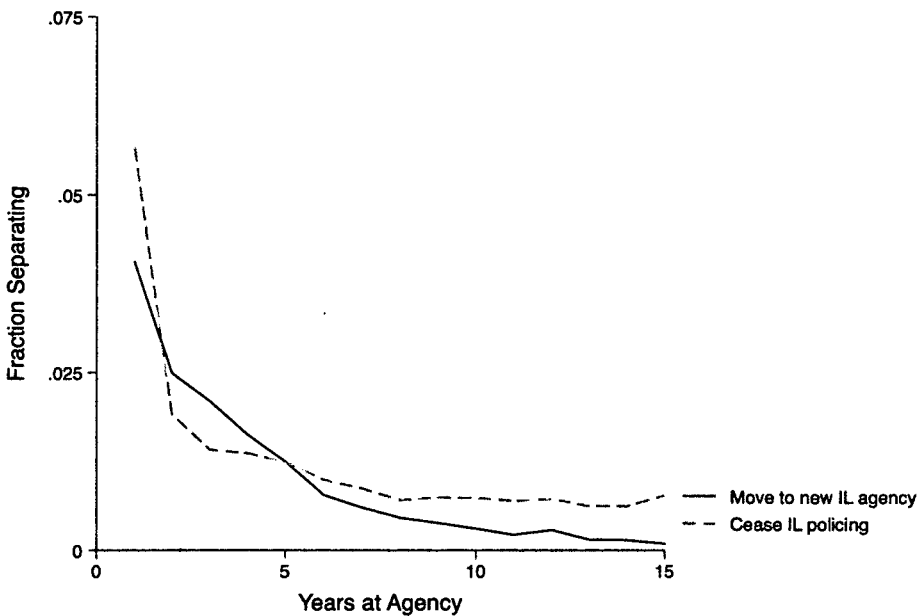


Figure 2 separates departing officers who transfer to another Illinois agency from those who do not, for the subset of officers who leave their jobs voluntarily. Cross-agency mobility is especially concentrated in the earliest years of a job (4% of officers change agencies in the first year of their job); lateral transfers are rare beyond the first five years of an officer's tenure (less than 0.7% per year in years 6 and onwards).

<sup>22</sup> Appendix Figures A2 and A3 report similar results for Florida.

FIGURE 2. FRACTION OF OFFICERS VOLUNTARILY LEAVING THEIR AGENCY EACH YEAR, BY NUMBER OF YEARS ON THE JOB



The overall shape of the job-separation trends, depicted in Figures 1 and 2, resembles that in other industries.<sup>23</sup> Both quits (voluntary separations) and firings (involuntary separations) are most frequent early on. The trend for quits in policing, as elsewhere, may occur because shortly after joining an agency, employees gain information about the job and assess the quality of the match. The same is true for employers about employees, which helps explain the shape of the firing trend. In the policing context, the firing trend may also reflect the primacy of the probationary period during which officers may be terminated without cause, before civil service and collective bargaining protections attach.<sup>24</sup>

<sup>23</sup> See, e.g., Iona Marinescu, *Job Security Legislation and Job Duration: Evidence from the United Kingdom*, 27 J. LAB. ECON. 465, 483 fig.3 (2009) (displaying job-separation trends in the UK labor market); Yoo Jik Cho & Gregory B. Lewis, *Turnover Intention and Turnover Behavior: Implications for Retaining Federal Employees*, 32 REV. PUB. PERS. ADMIN. 4, 12–13, 13 fig.1 (2012) (illustrating the job-separation trend of federal employees).

<sup>24</sup> SAMUEL WALKER & CHARLES M. KATZ, *THE POLICE IN AMERICA* 157–58 (9th ed. 2018). Nationally, around 5% of police recruits are rejected during their probationary period. BRIAN A. REAVES, U.S. DEP'T OF JUST., BUREAU OF JUST. STAT., *HIRING AND RETENTION OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS, 2008—STATISTICAL TABLES 14* (2012), <https://bjs.ojp.gov/content/pub/pdf/hrslleo08st.pdf> [<https://perma.cc/RW4A-R5KN>]. Individual agencies vary widely in their use of this managerial prerogative. See SUSAN E. MARTIN, *ON THE MOVE: THE*



That said, the quit rate in policing is lower than for other jobs in the United States in recent decades. For instance, one study of white-collar federal employees found that approximately a quarter of new hires left within the first year, another 16.5% (of those who remained) left in the second year, and another 12.4% (of those who remained) left in the third year.<sup>25</sup> These departure rates are significantly higher than the comparable rates for police officers we report in Figures 1 and 2: As an example, looking at overall separations from Figure 1, 13.4% of officers left their job in the first year, 5.8% of those remaining left in the second year, and 4.3% of those remaining left in the third year.

Relatedly, the Bureau of Labor Statistics conducts a series of longitudinal studies using a nationally representative sample of adults known as the National Longitudinal Surveys (NLS).<sup>26</sup> On average, NLS survey respondents held 12.4 jobs between ages 18 and 54.<sup>27</sup> While nearly half of these were held between ages 18 and 24, slightly more than half were held between ages 26 and 56—suggesting that turnover continues, albeit at a slower rate, even later in a typical career.<sup>28</sup> A 2019 study of millennials (people born between 1981 and 1996) found that 64% changed jobs at least once during a five-year sample period, with an average job tenure of approximately 3.5 years (and only 2.6 years for government workers).<sup>29</sup> Another, older paper found that a typical young male worker will have seven different employers in his first ten years in the workforce and upwards of ten employers overall.<sup>30</sup> These figures are again much higher than the comparable statistics for police officers we report in Table 1, which show that only 2.3% of officers have worked in as many as four agencies.

The most direct comparison to police officers is, in some respects, public school teachers, many of whom are governed by similar rules

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STATUS OF WOMEN IN POLICING 131–32 (1990) (finding that about two thirds of female officers who were separated in Chicago and Phoenix were probationers).

<sup>25</sup> Cho & Lewis, *supra* note 23, at 12.

<sup>26</sup> BUREAU OF LAB. STAT., U.S. DEP'T OF LAB., NUMBER OF JOBS, LABOR MARKET EXPERIENCE, MARITAL STATUS, AND HEALTH: RESULTS FROM A NATIONAL LONGITUDINAL SURVEY 1 (2021), [https://www.bls.gov/news.release/archives/nlsoy\\_08312021.pdf](https://www.bls.gov/news.release/archives/nlsoy_08312021.pdf) [<https://perma.cc/AY33-5LTX>].

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Khaldoun AbouAssi, Jasmine McGinnis Johnson & Stephen B. Holt, *Job Mobility Among Millennials: Do They Stay or Do They Go?*, 41 REV. PUB. PERS. ADMIN. 219, 228–31 (2021).

<sup>30</sup> Robert H. Topel & Michael P. Ward, *Job Mobility and the Careers of Young Men*, 107 Q. J. ECON. 439, 448, 449 tbl.III (1992).

regarding tenure, retirement plans, and so forth.<sup>31</sup> Yet the rate of job-switching among teachers is much higher than it is for police. One study found that, during a single year, 13% of all teachers left teaching or switched schools.<sup>32</sup> Using different data, the National Center for Education Statistics calculated that approximately 8% of teachers nationwide make a lateral move to a different teaching job each year.<sup>33</sup> By either measure, this is much higher attrition than we find for police officers: As Figure 1 indicates, by Year 3, the rate of departures among police is below 5%. In Illinois specifically, another study found that 14% of teachers had left the Illinois public schools after one year, and a total of 37% had departed after five years.<sup>34</sup> An additional 16% of teachers had moved schools within the Illinois system after one year, and 27% after five years.<sup>35</sup> This equates to roughly 7% of teachers leaving the Illinois system per year and another 5% of teachers moving schools within that system each year. As Figure 2 indicates, the comparable departure numbers for police officers are much lower.

In order to better understand the general phenomenon, we next examine the characteristics of the agencies that relatively few laterally mobile officers leave and join. First, we compare median salaries in officers' "old" and "new" agencies. We use agency-level salary data from ASPEP, collected by the Census in 2017. Figure 3 plots the distribution of changes in median salary—the difference in median salary between officers' old and new agencies.<sup>36</sup> As expected, officers are more likely to leave agencies with relatively lower salaries; the average bump in median salary is approximately \$4,500. Interestingly, however, 42% of officers move to an agency with a lower median salary. Note that we do not have data on individual officers' salaries, but rather on the

<sup>31</sup> See Jean-Pierre Aubry, Siyan Liu, Alicia H. Munnell, Laura D. Quinby & Glenn R. Springstead, *State and Local Government Employees Without Social Security Coverage: What Percentage Will Earn Pension Benefits That Fall Short of Social Security Equivalence?*, 82 Soc. SEC. BULL., no. 3, 2022, at 12–13 tbls.6, 7 (comparing retirement benefit formula and tenure for teacher and public safety workers).

<sup>32</sup> Sharon Kukla-Acevedo, *Leavers, Movers, and Stayers: The Role of Workplace Conditions in Teacher Mobility Decisions*, 102 J. EDUC. RSCH. 443, 446 (2009) (finding that overall 5% of teachers left teaching, and 8% switched schools during their career).

<sup>33</sup> NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., SCHOOLS AND STAFFING SURVEY TABLE 1 (2013), [https://nces.ed.gov/surveys/sass/tables/TFS1213\\_2014077\\_CF1N\\_001.asp](https://nces.ed.gov/surveys/sass/tables/TFS1213_2014077_CF1N_001.asp) [<https://perma.cc/749R-XLQF>].

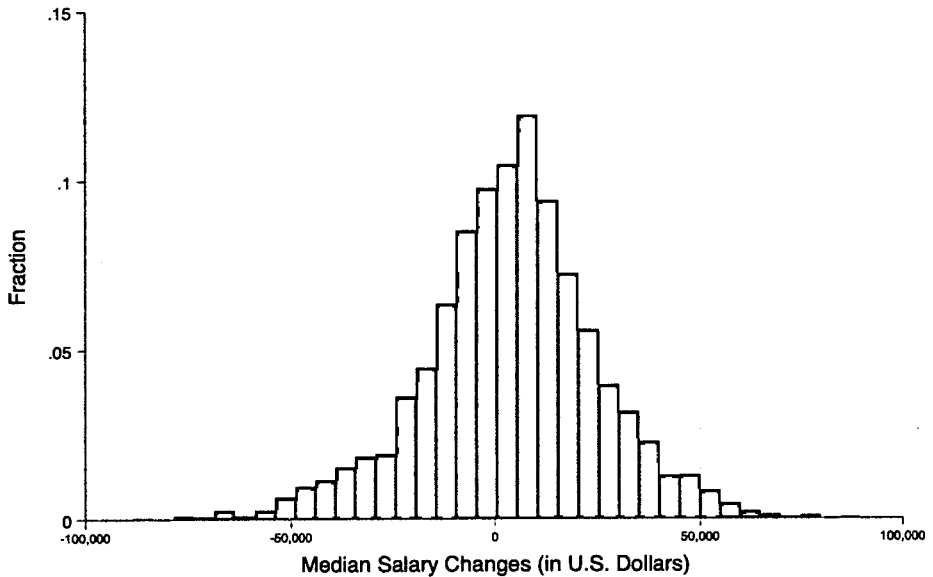
<sup>34</sup> KAREN J. DEANGELIS & JENNIFER B. PRESLEY, *LEAVING SCHOOLS OR LEAVING THE PROFESSION: SETTING ILLINOIS' RECORD STRAIGHT ON NEW TEACHER ATTRITION* 27 fig.7 (Ill. Educ. Rsch. Council ed., 2007), <https://files.eric.ed.gov/fulltext/ED497703.pdf> [<https://perma.cc/478V-4HA9>].

<sup>35</sup> *Id.*

<sup>36</sup> Appendix Figure A4 reports corresponding results for Florida.

median salaries within agencies. It is possible that officers who move to an agency with a lower median salary nonetheless receive pay raises by being hired at higher pay grades. Perhaps a more likely explanation is that there are compensating differentials; that is, the lower-paying jobs have desirable features such as less stressful working conditions.

FIGURE 3. DISTRIBUTION OF CHANGES IN SALARY FOR OFFICERS WHO VOLUNTARILY CHANGE AGENCIES



Second, we look at mobility by agency size. Using 2018 as an illustration, Figure 4 plots agency-level voluntary separation rates—that is, the number of separations at an agency in 2018 divided by the number of officers working at that agency in 2017—against deciles of agency size, using our ILETSB officer counts. The separation rate declines sharply with agency size. This is consistent with existing labor market literature finding that larger firms are better at retaining workers, plausibly because they offer superior benefits and growth opportunities.<sup>37</sup>

<sup>37</sup> See, e.g., John M. Barron, Dan A. Black & Mark A. Loewenstein, *Employer Size: The Implications for Search, Training, Capital Investment, Starting Wages, and Wage Growth*, 5 J. LAB. ECON. 76 (1987) (finding a positive correlation between employer size and wages); Walter Y. Oi, *Heterogenous Firms and the Organization of Production*, 21 ECON. INQUIRY 147, 148 (1983) (finding that wages, benefits, and trainings are positively related to firm size); John E. Garen, *Worker Heterogeneity, Job Screening, and Firm Size*, 93 J. POL. ECON. 715 (1985) (demonstrating that due to larger information cost of evaluating employee performance, bigger companies tend to choose a different compensation scheme from smaller firms,

FIGURE 4. FRACTION OF OFFICERS (LOG) WHO VOLUNTARILY SEPARATED IN 2018, BY AGENCY SIZE

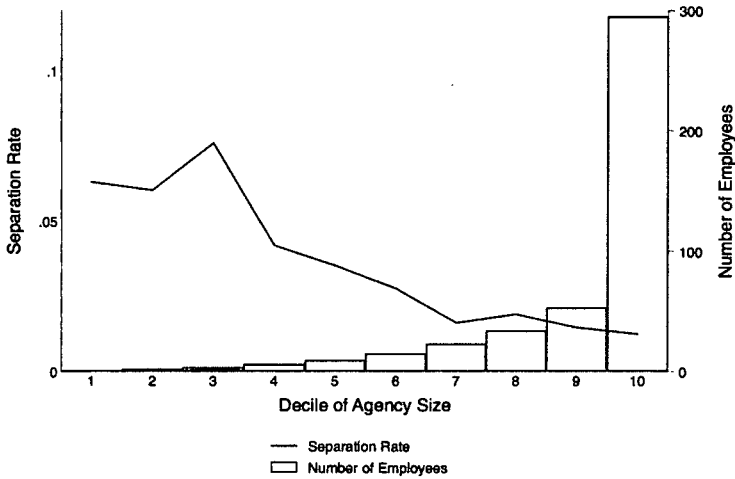
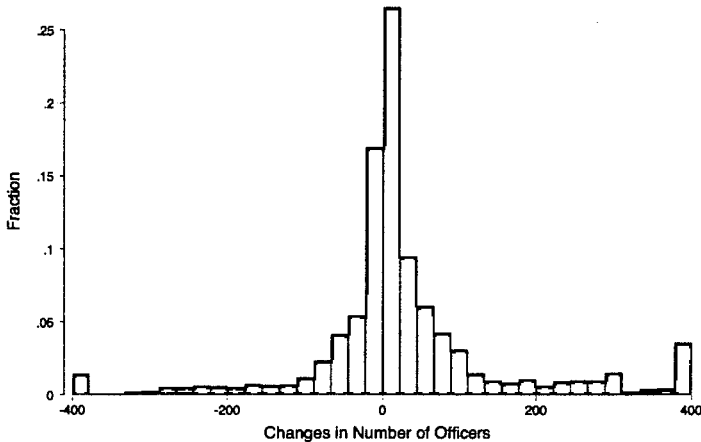


Figure 5 plots the distribution of changes in agency size for police officers who voluntarily switch employers. Most of these officers (62%) move to a larger agency—larger by eight officers, on average.

FIGURE 5. DISTRIBUTION OF CHANGES IN AGENCY SIZE FOR OFFICERS WHO CHANGE AGENCIES



Note: This figure plots the difference in size between officers' old and new agencies. We top-code and bottom-code changes in agency size at 400.

resulting in higher wages); Harald Dale-Olsen, *Wages, Fringe Benefits, and Worker Turnover*, 13 J. LAB. ECON. 87 (2006) (concluding that better wages and fringe benefit results in a lower turnover rate).

Lastly, we examine lateral transfer opportunities across the range of officer ranks. Table 3 describes how positions at each rank are filled—by internal promotion or lateral transfer.<sup>38</sup> Specifically, we calculate the proportion of officers who reached each rank by promotion—which appears as a “status change” on an officer’s personnel record—and by fresh appointment to the agency.<sup>39</sup>

The results here are striking: At intermediate ranks—detective, sergeant, lieutenant—more than 90% of positions are secured through promotion. Concomitantly, lateral moves at intermediate levels are rare. For upper leadership—i.e., police chiefs and their deputies—external hiring is more common. These positions are far scarcer than sergeant or lieutenant jobs, however, and do not make up a significant share of labor market opportunities. Nationally, an estimated 14% of all state and local law enforcement hires are lateral hires, according to a government report analyzing data from 2008.<sup>40</sup>

TABLE 3. FRACTION OF OFFICERS PROMOTED OR APPOINTED, BY RANK

Rank	Promotion	Appointment	N
police officer	0.62	99.38	19,672
detective	89.95	10.05	657
sergeant	97.65	2.35	2,003
lieutenant	89.10	10.90	523
deputy chief	70.13	29.87	308
chief	44.48	55.52	697

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Altogether, these data and analyses paint a picture of a largely stagnant police labor force. There is relatively little overall labor mobility among police, particularly when compared with other types of workers. The officers who do move do not do so following intuitive patterns—officers with less education are more likely to move than

<sup>38</sup> The “rank” field in ILETSB’s data is blank until 2008. Accordingly, this analysis is limited to hires and promotions that occurred in 2008 or later. Because our Florida data do not contain information on officer rank, we are unable to replicate this table for Florida officers.

<sup>39</sup> The number and names of officer ranks are not prescribed by law and vary substantially across Illinois agencies. To simplify presentation of the results, we have collapsed less common ranks into the most similar, more common ranks. For example, what we refer to as “lieutenant” includes other, less common intermediate ranks such as captain, major, and corporal. Our results are not affected by how we group these ranks.

<sup>40</sup> REAVES, *supra* note 24, at 16.

officers with more, and officers who move often do not appear to obtain higher wages. Finally, and crucially, the vast majority of higher-ranked officers are promoted from within the existing ranks rather than recruited laterally. Altogether, this means that police—both the rank and file and the officer corps—are likely to be lifers (or close to it) who have spent their entire careers at one agency.

## II

### THE CAUSES OF POLICE LABOR FRICTIONS

In this Part, we turn to explanations for low police labor mobility. Section II.A discusses nonlegal causes—that is, those that are primarily generated by the structure of the labor market—that are inherent to many occupations but especially pronounced for the police. Section II.B details legally generated employment frictions that derive from the ways in which law and contract construct terms of employment such as pensions and seniority systems. This dichotomy is necessarily imperfect, in the sense that all labor markets are legally constructed. But we believe it roughly captures the ways in which police officers are subject to labor frictions that affect other workers *as well as* frictions generated by laws specifically affecting law enforcement. In the aggregate, our goal is to offer a comprehensive picture of both the extent to which the modern police officer remains in her job over extended periods of time and why this is so.

#### A. Nonlegal Frictions

A voluminous literature in labor economics describes how changing jobs entails substantial frictions (and thus high switching costs) for workers.<sup>41</sup> Yet even against that backdrop, law enforcement jobs are characterized by comparatively high switching costs and limited mobility.<sup>42</sup> In this Section, we canvas the predominant sources of labor frictions common to all workers, explaining why each one produces especially significant friction in the law enforcement context.

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<sup>41</sup> The following Sections draw from Jonathan S. Masur & Eric A. Posner, *Horizontal Collusion and Parallel Wage-Setting in Labor Markets*, 90 U. CHI. L. REV. 545 (2023), which finds that the pay equity norm, downward nominal wage rigidity, and related factors prevent workers from changing jobs and facilitate tacit coordination in labor markets.

<sup>42</sup> As a general matter, workers who wish to take new jobs face high search costs, even in the internet era. And because accepting a job can entail a serious commitment, choosing an opportunity typically involves significant inquiry into work conditions. All of this must be undertaken while workers are busy at their current jobs. This factor is largely consistent across law enforcement and non-law enforcement careers, however. That is, we do not have reason to believe it is any more difficult to search for law enforcement jobs than it is to search for non-law enforcement jobs. Accordingly, we do not dwell on this point further.

## 1. *Job Differentiation and Commuting*

While it may seem from the outside that many types of jobs are fungible, in reality jobs can differ along a wide variety of dimensions important to workers.<sup>43</sup> For instance, even an apparently equivalent job could be located farther from the worker's home, necessitating a longer commute and making the job less attractive to the worker.<sup>44</sup>

This problem is exacerbated in the law enforcement context by the fact that police departments are natural monopolies (or at least oligopolies).<sup>45</sup> Nearly any given jurisdiction hosts at most a handful of police agencies. And in many cases, there may be only one police force with an active presence. Consider, for instance, the city of Elgin, Illinois, a municipality home to approximately 115,000 people located in Kane County, roughly thirty-five miles northwest of the city of Chicago.<sup>46</sup> Elgin has its own police force, the Elgin Police Department.<sup>47</sup> It is also within the jurisdiction of the Kane County Sheriff's Department, as well as the Illinois State Police. The Kane County Sheriff's Department has its headquarters in St. Charles, Illinois, however, roughly twenty-five minutes away by car. The nearest headquarters for the Illinois State Police is even farther. There are of course other towns in suburban Illinois with police departments, but those are equally far away. A restless member of the Elgin Police Department seeking another job—again, in a city of 115,000 people—thus has only two options: commute a significant distance or move.

This contrasts with many other occupations, where a larger number of employers may lie within a relatively small commuting distance. Elgin contains multiple law offices, multiple plumbers, multiple automobile repair shops, and multiple doctors' offices and

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<sup>43</sup> Cf. Nina Roussille & Benjamin Scuderi, *Bidding for Talent: Equilibrium Wage Dispersion on a High-Wage Online Job Board* (Feb. 2023) (unpublished manuscript), [https://economics.princeton.edu/wp-content/uploads/2022/01/Scuderi\\_JMP.pdf](https://economics.princeton.edu/wp-content/uploads/2022/01/Scuderi_JMP.pdf) [<https://perma.cc/H6YX-NE9X>] (finding that employees are willing to accept substantially discounted wages in exchange for firm-provided amenities, and that this willingness leads to imperfectly competitive labor markets).

<sup>44</sup> Cf. Sydnee Caldwell & Oren Danieli, *Outside Options in the Labor Market* (July 2022) (working paper), [https://sydneec.github.io/Website/Caldwell\\_Danieli.pdf](https://sydneec.github.io/Website/Caldwell_Danieli.pdf) [<https://perma.cc/S9VR-KTEG>] (finding that the implicit costs of commuting and moving are the primary determinant of an individual's outside job options and explain 20% of the gender wage gap); see also Suresh Naidu, Eric A. Posner & Glen Weyl, *Antitrust Remedies for Labor Market Power*, 132 HARV. L. REV. 536, 554 (2018) ("Other amenities might arise more naturally: for example, the location of an employer might appeal to workers because of the convenience for commuting . . .").

<sup>45</sup> See generally WILLIAM W. SHARKEY, *THE THEORY OF NATURAL MONOPOLY* (1983).

<sup>46</sup> *Elgin City, Illinois*, UNITED STATES CENSUS BUREAU, [https://data.census.gov/profile/Elgin\\_city\\_Illinois?g=160XX00US1723074](https://data.census.gov/profile/Elgin_city_Illinois?g=160XX00US1723074) [<https://perma.cc/H8BU-8K72>].

<sup>47</sup> ELGIN POLICE DEP'T, <https://www.cityofelgin.org/82/Police> [<https://perma.cc/X3D3-XCAM>].

hospitals—but only one police force. To be sure, an Elgin police officer could leave the public sector and join a private security firm. But those jobs are typically considered inferior to public policing jobs<sup>48</sup> and generally pay lower wages.<sup>49</sup> Relatively few police officers leave their jobs to work in private security.<sup>50</sup> The consequence is that, compared to other workers, police officers have fewer—sometimes far fewer—employment options within their commuting zones.

On top of all this, many cities have local ordinances requiring employees to live within city limits. (The City of Chicago is one such municipality.<sup>51</sup>) These rules often exist for good reasons;<sup>52</sup> our goal here is not to critique them. Rather, the point is that switching jobs will often mean moving homes, which greatly increases frictions in the law enforcement labor market.

## 2. *The Relational Nature of Work*

Many jobs are also relational, in the sense that one's co-workers are highly important to the work that one does.<sup>53</sup> When an employee comes

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<sup>48</sup> See CHARLOTTE HOWELL & MARTIN GILL, PERPETUITY RSCH. & CONSULTANCY INT'L, POLICE VIEWS ON PRIVATE SECURITY 42–43 (2017), <https://perpetuityresearch.com/wp-content/uploads/2017/09/2017-09-Police-Views-on-Private-Security.pdf> [https://perma.cc/R5ZQ-TCA4] (finding that UK police officers have a generally negative view of the private security sector due to a perceived lack of training and accountability); Jason Mitchell, Comment to *What Do Police Officers Think of Private Security Guards?*, QUORA (Jan. 5, 2019, 12:57 PM), <https://www.quora.com/What-do-police-officers-think-of-private-security-guards> [https://perma.cc/UW83-USR9] (“I was only rarely impressed with security guards. Most of the ones that street cops run into are low-paid people with little training. . . . Armed security has generally struck me as a joke.”); *Private Security Officers – Breaking the Stereotype?*, SECURITYRI (Aug. 28, 2014), <https://www.securityri.com/private-security-officers-breaking-stereotype/> [https://perma.cc/23RF-GHUQ] (observing that private security officers are often perceived negatively in terms of productivity and competency).

<sup>49</sup> *Compare Police and Detectives*, U.S. BUREAU OF LAB. STAT., <https://www.bls.gov/ooh/protective-service/police-and-detectives.htm#tab-1> [https://perma.cc/R4G4-Y58T] (last modified Sept. 8, 2022) (finding that median pay for police officers and detectives in 2022 was \$69,160 per year), with *Security Guards and Gambling Surveillance Officers*, U.S. BUREAU OF LAB. STAT., <https://www.bls.gov/ooh/protective-service/security-guards.htm> [https://perma.cc/XXE5-9W6W] (last modified Sept. 8, 2022) (finding that median pay for security guards in 2022 was \$34,770 per year).

<sup>50</sup> See Ben Grunwald & John Rappaport, *Private Security and Public Police*, 21 J. EMPIRICAL LEGAL STUD. (forthcoming 2024) (finding that former police only make up a small share of private security, and roughly a quarter of them were fired from public policing).

<sup>51</sup> CST Editorial Board, *Chicago Pays Your Paychecks, So Live in the City*, CHI. SUN-TIMES (Mar. 20, 2017), <https://chicago.suntimes.com/2017/3/20/18351048/chicago-pays-your-paycheck-so-live-in-the-city> [https://perma.cc/9V6D-GHRD].

<sup>52</sup> See ROBERT M. FOGELSON, *BIG-CITY POLICE* 249–50 (1977) (describing conflicts over residency requirements in the context of white flight and changing urban demographics).

<sup>53</sup> Cf. Nina Bandelj, *Relational Work in the Economy*, 46 ANN. REV. SOCIO. 251 (2020) (outlining the significance of relational work factors in employment choices); see also Eric A.



to know (or even like) her co-workers, this increases the subjective value of her current job. It may be challenging for the employee to determine whether she can work as effectively with co-workers at a different firm, particularly when she is searching for a job. If nothing else, she faces greater uncertainty in moving to another job where she may not know her co-workers (and may turn out to like them less).<sup>54</sup>

Policing is a quintessentially relational job. Many police officers, particularly those who work in larger cities, patrol or investigate crimes with partners.<sup>55</sup> For police officers, the relationship with one's partner is an essential one. Police depend upon their partners—and in particular, their partners' judgment and discretion—to keep them physically safe, to help them control potentially dangerous situations, and even to assist them in covering up their own misconduct.<sup>56</sup> Even beyond the partner, relationships within a police department are critical to the quality and functioning of any given officer's job. Officers frequently work in larger groups or specialized units, particularly when patrolling high-crime areas.<sup>57</sup>

Police departments are also hierarchical, like military organizations, with each officer reporting to a superior officer, all the way up to the department head.<sup>58</sup> An officer's superior has, among other things, substantial control over her work assignments. While the precise rules vary, in general a supervising officer (such as a sergeant) can decide whether an officer will have a desirable or undesirable patrol beat, such

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Posner, *The Economic Basis of the Independent Contractor/Employee Distinction*, 100 TEX. L. REV. 353, 366 (2021) (“Unlike Andrew, Beth engages in primarily relational work in the following sense: the value of the service she offers is dependent on her relationship with the client and with her coworkers . . .”).

<sup>54</sup> Cf. Boyan Jovanovic, *Job Matching and the Theory of Turnover*, 87 J. POL. ECON. 972, 973 (1979) (describing employment as an “experience good” that must be experienced to be understood).

<sup>55</sup> JOHN S. DEMPSEY, LINDA S. FORST & STEVEN B. CARTER, AN INTRODUCTION TO POLICING 274 (2019).

<sup>56</sup> *Id.* (“Some officers have related that if not for their partner being present, they would be dead or seriously injured.”); cf. Alejandro del Carmen & Lori Guevara, *Police Officers on Two-Officer Units: A Study of Attitudinal Responses Towards a Patrol Experiment*, 26 POLICING 144, 151–54 (2003) (reporting survey results in which police officers indicated their perceptions of some of the advantages of patrolling with a partner).

<sup>57</sup> See, e.g., *LAPD Organization Chart*, LAPD ONLINE, <https://www.lapdonline.org/lapd-organization-chart> [<https://perma.cc/M6NK-DHEX>] (describing the Los Angeles Police Department's ten specialized units). While perhaps more common in large cities, small towns, too, run specialized units like SWAT teams. E.g., Radley Balko, *Small-Town SWAT Teams Proliferate in Western Massachusetts*, WASH. POST (Nov. 13, 2017), <https://www.washingtonpost.com/news/the-watch/wp/2017/11/13/small-town-swat-teams-proliferate-in-western-massachusetts> [<https://perma.cc/WA74-H988>].

<sup>58</sup> See William R. King, *Toward a Better Understanding of the Hierarchical Nature of Police Organizations: Conception and Measurement*, 33 J. CRIM. JUST. 97, 102 (2005) (explaining how police departments model their hierarchical rank structures after the military, even borrowing direct terms, such as “captain” and “sergeant”).

as in a safe area or a dangerous one.<sup>59</sup> Superior officers also typically hold the authority to shift officers between duties, turning a beat cop into a desk jockey or vice versa.<sup>60</sup> As the reader can no doubt imagine, these types of workplace decisions can profoundly affect the quality of an officer's job. Accordingly, maintaining good relationships with one's superiors and fellow officers is essential to the job of law enforcement. The incentives to develop goodwill are therefore strong, and once an officer has accrued significant goodwill, the cost of switching to another law enforcement agency—where the officer has fewer relational ties—is likely substantial.

### 3. *Firm-Specific Knowledge*

Employers often have idiosyncratic office-specific or firm-specific preferences and ways of doing business.<sup>61</sup> Supervisors might prefer work to be done in particular ways, or there might be tacit knowledge that is important to the job but can be learned only through experience. An employee who possesses the relevant know-how is more valuable to the firm than a new hire who does not.<sup>62</sup> Switching jobs means accumulating this knowledge all over again for the new firm, which can be costly to the employee. The potential employee also may not be able to determine ahead of time what or how much knowledge she will have to acquire in her new job. And because firm-specific knowledge makes employees more valuable to their current employer than to an alternative employer, it can be difficult for workers to find higher-paying jobs.<sup>63</sup>

In some respects, law enforcement involves consistent skills that translate across departments. Police officers learn the rules of criminal procedure, how to effectuate arrests and question suspects, how to make traffic stops safely and effectively, how to defuse and

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<sup>59</sup> See WALKER & KATZ, *supra* note 24, at 103–09.

<sup>60</sup> *Id.* at 105–09.

<sup>61</sup> See Heli C. Wang, Jinyu He & Joseph T. Mahoney, *Firm-Specific Knowledge Resources and Competitive Advantage: The Roles of Economic- and Relationship-Based Employee Governance Mechanisms*, 30 STRATEGIC MGMT. J. 1265, 1267 (2009) (“If a firm pursues new knowledge close to its existing knowledge base and with specific applications to its own business setting, the firm is likely to develop firm-specific knowledge, which is more useful to the firm and has less applicability across firm boundaries.”).

<sup>62</sup> *Cf. id.* (noting the limited applicability of firm-specific human capital in alternate settings); Russell Coff & Joseph Raffiee, *Toward a Theory of Perceived Firm-Specific Human Capital*, 29 ACAD. MGMT. PERSPS. 326, 372 (2015) (discussing the decreased utility of firm-specific human capital outside the firm where the capital was developed).

<sup>63</sup> See Heli Wang, Jaepil Choi, Guoguang Wan & John Qi Dong, *Slack Resources and the Rent-Generating Potential of Firm-Specific Knowledge*, 2 J. MGMT. 500, 501 (2013) (suggesting a holdup problem in labor markets because human capital investments are more valuable within the firm than outside of it); Coff & Raffiee, *supra* note 62, at 327 (noting that employees with firm-specific skills experience decreased productivity when transferring jobs).

de-escalate hostile situations and build trust with civilians they police (one hopes), how to fire their weapons and use other police equipment, and so forth.<sup>64</sup> These are all relevant skills no matter where the officer works.

Yet policing also involves a significant amount of firm-specific knowledge. Police department policy manuals are notoriously prolix. The New York Police Department's patrol manual, for example, is well over 1,000 pages, chock-full of minutiae about protocols and paperwork.<sup>65</sup> Among many other things, police departments vary widely regarding the data they require officers to capture on the job and the technology they use to capture it.<sup>66</sup> There is surprisingly little standardization on these points.

Wholly apart from policies and paperwork, to be effective, a police officer must know the area she patrols—the streets, the citizenry, and the nature of local problems and issues.<sup>67</sup> In part, this means she must be able to navigate her physical environment fluidly to get around during emergencies. That requires knowledge of the streets and layout of the jurisdiction. As one officer put it on a police message board, referring to a lateral recruit: “The new officer has to learn a lot of things which are specific to the new department—geography being the biggest issue right off the bat.”<sup>68</sup> The kinds of situations officers are asked to handle and the norms and needs of the local community are also likely to vary across jurisdictions.

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<sup>64</sup> E.g., Chicago Police Department, Education and Training Division, <https://home.chicagopolice.org/about/specialized-units/education-and-training-division-etc> [https://perma.cc/V5VF-G7NV] (describing the content of Chicago police academy training).

<sup>65</sup> *Patrol Guide*, N.Y.C. POLICE DEP'T, <https://www.nyc.gov/site/nypd/about/about-nypd/manual.page> [https://perma.cc/4X5A-FTKJ] (last updated Feb. 15, 2024).

<sup>66</sup> See CRIM. JUST. STAT. INTERAGENCY WORKING GROUP OF THE NAT'L SCI. & TECH. COUNCIL, EQUITY & LAW ENFORCEMENT DATA COLLECTION, USE, AND TRANSPARENCY 16 (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/NSTC-Equity-and-Law-Enforcement-Data.pdf> [https://perma.cc/5VJG-BTQD] (describing the challenges facing law enforcement agencies seeking to collect policing data due to varying reporting requirements and organizational capacity); see also Rachel Harmon, *Why Do We (Still) Lack Data on Policing?*, 96 MARQ. L. REV. 1119, 1129, 1133 (2013) (highlighting aspects of law enforcement data collection practices that make it difficult to make interdepartmental comparisons or arrive at conclusions about policing across the nation).

<sup>67</sup> See Sulaimon Giwa, Carl E. James, Uzo Anucha & Karen Schwartz, *Community Policing—A Shared Responsibility: A Voice-Centered Relational Method Analysis of a Police/Youth-of-Color Dialogue*, 12 J. ETHNICITY CRIM. JUST. 218, 225–29 (2014) (finding that community youth and police officers believe community presence, engagement, and knowledge is essential to building relationships between law enforcement and communities they police).

<sup>68</sup> Christopher Hawk, Comment to *Can You Keep Your Rank If You Are a Police Detective and Moving to Another State to Work There for the Police?*, QUORA (June 30, 2019, 3:09 PM), <https://www.quora.com/Can-you-keep-your-rank-if-you-are-a-police-detective-and-moving-to-another-state-to-work-there-for-the-police> [https://perma.cc/JK4S-V5R6].

Because policing jurisdictions generally do not overlap, an officer's familiarity with a given geographic area or community is firm-specific, non-transferrable knowledge that will not significantly aid the officer if she transfers to a different job.<sup>69</sup> If an Elgin police officer takes a job in St. Charles or Chicago, her knowledge of the streets and people of Elgin is largely worthless. Even if she were to take a job with the Kane County Sheriff, whose jurisdiction partially overlaps with that of the Elgin Police Department, she would most likely end up patrolling a different geographic area, populated by different residents.<sup>70</sup> Part of the reason is that Elgin is only a small fraction of Kane County; part of the reason is that city police and county sheriffs typically patrol different parts of any given county. County sheriffs generally focus on unincorporated areas of the county, as well as roads that connect incorporated cities.<sup>71</sup> Rarely are they involved in the workaday patrol of city neighborhoods, the bread and butter of city agencies. Accordingly, an officer who moves from the Kane County Sheriff's Office to the Elgin Police Department (or the reverse) is extremely unlikely to wind up policing her old beat. In all likelihood, she will interact with different communities on different terms.

Effective policing, however, requires nurturing relationships with the local population.<sup>72</sup> No police force is omnipresent; tips from residents are mission-critical. But residents may be willing to share useful intelligence only if they trust the police and believe the police have their best interests at heart.<sup>73</sup> Accordingly, establishing these types of relationships—which are often frayed by police misconduct, racism, and other social factors—is a priority of modern police forces, as exemplified through the focus on “community policing,” in which police officers (at least ostensibly) attempt to integrate themselves into the communities they serve and develop relationships with community

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<sup>69</sup> Cf. Edward P. Lazear, *Firm-Specific Human Capital: A Skill-Weights Approach*, 117 J. POL. ECON. 914, 914–16 (2009) (explaining the importance of firm-specific skills in other contexts).

<sup>70</sup> See *Kane County Maps*, CNTY. OF KANE, <https://gistech.countyofkane.org/gisims/KaneMap/getCBDists.html> [<https://perma.cc/EJ2Q-5GN6>] (describing the jurisdictional boundaries of Kane County).

<sup>71</sup> See KANE CNTY. SHERIFF'S OFF., ANNUAL REPORT 2021 (2021), [https://www.kanesherriff.com/Documents/Annual%20Report/2021\\_KCSO\\_Annual\\_%20Report.pdf](https://www.kanesherriff.com/Documents/Annual%20Report/2021_KCSO_Annual_%20Report.pdf) [<https://perma.cc/32UB-UZK9>] (“In addition to providing direct law enforcement and public safety service to all citizens in unincorporated Kane County, the Sheriff's Office also supplements and assists other law enforcement agencies in the County as needed.”).

<sup>72</sup> See Kyle Peyton, Michael Sierra-Arévalo & David G. Rand, *A Field Experiment on Community Policing and Police Legitimacy*, 116 PROCS. NAT'L ACAD. SCIS. 19894 (2019) (noting the importance of cooperative relationships to police function and finding positive interactions with police can improve community reputation and cooperation).

<sup>73</sup> See generally *id.*

members.<sup>74</sup> An officer who makes a lateral move will lose most or all of the benefit of her firm-specific relationship knowledge.<sup>75</sup> The fact that an officer who makes a lateral move cannot step into her new job with the same level of expertise she had in her prior position will make her less valuable to a putative lateral employer and thus less likely to find a higher-paying job.

#### 4. *Adverse Selection*

Finally, employers are more likely to fire poorly performing employees than high-performing ones (or urge them to seek outside employment as an alternative to being fired). This creates an adverse selection problem: If employers cannot easily ascertain the quality of lateral job candidates, they may suspect that any worker who is actively looking for work is of low quality and is on the verge of being fired, especially in industries where changing jobs is rare.<sup>76</sup> The rational (and typical) response to this type of adverse selection problem is simply to avoid hiring candidates who are looking to leave their existing jobs, at least when it is not possible to verify the quality of their prior work.<sup>77</sup> This creates substantial labor frictions for employees seeking to make lateral moves.

In some respects, law enforcement might seem less subject to adverse selection problems than are other types of employment. Most police officers enjoy substantial job protections that make them difficult to fire.<sup>78</sup> This means, first of all, that not many officers should

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<sup>74</sup> See Wesley G. Skogan, *Advocate: Community Policing*, in POLICE INNOVATION: CONTRASTING PERSPECTIVES 27 (2d ed. 2019) (analyzing the operation and value of community policing); MIKE BROGDEN & PREETI NIJHAR, COMMUNITY POLICING (2005) (describing the prevalence of the community policing model in modern policing discourse and stating its core propositions).

<sup>75</sup> Cf. Lazear, *supra* note 69, at 915 (explaining that even general skills can be required in a firm-specific combination, lessening their applicability in a new position).

<sup>76</sup> See Masur & Posner, *supra* note 41, at 554 (describing this adverse-selection problem); Daron Acemoglu & Jörn-Steffen Pischke, *Why Do Firms Train? Theory and Evidence*, 113 Q.J. ECON. 79, 82 (1998) (describing how asymmetrical information about both a prospective job candidate's training and ability could affect their prospects in the outside market).

<sup>77</sup> See Bruce N. Greenwald, *Adverse Selection in the Labor Market*, 53 REV. ECON. STUD. 325, 325 (1986).

<sup>78</sup> See Grunwald & Rappaport, *supra* note 7, at 1707 n.41 (collecting sources). See generally Kevin M. Keenan & Samuel Walker, *An Impediment to Police Accountability? An Analysis of Statutory Law Enforcement Officers' Bills of Rights*, 14 PUB. INT. L. J. 185 (2005) (discussing the Law Enforcement Officers' Bill of Rights, enacted in many states, which grants officers additional layers of employee due process protections when faced with official misconduct investigations). Moreover, even when officers are fired, they are frequently reinstated during labor arbitration proceedings pursuant to those same labor protections. See, e.g., Stephen Rushin, *Police Disciplinary Appeals*, 167 U. PA. L. REV. 545, 565 (2019)

be on the chopping block and looking for new gigs. As a result, one could imagine that, in equilibrium, law enforcement agencies will be disinclined to assume that lateral candidates are seeking work because they are on the verge of being fired, thereby mitigating the adverse selection problem.

Yet there are reasons to believe this more encouraging story will not come to pass. To begin with, although police officers are hard to fire, they can be “quiet fired”—their working conditions can be substantially worsened, as the prior Sections detailed.<sup>79</sup> If they are thought to be performing poorly, they can be sent on dangerous or difficult assignments or simply given rote and undesirable desk jobs. A potential new employer might rationally believe that a lateral candidate has been deemed subpar and sanctioned in one of these ways.

In addition, precisely because it is so difficult to fire a police officer, the fact that an officer is looking for work raises alarm that she has engaged in *very* significant misconduct such that her job is now imperiled.<sup>80</sup> The prospective employer might therefore be even more reluctant to take a chance on hiring her away from another agency.<sup>81</sup> And while the prospective employer can, of course, conduct a background check and contact the current employer for a reference, “[a]necdotal evidence suggests that officers who commit misconduct are often allowed to resign, with a guaranteed positive work reference, in exchange for forgoing legal action.”<sup>82</sup>

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(citing a *Washington Post* article finding that the disciplinary appeals process forced the Philadelphia Police Department to rehire 62% of the officers fired for misconduct); Stephen Rushin, *Police Arbitration*, 74 VAND. L. REV. 1023, 1030 (2021) (finding that arbitrators ordered reinstatement of previously terminated officers 46% of the time); Hassan Kanu, *Fired Cops Routinely Rehired, from D.C. to California*, REUTERS (Nov. 7, 2022), <https://www.reuters.com/legal/government/fired-cops-routinely-rehired-dc-california-2022-11-07> [<https://perma.cc/V5GX-3YCP?type=image>] (noting that arbitrators frequently overturn officer disciplinary measures and terminations); Mara H. Gottfried & Sarah Horner, *How Often Do Arbitrators Reinstate Fired Cops? Just Under Half the Time*, PIONEER PRESS (June 23, 2019), <https://www.twincities.com/2019/06/23/how-often-do-arbitrators-reinstate-fired-cops-just-under-half-the-time> [<https://perma.cc/2UQG-J48S>] (observing that arbitrators frequently replaced officer terminations with milder consequences like suspensions).

<sup>79</sup> See *infra* Section II.A.2 (describing the hierarchical nature of policing and the manner in which superior officers can affect the working conditions of line officers).

<sup>80</sup> Cf. 44 PA. CONS. STAT. § 7306(a) (2020) (stating that “[i]n the absence of fraud or malice, a law enforcement agency is immune from civil liability for employment information released to a prospective employing law enforcement agency”).

<sup>81</sup> Cf. Paul Oyer & Scott Schaefer, *Personnel Economics: Hiring and Incentives* 19–20 (Nat’l Bureau of Econ. Rsch., Working Paper No. 15977, 2010), [https://www.nber.org/system/files/working\\_papers/w15977/w15977.pdf](https://www.nber.org/system/files/working_papers/w15977/w15977.pdf) [<https://perma.cc/HR5B-N4KT>] (arguing that employers tend to deflate the offered wages of candidates they perceive to be risky hires).

<sup>82</sup> Grunwald & Rappaport, *supra* note 7, at 1695.

The cumulative effect of these forces is ambiguous: It is hard to say with certainty, as a theoretical matter, whether law enforcement officers seeking to change jobs will face greater or lesser adverse selection problems than do other types of workers. Our point here is that the adverse selection process is still likely to operate to their detriment, at least to some degree, thus further limiting their labor mobility.

### B. *Legal Frictions*

An intricate set of police-specific laws and contractual agreements compounds the economic labor frictions just described. As one career website advises:

Police recruiters are often asked about the possibility of lateral transfers from one agency to another. Recruits want to know if police officers . . . can easily move jobs between departments, jurisdictions, or even from one state to another. The idea seems simple enough. Plenty of people can find another position in their chosen field in the private sector with relative ease. Workers can easily get hired in new cities, counties, states, or sometimes even countries for most government jobs as well, simply by establishing that they're the best candidate for the job. It's not quite that simple with law enforcement, however.<sup>83</sup>

In this Section, we identify some of the legal sources of friction that make it “not quite that simple” for law enforcement officers to change jobs. We draw upon websites, reports, and periodicals written by and for the police as well as message boards in which prospective, current, and former officers discuss career-related questions. The information that circulates in these police-oriented media may not be entirely accurate, but it reflects police *perception* of the constraints on lateral mobility, which are likely as important as the actual law—if not more so—in influencing officer decisions. We couple these secondary sources with an examination of Illinois law to ground the legal discussion and lay a foundation for analysis of potential legal reforms in Part IV.

#### 1. *Pensions*

In twenty-first century America, most private-sector employers that provide retirement plans offer what are known as “defined

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<sup>83</sup> Timothy Roufa, *Lateral Department Transfers for Police*, LIVEABOUTDOTCOM (Aug. 4, 2019), <https://www.liveabout.com/police-officer-lateral-job-change-974807> [<https://perma.cc/FKD7-5QHM>].

contribution” plans.<sup>84</sup> In defined contribution plans, the employee (and sometimes the employer) contributes funds to the employee’s retirement account each pay period. If or when the employee ceases working for that employer, the money in her retirement account belongs to her and she can effectively “take it with her.”<sup>85</sup>

Many public sector workers, in contrast—including essentially all police officers—receive what are called “defined benefit” retirement plans, also known as pensions. Both employers and employees make contributions to these plans, but unlike defined contribution plans, defined benefit plans pay retired workers a percentage of their former salary upon retirement.<sup>86</sup> However, defined benefit plans typically “vest”—that is, entitle workers to future payouts—only after many years of employment. For instance, an officer over 50 years old who retires from the Chicago Police Department receives a pension worth 2.5% of her salary for each year she has worked, up to a maximum of 75% of her salary (after 30 years of service).<sup>87</sup> But the pension vests only after the officer has worked for the Department for 10 years. If she leaves the department after nine years to take another job, she can take with her whatever contributions she has made toward her now-defunct pension, but her employer’s contributions simply vanish into thin air.

Police pensions are an important part of overall employee compensation, particularly as a police career can be shorter than others given the demands of the job (not to mention mandatory retirement laws). Public-sector defined benefit plans also tend to be quite generous, more generous on average than typical private-sector defined contribution plans, which accentuates their importance.<sup>88</sup>

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<sup>84</sup> David Zook, *How Do Retirement Plans for Private Industry and State and Local Government Workers Compare?*, 12 BEYOND THE NUMBERS: U.S. BUREAU OF LAB. STAT. 1 (Jan. 2023), <https://www.bls.gov/opub/btn/volume-12/how-do-retirement-plans-for-private-industry-and-state-and-local-government-workers-compare.htm#ednref1> [<https://perma.cc/7ZGB-WR73>].

<sup>85</sup> Employer contributions to defined contribution plans are sometimes subject to vesting requirements, such that they belong to the employee only after she has worked a term of years for the employer. But this term is typically quite short, such as a year or two. See *Retirement Topics—Vesting*, IRS (May 5, 2023), <https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-vesting> [<https://perma.cc/CJK6-FGN7>].

<sup>86</sup> In most cases the pension is based on the highest salary the employee ever earned, or the average of the few highest years of salary.

<sup>87</sup> See *Answer to FAQ: How is the Formula Annuity Calculated?*, POLICEMEN’S ANNUITY & BENEFIT FUND OF CHI., <https://chipabf.org/faqs> [<https://perma.cc/76SP-BRHL>]; 40 Ill. Comp. Stat. 5/5-238.

<sup>88</sup> See James Poterba, Joshua Rauh, Steven Venti & David Wise, *Defined Contribution Plans, Defined Benefit Plans, and the Accumulation of Retirement Wealth*, 91 J. PUB. ECON. 2062, 2082 (2007).



But critically, many pensions aren't portable—or face portability restrictions—when an officer changes agencies. That is, a police officer who leaves one agency and joins another receives no (or limited) credit from her new department for the years she worked in her old one. Indeed, two major policing textbooks describe potential pension loss as possibly the greatest barrier to lateral mobility. “The major problem with lateral transfers,” one book explains, “is that many police pension systems are tied into the local government, and money put into those funds cannot be transferred. Thus, lateral transfers in such departments can cause officers to lose some or all of their investments.”<sup>89</sup> In fact, even officers who transfer after vesting, and vest again at their new agencies, will receive lower total pension payouts than similar officers who never move. This is because their first pension will be based on their mid-career salary and their second pension, while pegged to their final salary, will be based on fewer years of service.<sup>90</sup> There is, in short, a pension penalty for most lateral transfers, the magnitude of which varies with circumstance.

Consider Illinois's state pension system. The Illinois Pension Code divides the state's agencies into a dozen or so different pension programs: one for the Chicago Police Department,<sup>91</sup> one for police agencies in mid-sized cities,<sup>92</sup> one for police agencies in small cities,<sup>93</sup> and others for county, state, and public university agencies.<sup>94</sup>

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<sup>89</sup> JOHN S. DEMPSEY, LINDA S. FORST & STEVEN B. CARTER, *AN INTRODUCTION TO POLICING* 91 (9th ed. 2019); *see also* GEOFFREY P. ALPERT, ROGER G. DUNHAM & MEGHAN S. STROSHINE, *POLICING: CONTINUITY AND CHANGE* 63 (2d ed. 2014) (“Most agencies that prohibited lateral movement cited problems involved in the transfer of pensions and other personnel benefits or blamed civil service regulations or state laws.”). Pension laws can also combine with age restrictions to effectively limit officers to a single agency—by the time they've worked enough years at one agency to vest in their pension, they're too old to get a new job elsewhere. Michael Endres, *Why Pensions Are Bad for Cops (And What to Replace Them With)*, MEDIUM (Feb. 22, 2019), <https://medium.com/@michaelendres/why-pensions-are-bad-for-cops-and-what-to-replace-them-with-d66b267f1c80> [<https://perma.cc/D2U9-6KP5>] (“Because the age cutoff age for new applicants at many law enforcement agencies is in the mid 40's (the FBI age limit is only 37), and pensions require two to three decades of time at that same employer, cops essentially have one shot at picking a department to stick with in order to receive a pension.”).

<sup>90</sup> *See* Ann C. Foster, *Portability of Pension Benefits Among Jobs*, 117 MONTHLY LAB. REV. 45, 45–46 (1994).

<sup>91</sup> 40 ILL. COMP. STAT. 5/5-101 (2023) (creating a policeman's annuity and benefit fund for cities of more than 500,000 inhabitants).

<sup>92</sup> 40 ILL. COMP. STAT. 5/3-101 (2023) (creating a police pension fund for cities up to 500,000 inhabitants).

<sup>93</sup> 40 ILL. COMP. STAT. 5/7-101 (2023) (creating a retirement fund for municipal employees and officers).

<sup>94</sup> 40 ILL. COMP. STAT. 5/9-101 (2023) (creating an annuity and benefit fund for county employees and officers); 40 ILL. COMP. STAT. 5/14-101 (2023) (creating a retirement and benefit system for state employees); 40 ILL. COMP. STAT. 5/15-101 (2023) (creating a retirement system

As is true more generally, service credit toward pensions in Illinois is generally portable between agencies in the same pension program—meaning officers receive full credit for years of service at their prior agency—while cross-program portability follows a labyrinthine set of rules and exceptions. To give just a taste, Chicago officers can port service credit in from any Illinois agency, but can't port credit out to commonplace agencies like those in small or midsize cities.<sup>95</sup> On top of this, officers who began their service before 2011 have “Tier 1” pensions with better terms than the “Tier 2” pensions for officers who started later.<sup>96</sup> Pension portability rules affect not only the transfer of existing pension entitlements but also the accumulation of future benefits—certain lateral moves can bump a Tier 1 officer down to Tier 2 at her new job.<sup>97</sup>

But even this limited in-state portability is generous to employees compared with the state's nonexistent out-of-state portability. If an Illinois agency hires an officer from out of state, it does not give that officer any service credit for years worked at the out-of-state agency.<sup>98</sup> That approach is widely reciprocated: We are not aware of any state that affords a newly hired police officer credit toward her pension based upon years worked at an out-of-state agency. When it comes to out-of-state lateral moves, then, pensions are very much like rank and seniority: If a police officer leaves one agency and joins another, she starts over.

The threat of losing one's pension seems to loom large in the minds of police officers considering lateral moves. On message boards, officers consistently warn about the risk of pension forfeiture. As one officer advised another, “Once you leave the Republic of NJ, your pension time is worth nothing.”<sup>99</sup> Many states operate similarly to Illinois, such that an officer's ability to port her pension when transferring from one agency to another within the state depends

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for employees of state universities). See generally DANIEL W. RYAN, RETIREMENT INCOME FOR ILLINOIS FIRE AND POLICE (2016) (describing reciprocity between agencies and the Chicago Police plan).

<sup>95</sup> See RYAN, *supra* note 94, at 10, 32, 94.

<sup>96</sup> See, e.g., *id.* at 2–8 (discussing two-tier system in the case of Chicago police officers).

<sup>97</sup> gogokart98, Comment to *Pension Transfer*, OFFICER.COM (Aug. 21, 2012, 11:37 AM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/illinois/185156-pension-transfer> [<https://perma.cc/P3X5-WLPV>] (“If you are transferring to a different pension system, I am pretty sure you will be treated as a new hire and fall under the new system.”).

<sup>98</sup> Cf. RYAN, *supra* note 94, at 10–11, 32–34 (detailing legislative and administrative provisions for in-state portability without describing a corresponding structure for out-of-state portability).

<sup>99</sup> nasa808, Comment to *Florida Pension?*, OFFICER.COM (Feb. 20, 2010, 11:07 PM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/florida/144810-florida-pension> [<https://perma.cc/GXW3-CUTL>].

on the agencies involved and the program structures created by state law. In some states, the pension system is heavily centralized, facilitating inter-agency portability; in others, like Illinois, it's fractured, with freer portability within than across different pension programs.<sup>100</sup> Officer discussions bear out the claim that pension-related incentives influence choices about where to work.<sup>101</sup> "I'm thinking about leaving my current department," wrote one officer, "but I'm waiting until I can be able to vest . . . ."<sup>102</sup> Another officer, whose wife had suggested moving to Georgia, explained: "I don't like the idea of working somewhere where the retirement is for that place only. . . . So, unless things change in Georgia, I think I am going to veto that idea."<sup>103</sup>

Officers in Illinois, like officers elsewhere, consider pension portability when contemplating lateral moves. One message-board commenter advised a prospective recruit in Chicago:

[N]ow is the time to start testing for the places you want to be at. The older you get, the worse it becomes it [sic] terms of pension . . . . Basically, by the time you hit 35 [years of age] on whatever dept. you are on, you basically stick it out cause it would suck to start all over. My advice to anyone that is looking to do something different or change depts. is that they should have started YESTERDAY.<sup>104</sup>

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<sup>100</sup> See drunkhunter, Comment to *GA LEOs, What Is Your Retirement System Like*, OFFICER.COM (June 2, 2003, 11:46 AM), <https://forum.officer.com/forum/public-forums/ask-a-cop/16086-ga-leos-what-is-your-retirement-system-like> [<https://perma.cc/D8A2-KG7J>] ("Each department does its own thing. The county where I live has no retirement system at all for its deputies. That is the reason I have stayed where I'm at now. Their [sic] is a POAB, but it is all voluntary by the officers.").

<sup>101</sup> Likewise, in a 1971 survey of 132 officers, 48% of respondents said "[l]oss of pension benefits already accrued" would lead them to decline a job offer of "increased responsibility or potential in the law enforcement field" and 81% said "loss of accrued pension rights" would "be an influence in accepting or rejecting a job offer." GEOFFREY N. CALVERT, *PORTABLE POLICE PENSIONS—IMPROVING INTER-AGENCY TRANSFERS* 66–67 (1971), <https://www.ojp.gov/pdffiles1/Digitization/2058NCJRS.pdf> [<https://perma.cc/QW9S-DYAC>].

<sup>102</sup> unobserved, Comment to *Switching Departments*, OFFICER.COM (June 3, 2012, 12:46 PM), <https://forum.officer.com/forum/officers-and-law-enforcement-professionals-only/the-squad-room/182445-switching-departments> [<https://perma.cc/TBB2-XMZ4>].

<sup>103</sup> Landric, Comment to *GA LEOs, What Is Your Retirement System Like*, OFFICER.COM (June 3, 2003, 1:19 AM), <https://forum.officer.com/forum/public-forums/ask-a-cop/16086-ga-leos-what-is-your-retirement-system-like> [<https://perma.cc/N6FJ-3LHN>]; see also 1969ivan1, Comment to *Ohio to Florida Transfer*, OFFICER.COM (Sept. 10, 2008, 4:09 PM), <https://forum.officer.com/forum/employment-careers/law-enforcement-job-center/102441-ohio-to-florida-transfer> [<https://perma.cc/J72J-4SG8>] (expressing concern about transferring and different state retirement systems).

<sup>104</sup> dogcop, Comment to *Career Question*, OFFICER.COM (May 22, 2006, 2:13 PM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/illinois/49045-career-question> [<https://perma.cc/NXJ8-KAAA>].

Another officer asked whether a transfer would drop him from Tier 1 to Tier 2, adding that, if it would, “then I would not transfer.”<sup>105</sup> And in a 2017 lateral recruitment post, the Arlington Heights Police Department noted that “[t]he most frequently asked question is pension portability,” adding that “[p]ension portability is ONLY available within Article 3 Pension Funds,” meaning that Chicago Police Department officers, Illinois State Police officers, and county sheriff officers are not able to transfer their pensions.<sup>106</sup>

## 2. *Loss of Rank*

The rules governing police officer rank are generally set by state law and sometimes by municipal ordinance. Specifically, nearly every U.S. police agency is governed by a civil service system that regulates personnel decisions, including rank.<sup>107</sup> The Illinois Municipal Code, for example, establishes a civil service system for the state’s police departments. In most municipalities, the mayor or chief administrator appoints a three-member board of fire and police commissioners who formally control the hiring process for new officers.<sup>108</sup>

For all ranks above police officer, the law requires the board to “provide in all cases, where it is practicable, that vacancies shall be filled by promotion.”<sup>109</sup> The Chicago Police Department makes this rule absolute, requiring every new officer, no matter how experienced, to go through the Department’s own training academy and start on the bottom rung.<sup>110</sup> These rules likely explain the striking pattern of promotions and appointments we observed in the Illinois data in Table 3.

Promotions, Illinois law specifies, are made “on the basis of ascertained merit and seniority in service and examination”<sup>111</sup> “from the rank next below that to which the appointment is made.”<sup>112</sup> The exceptions are the chief and any deputy chiefs, who may be appointed

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<sup>105</sup> hockey2121, Comment to *Pension Transfer*, OFFICER.COM (Aug. 21, 2012, 10:20 AM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/illinois/185156-pension-transfer> [<https://perma.cc/L3XC-PBHJ>].

<sup>106</sup> AHPDRECRUITMENT, *Lateral Police Officers*, OFFICER.COM (Apr. 12, 2017, 11:36 AM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/illinois/6469194-lateral-police-officers> [<https://perma.cc/RU4Z-JUXS>].

<sup>107</sup> See WALKER & KATZ, *supra* note 24, at 115–16, 134.

<sup>108</sup> See 65 ILL. COMP. STAT. 5/10-2.1-1 (2023).

<sup>109</sup> 65 ILL. COMP. STAT. 5/10-2.1-15 (2023).

<sup>110</sup> *Frequently Asked Questions*, CHI. POLICE DEP’T, <https://home.chicagopolice.org/home/frequently-asked-questions> [<https://perma.cc/9RF6-FDT3>] (“I am a Police Officer in another jurisdiction. Do you accept lateral transfers? No. You must apply for and be hired as an entry-level Police Officer.”).

<sup>111</sup> 65 ILL. COMP. STAT. 5/10-2.1-15 (2023).

<sup>112</sup> 65 ILL. COMP. STAT. 5/10-2.1-4 (2023).

from any rank or even from outside the department, if the municipality has so provided by ordinance.<sup>113</sup> This, too, helps explain what we saw in Table 3—in particular, the higher rates of outside appointment for chiefs and deputy chiefs. The system of hiring and promotion in county sheriffs' offices is generally similar, with county merit commissions taking the place of the boards of fire and police commissioners.<sup>114</sup>

The upshot is that officers who make lateral moves to different agencies—except those fortunate enough to be tapped for chief—typically must forfeit whatever rank they have achieved and start over at the lowest rung. As one police career website explains, “[o]ne more major consideration is the fact that you’ll be starting back at the bottom more often than not. Historically, most lateral vacancies have been for entry level positions,” meaning “[y]ou’ll probably have to give up your rank, assuming you have rank in your current position.”<sup>115</sup>

Loss of rank is a common topic on officer message boards.<sup>116</sup> “Most larger police agencies are civil service,” one message board commenter notes, “[n]ot a problem when one enters at the lowest police officer rank. But anything above that rank would violate most civil service rules.”<sup>117</sup> Indeed, agencies that prohibit lateral movement often cite civil service laws as a justification.<sup>118</sup> Discussing the loss-of-rank problem, one officer quipped, “So [I] guess when you pick a department, it’s almost like a marriage: a very good idea to stick with it until the end.”<sup>119</sup> “Once you get more than 7-10 years on most agencies,” another wrote, “you are kind of locked in as far as your options.”<sup>120</sup>

<sup>113</sup> See *id.*

<sup>114</sup> See generally 55 ILL. COMP. STAT. 5/3-7001 to -7017 (creating the Cook County Sheriff’s Merit Board); 55 ILL. COMP. STAT. 5/3-8001 to 5/3-8018 (discussing the Sheriff’s Merit System).

<sup>115</sup> Roufa, *supra* note 83; see also *Police Officer’s Guide to Lateral Transfers*, TACTICALGEAR.COM, <https://tacticalgear.com/experts/police-officers-guide-to-lateral-transfers> [<https://perma.cc/A495-K3AW>] (“This is generally a move made by officers at the patrol level. If an officer has rank, they will lose it and start back as patrol officers again.”).

<sup>116</sup> See LA DEP, Comment to *Lateral Transfer: What If You Are a Sergeant and You Move to a New City?*, OFFICER.COM (June 4, 2008, 6:55 PM), <https://forum.officer.com/forum/public-forums/ask-a-cop/hiring-recruitment-process-questions/94913-lateral-transfer-what-if-you-are-a-sergeant-and-you-move-to-a-new-city> [<https://perma.cc/34SX-TJN7>] (“This question get [sic] asked ALOT [sic] on some of the forums.”).

<sup>117</sup> Richard Butler, Comment to *Can You Transfer Between Police Departments in Different States/Cities e.g. SFPD to NYPD?*, QUORA (May 17, 2019, 10:42 AM), <https://www.quora.com/Can-you-transfer-between-police-departments-in-different-states-cities-e-g-SFPD-to-NYPD> [<https://perma.cc/L3HF-2YQL>].

<sup>118</sup> ALPERT ET AL., *supra* note 89, at 63.

<sup>119</sup> Sean Archer, Comment to *Lateral Transfer: What If You Are a Sergeant and You Move to a New City?*, OFFICER.COM (June 4, 2008, 7:03 PM), <https://forum.officer.com/forum/public-forums/ask-a-cop/hiring-recruitment-process-questions/94913-lateral-transfer-what-if-you-are-a-sergeant-and-you-move-to-a-new-city> [<https://perma.cc/34SX-TJN7>].

<sup>120</sup> LA DEP, Comment to *Lateral Transfer: What If You Are a Sergeant and You Move to a New City?*, OFFICER.COM (June 4, 2008, 7:07 PM), <https://forum.officer.com/forum/>

Officers contemplating a move are cautioned that, while a veteran transfer may be able to climb the ranks quickly at her new department, she'll start out as a rookie nonetheless: "You will probably have an easier time [o]f it the second go round—but you'll still be a rookie. You will have to earn your way back to being a detective."<sup>121</sup> Generations of experience with these civil service laws have also created a set of cultural expectations that have assumed independent force: "The process of becoming a detective in large agencies is sacrosanct, and the cops waiting their turn for a shot at being a detective are not going to stand for an interloper going to the head of the line," reports one message board post.<sup>122</sup> It is not difficult to imagine the effect of these rules on law enforcement officers' labor mobility.

### 3. *Loss of Seniority*

Just as officers who move laterally typically sacrifice their rank,

[t]he same goes for seniority, which means a great deal in criminal justice careers. Among other things, seniority is often used to award shift preferences, new equipment, and other perks. You'll still be considered a veteran law enforcement officer, but you shouldn't expect to get the same treatment as someone who has worked for your new department for years.<sup>123</sup>

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public-forums/ask-a-cop/hiring-recruitment-process-questions/94913-lateral-transfer-what-if-you-are-a-sergeant-and-you-move-to-a-new-city [https://perma.cc/34SX-TJN7].

<sup>121</sup> Brian Jones, Comment to *Can You Keep Your Rank If You Are a Police Detective and Moving to Another State to Work There for the Police?*, QUORA (June 30, 2019, 1:44 PM), <https://www.quora.com/Can-you-keep-your-rank-if-you-are-a-police-detective-and-moving-to-another-state-to-work-there-for-the-police> [https://perma.cc/48BN-QHGF]; see also Tim Dees, Comment to *Can You Transfer Between Police Departments in Different States/Cities e.g. SFPD to NYPD?*, QUORA (Dec. 24, 2019, 6:14 AM), <https://www.quora.com/Can-you-transfer-between-police-departments-in-different-states-cities-e-g-SFPD-to-NYPD> [https://perma.cc/QZ9Q-6ERG] ("He might have been a detective or a supervisor at his old outfit, but he's a rookie at the new place."); LA DEP, Comment to *Lateral Transfer: What If You Are a Sergeant and You Move to a New City?*, OFFICER.COM (June 4, 2008, 6:55 PM), <https://forum.officer.com/forum/public-forums/ask-a-cop/hiring-recruitment-process-questions/94913-lateral-transfer-what-if-you-are-a-sergeant-and-you-move-to-a-new-city> [https://perma.cc/34SX-TJN7] ("Now, you probably would not STAY at the bottom of the food chain for all that long, but you would have to go through all of the promotion processes . . .").

<sup>122</sup> Tim Dees, Comment to *Police Procedures: How Difficult Is It for a Policeman to Move and Work in a Different State? How Long Does the Process Take?*, QUORA (May 26, 2013, 3:49 PM), <https://www.quora.com/Police-Procedures-How-difficult-is-it-for-a-policeman-to-move-and-work-in-a-different-state-How-long-does-the-process-take> [https://perma.cc/3FKA-L7CW].

<sup>123</sup> Roufa, *supra* note 83; see also Melanie Basich, *Thinking Outside of the Recruiting Box*, POLICE MAG. (Apr. 3, 2018), <https://www.policemag.com/342448/thinking-outside-of-the-recruiting-box> [https://perma.cc/PQ4T-6KB5] ("Recruiting from other agencies has

“[C]onsider the scheduling issues you may face,” one article cautions, to make the point concrete: “Will working weekend graveyard for the foreseeable future be something you and your family can withstand?”<sup>124</sup>

As a legal matter, loss of seniority generally stems not from statutory civil service laws but from commonplace collective bargaining agreements between officer unions and local governments.<sup>125</sup> In Naperville, for example, Illinois’s fourth-largest city, the collective bargaining agreement defines seniority as “the continuous full-time length of service or employment *covered by this Agreement* from the date of last hire.”<sup>126</sup> Likewise, the collective bargaining agreement in Hoffman Estates specifies that “[s]eniority shall be based on the length of time from the last date of beginning continuous full-time employment as a sworn peace officer *in the Police Department of the Village*.”<sup>127</sup> Even prior tenure in the *same department*—interrupted by leave or work in another agency—often doesn’t count toward seniority.<sup>128</sup> Indeed, in

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traditionally been difficult because it’s meant officers giving up the seniority at their previous departments . . .”).

<sup>124</sup> Jason Hoschouer, *2 Questions to Ask Before Switching Departments*, POLICE1 (Oct. 12, 2017), <https://www.police1.com/evergreen/articles/2-questions-to-ask-before-switching-police-departments-gjHmFzdayzlbgaAn> [<https://perma.cc/62D6-QCFF>]; see also L-1, Comment to *Lateral Transfer: What If You Are a Sergeant and You Move to a New City?*, OFFICER.COM (June 4, 2008, 8:02 PM), <https://forum.officer.com/forum/public-forums/ask-a-cop/hiring-recruitment-process-questions/94913-lateral-transfer-what-if-you-are-a-sergeant-and-you-move-to-a-new-city> [<https://perma.cc/34SX-TJN7>] (“When you go over as a lateral, you start at the bottom with respect to seniority in your new agency.”); CFD230, Comment to *Transfer From NYPD*, OFFICER.COM (Mar. 18, 2017, 8:22 PM), <https://forum.officer.com/forum/local-discussion-groups/u-s-states/new-york/6456164-transfer-from-nypd> [<https://perma.cc/78RD-DZPP>] (“The only real hiccup is what the new agency will start you out with in pay and you most likely aren’t getting hired with seniority.”).

<sup>125</sup> Estimates of the number of unionized police officers and police departments are quite high. See Devon Kurtz & Judge Glock, *Reforming America’s Police Unions to Ensure Justice*, CICERO INST. (Sept. 9, 2020), <https://ciceroinstitute.org/reforming-americas-police-unions-to-ensure-justice> [<https://perma.cc/D9FL-8KJB>] (“The police in particular have an over 60% unionization rate . . . and over 80% of all police officers are represented by collective bargaining agreements.”); WALKER & KATZ, *supra* note 24, at 116 (“[Police] officers are represented by unions in 73 percent of all municipal police departments and 43 percent of all sheriff’s departments. Almost all of the big and medium-sized cities have police unions, whereas small city and county departments (10 sworn officers or fewer) do not.”).

<sup>126</sup> COLLECTIVE BARGAINING AGREEMENT BY AND BETWEEN THE CITY OF NAPERVILLE AND THE ILLINOIS FRATERNAL ORDER OF POLICE LABOR COUNCIL/F.O.P. LODGE # 42, art. 14, § 14.1 (Jan. 1, 2020–Dec. 31, 2024) [hereinafter Naperville CBA] (emphasis added), [https://www.naperville.il.us/globalassets/media/hr-documents/collective-bargaining-agreements/fop\\_42\\_cba\\_2020-2024.pdf](https://www.naperville.il.us/globalassets/media/hr-documents/collective-bargaining-agreements/fop_42_cba_2020-2024.pdf) [<https://perma.cc/6XFT-RPBY>].

<sup>127</sup> COLLECTIVE BARGAINING AGREEMENT BETWEEN VILLAGE OF HOFFMAN ESTATES, ILLINOIS AND METROPOLITAN ALLIANCE OF POLICE HOFFMAN ESTATES CHAPTER 96, § 17.1 (Jan. 1, 2022–Dec. 31, 2024) (emphasis added), <https://www.hoffmanestates.org/home/showpublisheddocument/25847/637959260891530000> [<https://perma.cc/5R7W-HHBH>].

<sup>128</sup> See, e.g., COLLECTIVE BARGAINING AGREEMENT BETWEEN ILLINOIS FRATERNAL ORDER OF POLICE LABOR COUNCIL AND FRATERNAL ORDER OF POLICE LODGE #134 AND CITY OF HARVARD,

some departments, the seniority clock stops during time spent away from the *bargaining unit*, such as while serving as a deputy chief in the *same agency*.<sup>129</sup>

As is true more generally, a huge number of benefits and working conditions in Illinois agencies are distributed by seniority. In Naperville, for instance, seniority is used to determine the timing of annual vacations,<sup>130</sup> permanent shift assignments,<sup>131</sup> overtime,<sup>132</sup> bonuses (called “experience pay”),<sup>133</sup> single days off,<sup>134</sup> and leaves of absence.<sup>135</sup> Even when lateral hires are paid more than rookies, they start at the bottom of the seniority list for all these other purposes.<sup>136</sup> In some agencies, retention of the job itself can also turn on seniority—when agencies are forced to downsize, seniority determines who gets laid off and who is rehired if capacity later expands.<sup>137</sup>

Needless to say, this is not how most private-sector jobs work. At the typical firm, a new employee could be hired into positions of any level of rank and seniority, without regard to how long the employee has worked at that firm. To be sure, there are some benefits to seniority in private firms, even holding constant one’s job title or responsibilities.<sup>138</sup> But the barriers to lateral entry are much lower than they are with respect to police.

#### 4. Certification Requirements

Most law enforcement officers work for county or municipal agencies; a small number work directly for the state or federal government.<sup>139</sup> In nearly every state, to become a law enforcement officer at any level, a candidate must first obtain certification—essentially an occupational license—from a state-level licensing entity, typically called

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§ 10.1 (May 1, 2022–April 30, 2023) [hereinafter Harvard CBA], <https://www.cityofharvard.org/sites/default/files/fileattachments/police/page/1251/fopbargainingagreement2020-2023.pdf> [<https://perma.cc/9E36-F34Z>] (“A former employee- [sic] shall be considered as a new applicant and shall receive no credit for former seniority which was forfeited by termination of former employment.”).

<sup>129</sup> See, e.g., Naperville CBA, *supra* note 126, § 14.5.

<sup>130</sup> *Id.* §§ 14.2, 20.2, 20.3.

<sup>131</sup> *Id.* § 16.7.

<sup>132</sup> *Id.* §§ 16.7, 16.11(c), 16.19.

<sup>133</sup> *Id.* § 24.1(e).

<sup>134</sup> *Id.* at Appendix F.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* § 24.1(b) (prescribing pay scale for lateral transfers but noting that “[s]eniority accrues per Article 14 and is not impacted by the starting rate”).

<sup>137</sup> Harvard CBA, *supra* note 128, §§ 11.1, 11.2.

<sup>138</sup> See Erling Barth, *Firm-Specific Seniority and Wages*, 15 J. LAB. ECON. 495 (1997) (attributing increased wages with seniority to productivity gain within each firm).

<sup>139</sup> Grunwald & Rappaport, *supra* note 7, at 1691.



the Peace Officer Standards and Training (POST) Board. Certification generally requires candidates to pass a physical fitness test, attend a state-certified police academy, demonstrate firearms proficiency, pass a written comprehensive examination, and clear a criminal history check.<sup>140</sup> Once certified, officers must undergo training and education to maintain their certification.<sup>141</sup>

Because certification takes place at the state level, it complicates lateral movement of officers across state lines.<sup>142</sup> As one career website advises, "Certification requirements for criminal justice workers often differ slightly from state to state, so law enforcement . . . certificates don't easily transfer. . . . Just because you're eligible to be certified in one state, this doesn't necessarily mean that you can get certified in another."<sup>143</sup> "Going out of state," advises another site, "will require the officer to receive additional training, specifically about that state's laws," potentially even "a full academy."<sup>144</sup>

ILETSB is the certifying entity in Illinois.<sup>145</sup> If an experienced officer certified in another state wishes to move to an Illinois agency, the hiring agency may request from ILETSB a conditional waiver of Illinois basic training if certain conditions are met.<sup>146</sup> These conditions include 1) that the officer have completed a police academy with a curriculum deemed equivalent to Illinois's; 2) that she have finished a probationary employment period; and 3) that she not have had a substantial break in service prior to the move. ILETSB does not give predeterminations on waiver decisions, meaning the Illinois agency must hire the officer first and bear the risk that ILETSB will deny a waiver. Waiver decisions are made on a case-by-case basis, to be granted "if, by reason of extensive

<sup>140</sup> See, e.g., 50 ILL. COMP. STAT. 705/6 (2023) (board certification of academies and comprehensive examination); 50 ILL. COMP. STAT. 705/7 (2023) (academy curriculum); 50 ILL. COMP. STAT. 710/2 (2023) (firearms training); 50 ILL. COMP. STAT. 705/6.1 (2023) (criminal history); ILL. ADMIN. CODE tit. 20, § 1720.35 (2023) (specifying academy entrance qualifications).

<sup>141</sup> See, e.g., 50 ILL. COMP. STAT. 705/10.6 (2023) (mandatory in-service training).

<sup>142</sup> For seminal work on the effects of licensing laws on worker mobility, see Arlene S. Holen, *Effects of Professional Licensing Arrangements on Interstate Labor Mobility and Resource Allocation*, 73 J. POL. ECON. 492 (1965); B. Peter Pashigian, *Occupational Licensing and the Interstate Mobility of Professionals*, 22 J.L. & ECON. 1 (1979); Morris M. Kleiner, Robert S. Gay & Karen Greene, *Barriers to Labor Migration: The Case of Occupational Licensing*, 21 INDUS. RELS. 383 (1982).

<sup>143</sup> Roufa, *supra* note 83.

<sup>144</sup> *Police Officer's Guide to Lateral Transfers*, *supra* note 115.

<sup>145</sup> See 50 ILL. COMP. STAT. 705/1 (2023); see also 50 ILL. COMP. STAT. 705/8.1(a) (2023) ("An employing agency may not grant a person status as a law enforcement officer unless the person has been granted an active law enforcement officer certification by the Board.").

<sup>146</sup> Details in this paragraph are provided by the ILETSB at *Out-of-State Trained Reciprocity Process*, ILL. L. ENF'T TRAINING AND STANDARDS BD., <https://www.ptb.illinois.gov/training/out-of-state-trained-reciprocity-process> [<https://perma.cc/93MC-BP98>].

prior experience as a law enforcement officer . . . the basic training requirement is illogical or unreasonable.”<sup>147</sup> If ILETSB grants a waiver, the officer will attend firearms training and a course on Illinois law and be allowed one attempt to pass a 200-question equivalency exam. If she fails the equivalency exam, she’ll be required to attend an Illinois police academy alongside the fresh recruits and pass the comprehensive exam. Presumably because of the costs and risks entailed in onboarding an out-of-state officer, some Illinois departments that advertise lateral positions require Illinois certification, effectively recruiting only from other agencies in the state.<sup>148</sup>

Officers on message boards describe certification as a substantial impediment to cross-state moves: “Among the reasons that [lateral transfer] almost never occurs,” writes one officer, is that “[a] police officer is only certified in his state. Transferring to another state would require them to attend a police academy in that state to be certified there.”<sup>149</sup> They also emphasize the complexity and uncertainty associated with out-of-state reciprocity: “It’s possible to [transfer] between states, but there are lots of rules and each case is different,” writes one retired officer.<sup>150</sup> “Whether or not a department or sheriffs [sic] office wants to allow your out of state cert. and ‘fast track’ you, is 100% up to their discretion,” advises another.<sup>151</sup>

Clearly, many officers consider the burden of recertification when contemplating an interstate move—just as many lawyers dread the prospect of taking the bar exam in more than one state. This message-board question from a federal police officer exemplifies the concern:

I’m currently certified as a federal police officer having attended an academy which was 400 hours (10 weeks) in length. I’m looking for a laterally [sic] transfer to a city or county department (preferably somewhere northeast) but have been having a great deal of difficulty transferring anywhere due to the fact that other departments are telling

<sup>147</sup> ILL. ADMIN. CODE tit. 20, § 1720.15(a) (2023).

<sup>148</sup> See, e.g., *Lateral Recruitment*, VILL. OF HOFFMAN ESTS., <https://www.hoffmanestates.org/government/police/departments-information/police-employment/lateral-recruitment> [<https://perma.cc/CXL4-JXX3>] (requiring applicants for lateral appointment to be Illinois-certified police officers). But see *Police Officer - Lateral Entry Hiring*, VILL. OF LANSING, ILL., [https://www.villageoflansing.org/village\\_departments/lateralhiring.php](https://www.villageoflansing.org/village_departments/lateralhiring.php) [<https://perma.cc/JA6K-VNZE>] (allowing out-of-state transfers after six-month probationary period).

<sup>149</sup> Butler, *supra* note 117.

<sup>150</sup> Tim Dees, Comment to *Can You Keep Your Rank If You Are a Police Detective and Moving to Another State to Work There for the Police?*, QUORA (June 30, 2019, 6:49 PM), <https://www.quora.com/Can-you-keep-your-rank-if-you-are-a-police-detective-and-moving-to-another-state-to-work-there-for-the-police> [<https://perma.cc/XX7W-7TDS>].

<sup>151</sup> enisei, Comment to *NYPD to North Carolina*, OFFICER.COM (Feb. 21, 2012, 7:40 AM), <https://forum.officer.com/forum/employment-careers/law-enforcement-job-center/180241-nypd-to-north-carolina> [<https://perma.cc/WTT6-3V95>].

me my training hours are not enough. (most want anywhere from 25–30 weeks) I was wondering if anyone had an idea of departments that would accept the current amount of training I have?<sup>152</sup>

Recertification is not only time-consuming but also potentially demeaning: “An experienced officer may have a resistance to being taught the basics,” one website admonishes.<sup>153</sup> And while state certification seems to be the principal testing-related drag on officer mobility, it’s worth noting that, in some states, each agency administers its own hiring exam in addition, which often can be—but is not always—waived or streamlined for lateral candidates.<sup>154</sup>

### 5. *Explaining the Legal Landscape Behind Labor Frictions*

All else being equal, lower levels of labor mobility are typically bad for labor and good for employers.<sup>155</sup> The lower the level of labor mobility, the lower the wages that employers must pay, because they do not have to worry as much about employees leaving for higher-paying jobs.<sup>156</sup> Therefore, employers typically favor restrictions on mobility, while employees typically favor free movement of labor.<sup>157</sup>

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<sup>152</sup> DanK16, *Lateral Transfer?*, OFFICER.COM (July 5, 2015, 12:17 AM), <https://forum.officer.com/forum/employment-careers/law-enforcement-job-center/205483-lateral-transfer> [https://perma.cc/4YSF-AR56].

<sup>153</sup> *Field Training for the Lateral Hire*, BLUE SHEEPDOG, <https://www.bluesheepdog.com/field-training-for-the-lateral-hire> [https://perma.cc/F9U4-8JM5].

<sup>154</sup> See, e.g., 65 ILL. COMP. STAT. 5/10-2.1-6 (2023) (subjecting officer candidates “to an examination that shall be public, competitive, and open to all applicants”); *id.* (allowing municipal police boards to waive portions of the hiring examination “for police applicants who have previously been full-time sworn officers of a regular police department in any municipal, county, university, or State law enforcement agency, provided they are certified by [the ILETSB] and have been with their respective law enforcement agency within the State for at least 2 years”).

<sup>155</sup> See generally Howard Wial, *Getting a Good Job: Mobility in a Segmented Labor Market*, 30 INDUS. RELS. 396 (1991) (discussing how workers from disadvantaged backgrounds remain in low-income jobs due to lack of labor mobility); CAMPBELL R. MCCONNELL, STANLEY L. BRUE & DAVID A. MACPHERSON, *CONTEMPORARY LABOR ECONOMICS* 240–55 (12th ed. 2020) (explaining that labor mobility increases the lifetime earnings of the average mover, but results in loss to employers that make specific human capital investments in individual employees who leave the firm); Jacob Mincer & Boyan Jovanovic, *Labor Mobility and Wages*, in *STUDIES IN LABOR MARKETS* 26 (Sherwin Rosen ed., 1981) (stating that an employer’s return on the cost of investing in an individual worker is dependent on how long the worker remains employed at the firm); ERIC POSNER, *HOW ANTITRUST FAILED WORKERS* 15–18 (2021) (describing how employer labor monopsony decreases labor mobility due to lack of market competition, which thereby allows the employer to pay lower wages).

<sup>156</sup> See Mincer & Jovanovic, *supra* note 155, at 24–27 (summarizing numerous studies that identify pervasive employer monopsony, anticompetitive markets, and high labor market concentration as variables that depress wages below a competitive rate).

<sup>157</sup> See Masur & Posner, *supra* note 41, at 546 (describing the frequent use of noncompete clauses, no-poach agreements, and other employer restrictions on labor movement).

Against this backdrop, the legal restrictions on police labor mobility and their likely effects on wages appear puzzling. Most rank-and-file officers are represented by powerful unions, giving them more control over the terms of their employment than private-sector workers typically have.<sup>158</sup> Some of these terms are directly negotiated with law-enforcement-agency employers. Others are crafted in legislative chambers where police unions enjoy an outsized degree of political influence, particularly over laws and regulations that affect them directly.<sup>159</sup> Given their considerable ability to bargain and lobby for favorable employment terms, why do police officers put up with laws that limit their lateral mobility and, consequently, reduce their wages and ability to exit when work conditions are suboptimal?

The key to untangling this puzzle begins with the realization that the legal rules favored by unions are fundamentally protectionist. True, the rules regarding certification, rank, seniority, and pensions make it difficult for a police officer at Agency A to move to Agency B. But critically, they make it equally difficult for an officer at Agency B to move to Agency A and compete with the first officer for a job or promotion. The same rules that restrict outward mobility (and thus harm officers at a given agency) also restrict *inward* mobility (and thus protect those same officers).

With this in mind, one possible explanation for police acquiescence in rules that constrain lateral mobility is that most police officers believe they are unlikely ever to want to move. They envision staying at their agency indefinitely and prioritize job security over access to outside opportunities.<sup>160</sup> They may be perfectly willing as well to sacrifice the potential salary gains from lateral mobility to preserve their existing positions and opportunities for advancement within their current agency. These officers would naturally prefer legal rules that limit their outward mobility as long as they simultaneously block incoming competition. It

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<sup>158</sup> See, e.g., MARGARET ANNE LEVI, CONFLICT AND COLLUSION: POLICE COLLECTIVE BARGAINING 69–85 (1974), <https://www.ojp.gov/pdffiles1/Digitization/17457NCJRS.pdf> [<https://perma.cc/79BH-Q9E2>] (describing a series of instances in which the Patrolman's Benevolent Association in New York was successful in blocking or winning concessions regarding statewide legislation that would have affected the New York City Police Department).

<sup>159</sup> See *id.* at 69–79 (discussing how the Patrolman's Benevolent Association in New York exercised significant political acumen and power in successfully lobbying for police-friendly laws and regulations).

<sup>160</sup> See WALKER & KATZ, *supra* note 24, at 193 (“Lateral entry is opposed because officers jealously guard the few promotional opportunities that . . . arise in a department and resent the idea of outsiders getting these jobs.”); HERMAN GOLDSTEIN, POLICING A FREE SOCIETY 241–43 (1977).

is possible that workers in other industries would similarly favor this tradeoff but lack the strong unions necessary to establish protections for insiders in the first place. It may also be that police are more likely than workers in other industries to prize job security over mobility. They may understand that the geographic and economic considerations we detailed above make it difficult for them to change jobs, wholly apart from (and antecedent to) any legal restrictions.<sup>161</sup>

For that matter, even if the typical officer is not more inclined to stay than to move, *union leaders*—who control the bargaining and lobbying processes—may be. Union leaders are typically senior officers in the department, particularly invested in preserving the rules that protect their jobs and the rights that accompany their tenure.<sup>162</sup> They may be even more inclined than the rank and file to support protectionist measures at the expense of labor mobility.

What is more, even if police officers (including union leaders) are *not* inclined to stay in their current jobs and would prefer greater mobility, they are nevertheless trapped in a jurisdictional collective action problem. If police, like other types of employees, value labor mobility, they would be better off collectively if every police force had certification, rank, seniority, and pension rules that welcomed lateral transfers. This would increase labor mobility (and thus quality of job matches) for all of them.

But an officer in any particular jurisdiction (and union) can have little impact on the law of any other jurisdiction or collective bargaining in other departments. She has sway only over the terms of employment at her own law enforcement agency and in her own state. She could, in theory, exert her influence to facilitate lateral transfer into her agency or state, but she cannot influence any other jurisdiction's decision whether to welcome lateral transfers like her. And with respect to her own agency and state, it is in her self-interest to seek protectionist terms that decrease lateral competition;<sup>163</sup> officers in other jurisdictions will make the same calculation. The result of this collective action problem is a protectionist equilibrium that is disadvantageous to police

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<sup>161</sup> See *supra* Section II.A.

<sup>162</sup> See Jeff Frank & James M. Malcomson, *Trade Unions and Seniority Employment Rules*, 38 EUR. ECON. REV. 1595, 1596 (1994) (discussing how senior employees adopt seniority rules, such as seniority wage scales, to maintain power within the firm).

<sup>163</sup> This is analogous to what the system of international trade would look like if countries were not able to bargain with one another. See James E. Alt & Michael Gilligan, *The Political Economy of Trading States: Factor Specificity, Collective Action Problems, and Domestic Political Institutions*, in INTERNATIONAL POLITICAL ECONOMY: PERSPECTIVES ON GLOBAL POWER AND WEALTH 327 (Jeffrey A. Frieden & David A. Lake eds., 1999).

officers on the whole—and thus, for reasons we explain below, likely disadvantageous to the public they patrol.<sup>164</sup>

This collective action problem can explain seniority rules, which are typically set at the agency level and disadvantage officers who might transfer in from other departments.<sup>165</sup> It can also explain certification requirements, which are set statewide and disadvantage officers moving from outside the state.<sup>166</sup> Similarly, it clarifies why pensions and rank are essentially never portable across state lines.<sup>167</sup> Statewide rules like these protect officers from out-of-state competition. And as we explained above, each police officer can influence the rules only in her own state (by making them more protectionist); she cannot make other states more welcoming to her.

This collective action problem is less successful at explaining other features of the rules on rank and pension portability, however. Again, the rules on rank and pensions are set statewide, and thus it makes sense that they would disadvantage *out-of-state* officers by forcing them to sacrifice their rank and pensions if they move into the state. But we might expect that, if police groups had sway over the writing of these rules, they would have permitted officers who transfer *within the state* to keep their rank and pensions. After all, all else equal, mobility favors labor's interests. Similarly, they might have implored Illinois to credit outgoing Illinois police officers with the full value of their pensions (and vest them immediately) irrespective of where the officers go. But the law does nothing of the sort. These laws make it more difficult for officers to *lateral out* from their departments. As such, they must be driven by something other than the collective action problem just described.

If the provisions limiting within-state mobility operate to the detriment of police officers, then the state or local government must favor them, likely because it reduces labor costs. Again, this is how employers typically view labor frictions. Labor frictions reduce officer mobility, which in turn suppresses wages and minimizes turnover costs.<sup>168</sup> Like any monopsony or oligopsony employer, police departments can pay salaries that are lower than would prevail in a more competitive market

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<sup>164</sup> This mirrors the collective action problem associated with noncompete agreements. All workers would be better off if no workers signed noncompete agreements, in that overall labor mobility would be higher and workers would face a more competitive marketplace for their labor. But each individual worker has an incentive to sign a noncompete agreement in exchange for a higher wage, leading to an equilibrium that is disadvantageous to workers on the whole.

<sup>165</sup> See *supra* Section II.B.3.

<sup>166</sup> See *supra* Section II.B.1.

<sup>167</sup> See *supra* Sections II.B.2, II.B.4.

<sup>168</sup> See Mincer & Jovanovic, *supra* note 155, at 24–25; POSNER, *supra* note 155, at 17.

with fewer labor frictions. And because employees move around less, police departments can also save money on hiring and training expenses. Police employers thus have an incentive to support provisions, such as the ones we describe above, that will increase employment frictions for their officers.<sup>169</sup>

Thus, it is possible that some of these statewide provisions are preferred by state and local governments and disliked by police.<sup>170</sup> What might politically powerful police unions receive in return for acquiescing to these rules? We suspect the answer is a set of contractual provisions that make it harder to fire poorly performing (and even abusive) officers, some of which have been codified in so-called Law Enforcement Officers' Bills of Rights (LEOBORs).<sup>171</sup> These protections can include things like strict time limits on citizen complaints, restrictions on the timing and manner of investigation and interrogation of officers, and automatic expungement of officer disciplinary records.<sup>172</sup> This type of unholy bargain—restrictions on labor mobility in exchange for job protections—makes it harder for officers to move but also much harder for them to be fired.

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<sup>169</sup> That being said, in the next Part we will enumerate the many social costs—to the citizens being policed—that likely flow from low police labor mobility. See *infra* Section III.B. If state governments fully internalized the welfare of their citizens, it is not obvious they should prefer rules that restrict officer mobility, even if it saves the state or its subdivisions money. Nonetheless, it is entirely possible that the financial costs of competing for police labor in a more competitive marketplace—which might rise if the rules limiting mobility were relaxed—are simply more salient to, or more readily internalized by, state policymakers than the social costs created by stagnant police forces, even if everything we say in the next Part is right. See Daryl J. Levinson, *Making Government Pay: Markets, Politics, and the Allocation of Constitutional Costs*, 67 U. CHI. L. REV. 345, 345–47 (2000) (raising doubts about how and when governments internalize costs).

<sup>170</sup> To reiterate, if police generally prefer to remain in their current departments and are largely uninterested in moving, then they might not value things like pension portability as much and might be happy to accept rules that limit their labor mobility. This discussion is meant to explicate the current equilibrium under the assumption that police officers, like nearly all other types of employees, would benefit from and prefer greater labor mobility as a means of obtaining better jobs and higher wages. See Wial, *supra* note 155, at 403–04.

<sup>171</sup> See generally Kevin M. Keenan & Samuel Walker, *An Impediment to Police Accountability? An Analysis of Statutory Law Enforcement Officers' Bills of Rights*, 14 PUB. INT. L.J. 185, 186 (2005) (describing the policy implications of the special due process protections LEOBORs give police officers); Jamein P. Cunningham, Donna L. Feir, Rob Gillezeau, Matthew Harvey & Abdul Nasser Rad, *Law Enforcement Officers' Bills of Rights and Police Violence*, 112 AEA PAPERS & PROCS. 174, 174 (2022) (outlining various types of LEOBORs, including “limitations on who can lead an investigation, the length of an investigation, officer access to evidence, limits on the scope of disciplinary action, and restrictions on external oversight”).

<sup>172</sup> See 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 F. 213, 213; Keenan & Walker, *supra* note 78, at 212, 220, 241.

Moreover, the simple fact of low labor mobility makes job protections all the more valuable to police. This is true whether the rules constraining mobility are the product of officers who do not wish to move, a collective action problem, an unholy bargain with governments, or some combination of the three. Once officers understand that their lateral movement options are heavily constrained, security in their current jobs becomes critical. For this reason, as we proceed in the next Part to evaluate the benefits and costs of low police labor mobility, we believe it is appropriate to consider the labor protections associated with policing—and all the effects that stem from these labor protections—in the overall calculus. Legal provisions that increase labor frictions for law enforcement officers and legal provisions that increase workplace protections for those same officers should be thought of as two sides of the same coin.

### III THE EFFECTS OF LOW LABOR MOBILITY

In this Part, we move from the descriptive to the normative. Having established that labor mobility among police officers is low, and having described the principal reasons for this, we turn our attention to the benefits and costs of this phenomenon. A typical paper on labor mobility would center on the benefits and costs to the employees and employers themselves without much consideration for externalities, since in many jobs, benefits and costs can be fully internalized. The canonical wisdom, again, is that labor mobility is usually good for workers, who can increase their wages or the quality of their jobs by seeking better employment,<sup>173</sup> and bad for employers, who must pay higher wages and compete more aggressively for the best workers.<sup>174</sup> A standard inquiry into labor market frictions would

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<sup>173</sup> See, e.g., Iona Elena Marinescu & Eric A. Posner, A Proposal to Enhance Antitrust Protection Against Labor Market Monopsony (Dec. 21, 2018) (working paper) (SSRN), <https://ssrn.com/abstract=3317575> [<https://perma.cc/NH5T-LD22>] (explaining that labor monopsony harms the economy by lowering wages); John J. Antel, *The Wage Effects of Voluntary Labor Mobility with and Without Intervening Employment*, 44 INDUS. LAB. & RELS. REV. 299, 299 (1991) (stating that theory generally postulates that voluntary job change can improve wages); Mark Stelzner & Kate Bahn, *Discrimination and Monopsony Power*, 49 REV. BLACK POL. ECON. 152, 155 (2022) (asserting that many economists have identified employer monopsony as a cause of socioeconomic wage gaps); Luis F. Munguía Corella, *Minimum Wages in Monopsonistic Labor Markets*, 9 IZA J. LAB. ECON., no. 7, 2020, at 1–23 (explaining how the labor market works when the supply curve is not perfectly elastic).

<sup>174</sup> See, e.g., Ioana Marinescu & Eric A. Posner, *Why Has Antitrust Law Failed Workers?*, 105 CORNELL L. REV. 1343, 1349–51, 1371–72 (2020) (explaining how antitrust law seeks to reduce labor competition to encourage independent employers to compete for workers); Daniel Sullivan, *Monopsony Power in the Market for Nurses* 1 (Nat'l Bureau of Econ. Rsch.,



examine whether wages in a given sector are being suppressed and whether workers have some other type of recourse besides changing jobs. Those considerations are not unimportant, but they are not our focus here. Part of the reason is that police officers are represented by strong unions that, as we explained above, are capable of advancing their long-term interests at the bargaining table. But more important, policing generates significant externalities—both positive and negative—for the communities being policed. Accordingly, we concentrate our analysis on the effects of low labor mobility on society as a whole, rather than on the particular employees and employers involved.

For the civilians who interact with police, low levels of police labor mobility can generate meaningful benefits and costs. On the one hand, low labor mobility encourages investment in training and other firm-specific knowledge and expertise, which can improve officer performance. It can also generate a more stable, professional police force—especially valuable, perhaps, when hiring and retaining police officers is challenging. On the other hand, officers who are locked into their positions can burn out. This can degrade their performance, including their rule compliance, and lead them to seek forms of exit (such as going on disability) that are less desirable than straightforward departure. Low labor mobility also means that police departments are too seldom enriched with new blood and new ideas, leading them to stagnate. And perhaps most important, as we have explained, the tradeoff for low labor mobility includes rules that make police officers difficult to discipline and fire. These provisions, in turn, likely increase the rate of police brutality and other misconduct.<sup>175</sup> Without a full-scale empirical analysis, it is impossible to determine whether the benefits of low labor mobility outweigh the costs or vice versa. Nonetheless, it seems likely that the effects of low police labor mobility are meaningfully large in one direction or another, if not both.

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Working Paper No. 3031, 1989) (discussing how the monopsony power of hospitals disables traditional market forces, and thereby removes any incentive to offer competitive salaries to attract more nurses); Alan Manning, *Monopsony and the Efficiency of Labour Market Interventions*, 11 LAB. ECON. 145, 152–54 (2004) (showing how, in a free market system with little employer monopsony, employers are incentivized to raise wages so as to attract skilled workers).

<sup>175</sup> Abdul N. Rad, *Police Institutions and Police Abuse: Evidence from the US* (Apr. 23, 2018) (M.Phil. thesis, University of Oxford) (SSRN), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3246419](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3246419) [<https://perma.cc/T4RB-HZ2X>] (finding a significant positive relationship between LEOBOR provisions and police abuse).

## A. *Benefits of Limited Mobility*

### 1. *Heightened Commitment*

The long-term stability of law enforcement employment likely encourages both officers and their agencies to make greater sector-specific and firm-specific investments. No employer wants to bear the full costs of training an employee only to see her depart for another position enriched by the training she received. If firms cannot internalize the full benefit of the training they provide, they are likely to undersupply training, to the detriment of the worker and anyone she serves—a canonical point made in the labor economics literature.<sup>176</sup> In policing, this is less of a problem: If the officer will remain with the department for a long time—or perhaps even her entire career—then the agency can internalize all (or nearly all) of the benefits of training her, which provides it with additional incentives to do so.

For their part, employees are often reluctant to invest heavily in firm-specific training and knowledge precisely when (and because) they might be fired at any moment. By definition, firm-specific knowledge is valuable to the employee only while she remains at the same firm. If she believes she might soon be leaving that firm, she will be reluctant to undertake costly firm-specific training that will be useless to her once she departs.<sup>177</sup> For instance, she might hesitate to spend her own time learning the information she needs to do her job, or she might prioritize sector-specific training (which would be valuable in another job) over firm-specific training even when the latter would be more useful.

The long-term nature of police positions changes this equation. If an officer knows that she is likely to remain on the same police force for a long time, she may be more willing to make firm-specific investments that help her improve the quality of her work. For instance, she may be more inclined to learn the nuances of the areas she polices, build relationships with the people she serves and with her colleagues (whom she expects to stick around as well), and master the particular practices and rules of her employer. All of this will redound to the general benefit of the community in which she works.<sup>178</sup>

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<sup>176</sup> See, e.g., Acemoglu & Pischke, *supra* note 76, at 94; JACOB MINCER, SCHOOLING, EXPERIENCE, AND EARNINGS 119–21 (1974); GARY S. BECKER, HUMAN CAPITAL: A THEORETICAL AND EMPIRICAL ANALYSIS, WITH SPECIAL REFERENCE TO EDUCATION 45 (1964).

<sup>177</sup> See Heli C. Wang & Jay B. Barney, *Employee Incentives to Make Firm-Specific Investments: Implications for Resource-Based Theories of Corporate Diversification*, 31 ACAD. MGMT. REV. 466, 466–68 (2006) (explaining that an employee's optimal amount of human capital investment is dependent upon what she stands to gain from firm-specific investments as opposed to general human capital investments).

<sup>178</sup> In these respects, the effect of long-term law enforcement employment and low lateral movement mirrors the effect of a noncompete clause coupled with a contract for a lengthy

## 2. Professionalization

The benefits of the civil service laws that restrict lateral movement by prioritizing internal promotion come into view against the historical backdrop that motivated their application to law enforcement. Early American police departments were essentially “adjunct[s] of the [political] machine.”<sup>179</sup> Their performance was, by all accounts, “hopelessly unprofessional, inefficient, and corrupt.”<sup>180</sup> Here is how one leading textbook describes American policing during the “political era” ranging from roughly 1830 to 1900:

Police departments in the political era had no personnel standards as we understand them today. Officers were selected entirely on the basis of their political connections. Men with no formal education, those in bad health, and those with criminal records were hired. . . .

Police officers had no job security and could be fired at will. In some cases, almost all the officers were fired after an election. . . .

Jobs on the police force were a major form of patronage, which local politicians used to reward their friends. . . .

Police corruption was epidemic . . . . The police took payoffs for not enforcing laws on drinking, gambling, and prostitution. The money was then divided among officers at all ranks. Corruption extended to personnel decisions . . . . In New York City, an officer seeking promotion . . . had to pay a bribe of \$16,000. The cost of obtaining a promotion was compensated for by the greater opportunities for graft. . . .<sup>181</sup>

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term of years. There is an extensive literature on how noncompete clauses benefit employers and employees by encouraging sector-specific training and firm-specific investment by both parties. This benefit—which is typically the strongest argument in favor of noncompetes—is balanced against the fact that noncompetes lead to lower wages for employees in the long run due to the lack of labor mobility. See Jacqueline A. Carosa, *Employee Mobility and the Low Wage Worker: The Illegitimate Use of Non-Compete Agreements*, 67 BUFF. L. REV. DOCKET D1, D9 (2019) (explaining the recent trend of employers utilizing noncompetes to depress wage growth). It is for this latter reason that noncompetes are banned in some states, including California. See Russell Beck, *Employee Noncompetes, A State-by-State Survey*, FAIR COMPETITION L. (Feb. 11, 2023), <https://faircompetitionlaw.com/wp-content/uploads/2023/02/Noncompetes-50-State-Noncompete-Survey-Chart-20230211-updated.pdf> [<https://perma.cc/LTH3-SP2W>] (providing a summary of all legislation regulating the use of noncompetes in each state).

<sup>179</sup> FOGELSON, *supra* note 52, at 13.

<sup>180</sup> SAMUEL WALKER, *POPULAR JUSTICE: A HISTORY OF AMERICAN CRIMINAL JUSTICE* 54 (2d ed. 1998).

<sup>181</sup> WALKER & KATZ, *supra* note 24, at 35–38; see also August Vollmer & Albert Schneider, *School for Police as Planned at Berkeley*, 7 J. CRIM. L. & CRIMINOLOGY 877, 877 (1917) (describing nineteenth-century policing as “an era of incivility, ignorance, brutality and graft”).

It is impossible to overstate the pervasiveness of local politics in nineteenth-century policing. “[M]ost officers,” writes historian Robert Fogelson, “derived their prerogatives and influence as much from their political connections as from their official positions.”<sup>182</sup> “[W]hoever controlled the ward vote was entitled to name the precinct captain,” Fogelson explains, and “most captains deferred to the ward leaders: they protected their cronies, harassed their enemies, favored their appointees, contributed to their campaigns, and in innumerable other ways acknowledged their leadership.”<sup>183</sup> Worse yet, ward bosses deployed the police on election day—police officers under the thumb of local politicians running for office were dispatched to superintend the polls and arbitrate voting disputes.<sup>184</sup>

The application of civil service laws to the police was designed in part to remedy this intolerable state of affairs. Part of a broader, multi-generational movement to “professionalize” the police, civil service laws, reformers hoped, would “get officers out of the hands of ward bosses.”<sup>185</sup> Simply put, if the department had to promote from within, ward bosses could no longer “name the precinct captain,” and captains would no longer “defer[] to the ward leaders” rather than their chief.<sup>186</sup> The same legal reforms raised entrance requirements and required good cause for termination, making it harder for local politicians to get incumbent officers fired and replace them with cronies, however unqualified. While the sordid practices of the political era may seem far-fetched in today’s world, the basic point is that civil service rules reduce the opportunities for bias, nepotism, and self-dealing to drive personnel decisions. Further, by increasing the prospects for advancement within the department, police forces may attract better candidates to the occupation and induce them to stick around.<sup>187</sup> All of this ought to redound to the benefit of the broader public.

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<sup>182</sup> FOGELSON, *supra* note 52, at 22–23.

<sup>183</sup> *Id.* at 25.

<sup>184</sup> *See id.* at 20.

<sup>185</sup> DAVID ALAN SKLANSKY, *DEMOCRACY AND THE POLICE* 35–37 (2007); *see also* WALKER, *supra* note 180, at 131 (“The new professionalization movement had a concrete agenda of organizational reform that included eliminating political influence over the police . . .”). The best description of the struggle to professionalize the police, including the role of civil service protections, is Robert Fogelson’s book-length account. *See generally* FOGELSON, *supra* note 52 (describing how American police departments were riddled with political corruption and self-dealing during the nineteenth and twentieth centuries).

<sup>186</sup> FOGELSON, *supra* note 52, at 25.

<sup>187</sup> *See People ex rel. Cadell v. Bd. of Fire & Police Comm’rs*, 103 N.E.2d 666, 668 (Ill. App. Ct. 1952) (explaining that civil service laws were designed to take police officers “out of the realm of political patronage” and give them “a tenure that depended upon merit in order to encourage the applications and retention of qualified persons”).

### 3. *Attraction of High-Quality Candidates*

Finally, there is some evidence that the long-term stability of a policing career may help attract more talented candidates to the job. Historically, this was certainly the case. Police pension systems, historian Robert Fogelson explains, were “designed not only to help the police departments attract capable recruits but also to enable them to retain experienced policemen and retire superannuated officers.”<sup>188</sup> And these efforts seem to have worked: Fogelson describes how many Depression-era recruits were lured into policing by the promise of “a steady job, a modest salary, and a decent pension.”<sup>189</sup>

Contemporary social science evidence confirms this historical account and suggests that job stability may help diversify the pool of applicants as well.<sup>190</sup> In a randomized controlled trial, Elizabeth Linos found that messages emphasizing the long-term stability of a career in policing were more effective at encouraging candidates to apply than other messages geared around, for instance, the opportunity to serve the public.<sup>191</sup> This effect was strongest, moreover, for applicants of color and women.<sup>192</sup> In Table 2 above, we saw that women and people of color were generally less likely to make lateral moves than white men. The two sources suggest that job stability may matter most to people in those demographic groups.

As we noted above, it is not necessarily surprising that risk-averse individuals might be willing to trade some amount of labor mobility—which is costly to leverage, particularly for law enforcement officers<sup>193</sup>—for job stability and security. Thus, if we conceptualize heightened job security for law enforcement officers as part of the bargain for decreased labor mobility, it is possible to draw a causal connection between increased labor frictions and heightened quality of policing candidates.

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<sup>188</sup> FOGELSON, *supra* note 52, at 105.

<sup>189</sup> *Id.* at 169–70.

<sup>190</sup> Evidence on the extent to which pensions help retain high-quality workers is more equivocal, however. See, e.g., Cory Koedel, Michael Podgursky & Shishan Shi, *Teacher Pension Systems, the Composition of the Teaching Workforce, and Teacher Quality*, 32 J. POL'Y ANALYSIS & MGMT. 574, 574 (2013) (finding no evidence that pension incentives raise worker quality).

<sup>191</sup> Elizabeth Linos, *More Than Public Service: A Field Experiment on Job Advertisements and Diversity in Police*, 28 J. PUB. ADMIN. REV. & THEORY 67, 75 (2018) (“In terms of effect size, messages that focus on personal benefits are three times as effective at attracting individuals to the police as messages that focus on serving or impacting others.”).

<sup>192</sup> *Id.* at 77–79; see also Marinescu, *supra* note 23, at 483–84 (finding that job-security legislation improved the quality of newly recruited workers).

<sup>193</sup> See *supra* Section II.A.

This, in turn, could benefit civilians, who are policed by better and more diverse officers than would have otherwise joined the force.<sup>194</sup>

## B. Costs of Limited Mobility

### 1. Stagnation

Labor mobility is important to both employees and employers as a means of allocating talent and expertise efficiently. A given employee's skills might be more valuable at another firm; the ability to move to that firm thus serves both the employee and the putative next employer. Employees can also simply tire of their current jobs or burn out. Under those circumstances, their performance can suffer, to the detriment of any stakeholders affected by the employer (here, the entire policed community).<sup>195</sup> Labor frictions are harmful to putative future employers as well. Labor frictions that reduce mobility lead to allocative inefficiency due to the resulting mismatch between employers and employees. If employees cannot or will not move to jobs where their skills and expertise are more valuable, then some potential employer is similarly denied the full benefit of their skills.<sup>196</sup>

These considerations loom large in the policing context. Law enforcement jobs can differ substantially, even within a given state. Policing a large city is very different from policing a medium-sized suburb, which is in turn different from policing a small town. Labor frictions can prevent law enforcement officers from finding the environment that suits them best. For that matter, a particular officer might be better suited to investigative work than patrol, or to a primarily administrative position rather than a more active one, but be unable or unwilling to apply for an open position that offers the preferred type of work.

There is evidence for these types of problems in surveys of officers. One government report on police pensions and labor mobility argued

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<sup>194</sup> As noted in Section II.A.5 above, standard economic theory would suggest that another consequence of low labor mobility is lower wages for police. This might be thought of as a benefit, as it lowers the burden on the taxpaying public. At the same time, policing salaries are paid to people who are themselves members of the public. A reduction in police salaries thus operates primarily as a transfer from police officers to taxpayers. Accordingly, and in keeping with the standard treatment of transfers in other contexts, we do not view it as a cost or benefit. See Jonathan S. Masur, *CBA at the PTO*, 65 DUKE L.J. 1701, 1728 n.128 (2016).

<sup>195</sup> See Endres, *supra* note 89 (discussing how pensions inhibit effective policing by creating conflicts of interest and discouraging supervisor involvement).

<sup>196</sup> See Nick Adnett, Spiros Bougheas & Yannis Georgellis, *On the Trade-Off Between Work-Related Training and Labor Mobility: The Role of Firing and Exit Costs*, 82 J. ECON. 49, 67 (2004) (arguing that, although exit costs can strengthen incentives for employers to make specific human capital investments, such costs can also reduce allocative efficiency by reducing labor mobility within the market).

that mobility restrictions reduce policing efficacy through diminished competition, attenuated skill and knowledge development, and reduced employer-employee skillset-based matching.<sup>197</sup> The report included a survey of 132 officers who were asked, "If any existing impediments to job mobility were removed, and a wider field of job opportunities in other locations were thus opened up, would this lead you to acquire new skills or specialized knowledge that would qualify you for a higher-paid and/or more responsible position?"<sup>198</sup> Eighty-three percent of officers responded affirmatively.<sup>199</sup> The report concluded: "The thought of losing [a] pension by reason of a change of position can, and does understandably prevent many a police officer from moving to a job in which his prospects are greater and his skills and strengths can be more effectively employed."<sup>200</sup> Another more recent study asked police officers whether they agreed or disagreed with statements including "If I could change police departments without losing seniority I would," or "If I received an offer for a better paying job outside of policing I would immediately accept it."<sup>201</sup> Average responses from officers indicated agreement with both of these statements.<sup>202</sup>

The problems do not end with skills mismatch. Unhappy employees whose abilities are not being tapped may quickly burn out. They might stop providing their best efforts on the job, their rate of misconduct might increase, and they might become more likely to suffer from mental illness from being trapped in a stressful job they cannot escape. It is even possible that some officers might consciously and dishonestly turn to the disability system as a substitute for switching jobs when labor frictions are high. And if officers respond to burnout by engaging in misconduct or simply performing poorly, they are difficult to fire because of statutory and contractual labor protections.<sup>203</sup>

Indeed, in an article on a website geared toward law enforcement officers, patrol officer Mike Endres argued that labor frictions

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<sup>197</sup> CALVERT, *supra* note 101, at 6 (noting that increasing job mobility would prompt "an immediate stimulation to the acquisition of new skills and specialized knowledge among peace officers, resulting in better overall performance, greater professionalism, greater competition for senior positions, and a general advance in capability on a nationwide basis in the battle against crime").

<sup>198</sup> *Id.* at 67.

<sup>199</sup> *Id.*

<sup>200</sup> *Id.* at 1-2.

<sup>201</sup> M.L. Dantzker & M.A. Surrence, *The Perceived Levels of Job Satisfaction Among Police Officers: A Descriptive Review*, 11 J. POLICE & CRIM. PSYCH. 7, 10 (1996).

<sup>202</sup> *Id.* at 9 ("Officers are more agreeable than disagreeable to changing departments, which supports the satisfaction of being in policing, but are also more agreeable to leaving policing for a better paying job.").

<sup>203</sup> See *supra* note 78.

(principally generated by the lack of pension portability) lead officers to stay with law enforcement agencies longer than they otherwise would, to the detriment of their wellbeing and productivity. The author notes that more police officers die from suicide than from any other on-the-job cause and writes, provocatively: “But sixteen years of wading through human misery has taken a toll. You’ve seen one too many easily-avoided traffic fatalities. You dread coming to work. Your spouse is tired of seeing your suffering and the black cloud it brings over the family and is threatening divorce.”<sup>204</sup> The same author notes that officers who cannot leave their jobs may also reduce the effort they put in.<sup>205</sup>

Social scientific research largely backs up Endres’s claims. Studies consistently find that “organizational stressors” contribute significantly to officer burnout—more so even than the stresses inherent to police work itself.<sup>206</sup> Likewise, inadequate job resources—including salary and career opportunities, role clarity and autonomy, and team climate and support—strongly predict officer exhaustion and disengagement.<sup>207</sup> Burnout, in turn, seems to lead to higher rates of absenteeism, decreased

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<sup>204</sup> Endres, *supra* note 89; see *id.* (“Ask a police officer how long he or she plans to keep working in law enforcement and you’ll get a unique answer. . . . In cop speak, it will be, ‘when my pension says I can retire.’”); *id.* (“Law enforcement takes a toll on its practitioners, and pensions encourage people to stick around long past when they otherwise would have left. . . . For many years, more officers have died by suicide than were killed on the job.”); *id.* (“Police work is not for everyone, and that’s fine. No one should be financially strong-armed into staying in law enforcement. Your Jacksonville buddy who decides that nine years is enough can leave and take his entire 401(a) defined-contribution balance with him. . . . But you? Let’s say that you consider leaving at nine years and are not yet vested in your defined-benefit pension. . . . You’ll probably decide that’s not a good financial idea, find an office job, and busy yourself checking emails for another decade or two until you are eligible for your pension.”).

<sup>205</sup> *Id.* (“[I]f your pension is only a few years away, why risk your retirement by going out and supervising officers in the field?”).

<sup>206</sup> See Kenneth Dowler, *Job Satisfaction, Burnout, and Perception of Unfair Treatment: The Relationship Between Race and Police Work*, 8 POLICE Q. 476, 477 (2005) (describing research that shows the weight of organizational stressors in police burnout); Arnold B. Bakker & Ellen Heuven, *Emotional Dissonance, Burnout, and In-Role Performance Among Nurses and Police Officers*, 13 INT’L J. STRESS MGMT. 423, 425 (2006) (discussing research demonstrating workload and poor management were larger drivers of burnout than police-specific factors); John M. Violanti et al., *Effort-Reward Imbalance and Overcommitment at Work: Associations with Police Burnout*, 21 POLICE Q. 440, 442 (2018) (proposing an effort-reward imbalance model of police burnout based on research showing organizational factors are stronger determinants).

<sup>207</sup> See Arnold B. Bakker, Evangelia Demerouti & Willem Verbeke, *Using the Job Demands-Resources Model to Predict Burnout and Performance*, 43 HUM. RES. MGMT. 83, 96–98 (2018) (summarizing the study’s conclusions that resources were a major factor affecting levels of performance).



motivation, and dysfunctional work behavior, and may also decrease confidence during critical decision-making moments.<sup>208</sup>

Low labor mobility and the resulting stagnation likely produce dynamic effects as well. Though some qualified candidates are probably enticed by the job security that accompanies policing,<sup>209</sup> low labor mobility likely deters other candidates from entering the field. There may be an adverse selection effect here as well: it is possible that the best candidates are the ones who would most value the ability to switch jobs to advance in the field. Labor frictions may also slow efforts to diversify police ranks. As in many other professions, police officers who enter the force today are less likely to be white or male than fresh recruits two and three decades ago.<sup>210</sup> The longer current officers hold their jobs, the more slowly a predominantly white and male officer corps can be replaced by a more diverse group of recruits.<sup>211</sup>

At the same time, it is important to acknowledge the organizational and social costs that might result if officers could move more freely. In

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<sup>208</sup> See, e.g., Alan M. Goodman, *A Model for Police Officer Burnout*, 5 J. BUS. & PSYCH. 85, 85, 95 (1990) (using absenteeism and anxiety as proxies for burnout); Bakker & Heuven, *supra* note 206, at 424 (describing symptoms of burnout that include emotional problems and detachment); Bakker et al., *supra* note 207, at 92–98 (discussing negative consequences of burnout that include disengagement and reduced performance); Richard C. Niebusch & Nathan R. Moran, *Conservation of Resources, Burnout, and Other Selected Behavioral Variables Among Law Enforcement Officers: A Quantitative Analysis*, 6 INT'L J. CRIM. L. & SOC. ISSUES, Jan.–June 2019, at 1, 7, 19 (listing negative health effects of burnout and finding increased negative affectivity and decreased organizational citizenship from burnout); Thomas A. Wright & Douglas G. Bonett, *The Contribution of Burnout to Work Performance*, 18 J. ORG. BEHAV. 491, 495–97 (1997) (showing a relationship between emotional exhaustion and work performance). See generally Gabriela Pedro Gomes, Neuza Ribeiro & Daniel Roque Gomez, *The Impact of Burnout on Police Officers' Performance and Turnover Intention: The Moderating Role of Compassion Satisfaction*, 12 ADMIN. SCIS. 92, 102 (2022) (finding a correlation between burnout and negative job performance). For a more general discussion of problematic behaviors that officers may develop due to burnout and “hypervigilance,” see generally Kevin M. Gilmartin & John J. Harris, *Dealing with Problem/Disgruntled Employees in the Law Enforcement Environment*, E-S PRESS.COM, [https://emotionalsurvival.com/Problem\\_and\\_Disgruntled\\_Employees.htm](https://emotionalsurvival.com/Problem_and_Disgruntled_Employees.htm) [<https://perma.cc/G2G5-W8GH>] (describing emotional mindset of police officers experiencing hypervigilance).

<sup>209</sup> See *supra* Section III.A.3.

<sup>210</sup> See David Alan Sklansky, *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*, 96 J. CRIM. L. & CRIMINOLOGY 1209, 1214, 1218 (2006) (providing evidence that police forces have becoming significantly more diverse since 1967 and that diversity is not as prevalent at higher ranks); see also Daniel E. Ho, Oluchi Mbonu & Anne McDonough, *Mandatory Retirement and Age, Race, and Gender Diversity of University Faculties*, 23 AM. L. & ECON. REV. 100, 117–18 (2021) (describing another profession, legal academia, that is seeing increased diversity among new entrants).

<sup>211</sup> See Lawrence M. Kahn, *Labor Market Policy: A Comparative View on the Costs and Benefits of Labor Market Flexibility*, 31 J. POL'Y ANALYSIS & MGMT. 94, 106 (2012) (reviewing research showing tradeoffs between incumbent employment security and opportunities for new entrants).

general, and in the private sector, assortative labor matching—where employees migrate to the jobs that value their skills most highly—is seen as positive.<sup>212</sup> If Job A will pay a worker more than Job B, it must be because the worker will produce more value at Job A than at Job B.<sup>213</sup> Allowing the worker to move to Job A therefore creates social benefits. This relationship does not necessarily hold in the public-sector world of policing, however. Some jurisdictions offer higher salaries for police officers simply because their residents are wealthier. Those jurisdictions tend to have lower crime rates for related reasons. If police had greater labor mobility, the best officers might move from higher-crime, lower-salary jurisdictions where their services are more socially valuable, to lower-crime, higher-salary jurisdictions where they provide less value to the community. That is, on the whole it would be socially deleterious if the best police officers steadily migrated from Chicago to Winnetka and from Miami to West Palm Beach. Indeed, there is some evidence that teachers engage in this type of reverse-assortative matching, with better teachers migrating from poorer districts (where the need for them is greater) to wealthier ones.<sup>214</sup>

Thus, we cannot say that greater mobility would be an unmitigated positive on these terms. Nonetheless, the gains from retaining high-quality officers will be greatly diminished if the officers burn out and are unable to transition. These static harms must be balanced against whatever distributional benefits might be achieved from forcing officers to remain in place.

## 2. *Reduced Diffusion of Ideas*

Stagnation in law enforcement organizations likely diminishes the creation and diffusion of new ideas. There is a large literature, much of it relating to high-tech industries, showing that labor movement

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<sup>212</sup> See Robert Shimer & Lones Smith, *Assortative Matching and Search*, 68 *ECONOMETRICA* 343, 344 (2000) (providing an example of assortative matching with modeling of real world frictions).

<sup>213</sup> See Alp E. Atakan, *Assortative Matching with Explicit Search Costs*, 74 *ECONOMETRICA* 667, 667 (2006) (modeling matching between agents who are maximizing value).

<sup>214</sup> See Li Feng & Tim R. Sass, *Teacher Quality and Teacher Mobility*, 12 *EDUC. FIN. & POL'Y* 396, 412–13 (2017) (describing how high-quality teachers are likely to move to schools with other high-quality teachers); Dan Goldhaber, Betheny Gross & Daniel Player, *Teacher Career Paths, Teacher Quality, and Persistence in the Classroom: Are Public Schools Keeping Their Best?*, 30 *J. POL'Y ANALYSIS & MGMT.* 57, 83 (2011) (showing study results that better performing teachers were more likely to leave lower performing schools); Donald Boyd, Hamilton Lankford, Susanna Loeb & James Wyckoff, *Explaining the Short Careers of High-Achieving Teachers in Schools with Low-Performing Students*, 95 *AM. ECON. REV.* 166, 171 (2005) (discussing labor mobility among high-performing teachers).

spreads new ideas across organizations and generates innovation.<sup>215</sup> As employees move jobs, they bring their ideas and expertise, and the aggregation of new ideas from multiple employees and firms eventually leads to innovation.<sup>216</sup> This is one of the hypothesized reasons for the success of Silicon Valley: a proliferation of firms in the same geographic area, with significant labor movement among firms.<sup>217</sup> Notably, even firms that have lost employees seem to benefit from labor movement. As employees change jobs, they retain strong social ties with the employees who remain at their prior firms. The result is backward sharing of ideas, where the departed employee passes knowledge from her new firm back to her former colleagues at her old one.<sup>218</sup>

These effects are not limited to the technology sector or even the private sector. There is evidence that even within governmental organizations, notably including police departments, hiring from the outside spurs innovation (compared with simply promoting internal candidates).<sup>219</sup> As an article published by the National Policing Institute, a non-profit research body, put it:

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<sup>215</sup> See, e.g., Lori Rosenkopf & Paul Almeida, *Overcoming Local Search Through Alliances and Mobility*, 49 MGMT. SCI. 751, 765 (2003) (analyzing the spread of knowledge in the technology industry via patent registrations); ORLY LOBEL, TALENT WANTS TO BE FREE: WHY WE SHOULD LEARN TO LOVE LEAKS, RAIDS, AND FREE RIDING 39 (2013) (describing the long-term benefit to innovation from talent migration); Orly Lobel, *Noncompetes, Human Capital Policy & Regional Competition*, 45 J. CORP. L. 931, 946 (2020) (discussing how noncompete agreements stifle innovation); Ronald J. Gilson, *The Legal Infrastructure of High Technology Industrial Districts: Silicon Valley, Route 128, and Covenants Not to Compete*, N.Y.U. L. REV. 575, 613 (1999) (describing how Silicon Valley's success arose from the unenforceability of non-compete agreements); Evan Starr, *Are Noncompetes Holding Down Wages?*, in INEQUALITY AND THE LABOR MARKET: THE CASE FOR GREATER COMPETITION 127, 128 (Sharon Block & Benjamin Harris eds., 2021) (examining the effects of non-competes on wages); David B. Audretsch & Maryann P. Feldman, *R&D Spillovers and the Geography of Innovation and Production*, 86 AM. ECON. REV. 630, 639 (1996) (conducting a study showing the geographic effects of knowledge spillover on innovation).

<sup>216</sup> See Jaeyong Song, Paul Almeida & Geraldine Wu, *Learning-by-Hiring: When is Mobility More Likely to Facilitate Interfirm Knowledge Transfer?*, 49 MGMT. SCI. 351 (2003) (explaining the conditions under which employees moving between firms leads to innovation).

<sup>217</sup> See LOBEL, *supra* note 215, at 68 (discussing theories about how employee hopping between firms led to Silicon Valley success).

<sup>218</sup> See Ajay Agrawal, Iain Cockburn & John McHale, *Gone but Not Forgotten: Knowledge Flows, Labor Mobility, and Enduring Social Relationships*, 6 J. ECON. GEOGRAPHY 571, 571 (2006) (analyzing knowledge flows to show increased idea transfer to areas where inventors used to live); Rafael A. Corredoira & Lori Rosenkopf, *Should Auld Acquaintance Be Forgotten? The Reverse Transfer of Knowledge Through Mobility Ties*, 31 STRATEGIC MGMT. J. 159, 178 (2010) (concluding that firms that lost employees still gained an innovation benefit from new social ties).

<sup>219</sup> See, e.g., Manuel P. Teodoro, *Bureaucratic Job Mobility and the Diffusion of Innovations*, 53 AM. J. POL. SCI. 175, 186 (2009) (discussing how hiring agency heads from outside the government is aimed at increasing innovation).

One way [to open up policing to new people and ideas] is to allow for lateral transfers at all sworn ranks between departments. Today, to climb the ranks in a police department, one must start in that department as a rookie and promote up, or be hired from the outside as a police chief. Is it any wonder that the answer to the question of “why do you do it that way” is “because we always did and we know no difference?”<sup>220</sup>

The article addressed the outside hiring of police chiefs in particular, the one leadership position for which lateral appointments are not uncommon. But the position of police chief is surely not the only one that matters. Just as studies have shown that movement of regular employees leads to knowledge diffusion in other industries separate and apart from the movement of CEOs, so too would labor movement of lower-ranking police officers (and even line officers) likely lead to greater production and diffusion of ideas about policing.<sup>221</sup> Indeed, research suggests that agency leaders often struggle, in the face of rank-and-file resistance, to impose their reform agendas from the top down, notwithstanding the political mandate with which they take office.<sup>222</sup> For this very reason, some argue that lasting change in policing must ultimately come from the bottom up.<sup>223</sup>

What might innovation in policing look like? What are departments potentially missing due to workforce stagnation? At a macro scale, departments may not be learning about best practices for implementing programs like community policing. And somewhat more narrowly,

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<sup>220</sup> Nola M. Joyce, *Inviting Outsiders Inside Policing*, NAT'L POLICING INST.: ON POLICING BLOG (Mar. 2, 2016), <https://www.policinginstitute.org/onpolicing/inviting-outsiders-inside-policing> [https://perma.cc/4FTZ-8FW5]; see also WALKER & KATZ, *supra* note 24, at 193 (“Some experts regard lateral entry as a potential means of enhancing police professionalism. They argue that it would create greater career opportunities for talented and ambitious officers and would allow departments to bring in fresh blood and new ideas.”).

<sup>221</sup> See sources cited *supra* note 215.

<sup>222</sup> See, e.g., Lauren M. Ouziel, *Democracy, Bureaucracy, and Criminal Justice Reform*, 61 B.C. L. REV. 523, 555–63 (2020) (describing differing motivations between political leadership and apolitical rank-and-file); Wesley G. Skogan, *Why Reforms Fail*, 18 POLICING & SOC'Y 23, 26 (2008) (discussing why officers resist the reforms that leadership champions); Kimberly Kindy & Mark Berman, *Police Chiefs and Mayors Push for Reform. Then They Run into Veteran Officers, Unions, and “How Culture Is Created.”*, WASH. POST (June 28, 2020), [https://www.washingtonpost.com/national/police-chiefs-and-mayors-push-for-reform-then-they-run-into-veteran-officers-unions-and-how-culture-is-created/2020/06/28/7d2ff812-b2ef-11ea-8f56-63f38c990077\\_story.html](https://www.washingtonpost.com/national/police-chiefs-and-mayors-push-for-reform-then-they-run-into-veteran-officers-unions-and-how-culture-is-created/2020/06/28/7d2ff812-b2ef-11ea-8f56-63f38c990077_story.html) [https://perma.cc/2WVR-BWPS] (outlining police union pushback against police reform in Minneapolis); cf. ELIZABETH REUSS-IANNI, *TWO CULTURES OF POLICING: STREET COPS AND MANAGEMENT COPS* (1983) (studying a rift between “street cops” and “management cops” where management cops are those who have bought into reform efforts).

<sup>223</sup> See generally POLICE REFORM FROM THE BOTTOM UP: OFFICERS AND THEIR UNIONS AS AGENTS OF CHANGE (Monique Marks & David Sklansky eds., 2011).

individual units or squads within the department could benefit from new ideas—ideas for how to defuse dangerous situations, interact with particular populations, address problems related to mental illness, use technology effectively to supplement personnel in the field, or any number of other possibilities.<sup>224</sup> Indeed, part of the problem is that it is impossible to know what innovation might have occurred in a counterfactual world of greater police labor mobility.

### 3. *The Blue Wall of Silence*

The fact that any given officer is likely to remain with the same law enforcement organization for her entire career also creates strong incentives for her to preserve the quality of her working conditions. Without a meaningful exit option, she is effectively tied to her employer and colleagues, for better or for worse. This gives her good reason not to run afoul of her superior officers, who could make her job enduringly unpleasant. It also gives her motivation to mind her fellow officers who, given the highly relational nature of policing, could also make her job unpleasant—or even dangerous.

All of this means that officers have powerful, self-interested reasons to comply with directives from superiors and conform with cultural norms established by peers, even when those norms are pernicious. If police superiors order an officer to make quality-of-life arrests or engage in heavy-handed stop-and-frisk tactics in a particular neighborhood, she has good reason to comply. At some level, this is sensible: We want rank-and-file officers to obey orders rather than follow their own surmise. But at the same time, obsequiousness eliminates an important check on harmful orders that emanate from the top. Unlike in other professions, it is terribly difficult for police officers to quit in protest or even to object to the orders they receive. If the policies and priorities of senior law enforcement management are misguided, the entire law enforcement organization is stuck with them.

The relational nature of policing makes this concern equally salient—if not more so—with respect to one's fellow officers. As we described above, nearly all police officers work in teams—teams that are essential to both the quality and safety of an officer's work. Officers who alienate their colleagues can be placed in dangerous situations or otherwise face severe reprisals for their actions. This means that each officer faces enormous pressure to take the norms of the department as given, as defecting from them would exact a

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<sup>224</sup> Cf. Kapustin et al., *supra* note 2, at 15 (finding variation in violent crime and officer use of force related to the timing of police leader tenures).

heavy price.<sup>225</sup> If the department (or unit) engages in corruption, the officer feels pressure to behave similarly.<sup>226</sup> If the department is infused with “toxic masculinity,”<sup>227</sup> these forces push the officer to adopt the same stance.<sup>228</sup>

Perhaps most important, the officer becomes inclined to engage in collective behaviors that benefit law enforcement officers even if they harm the public. The most prominent of these is the widespread practice of refusing to inculcate another officer or, if necessary, lying to protect a colleague against charges of misconduct.<sup>229</sup> Any officer who undermines what is known as the “blue wall of silence” runs a substantial risk of ostracization. This can make work unpleasant or worse—there are common reports of police who do not play by the “rules” being left in precarious situations by colleagues who ignore their calls for backup, for example.<sup>230</sup> And because these officers have limited exit options, they are then stuck in jobs that endanger their lives and safety.

<sup>225</sup> See generally Lawrence Lessig, *The Regulation of Social Meaning*, 62 U. CHI. L. REV. 943, 1000–01 (1995) (explaining social meaning as a collective action problem in which any given defector must bear heavy social costs).

<sup>226</sup> See JUSTIN FENTON, *WE OWN THIS CITY: A TRUE STORY OF CRIMES, COPS, AND CORRUPTION* (2022) (detailing the rampant corruption within the Baltimore Police Department’s Gun Trace Task Force and the manner in which new officers were acculturated into these patterns of corruption).

<sup>227</sup> The concept of “toxic masculinity” refers to commonly recognized aspects of masculinity that are socially destructive, such as misogyny, homophobia and violence.

<sup>228</sup> See Lesley J. Bikos, “I Took the Blue Pill” The Effect of the Hegemonic Masculine Police Culture on Canadian Policewomen’s Identities, 2 (July 2016) (M.A. research paper, Western University), [https://ir.lib.uwo.ca/sociology\\_masrp/7](https://ir.lib.uwo.ca/sociology_masrp/7) [<https://perma.cc/YJ3B-HC3N>] (examining the effects of toxic masculinity on female police officers); Jonathan Masur & Richard H. McAdams, *Police Violence in The Wire*, 2018 U. CHI. LEGAL F. 139, 147–49 (describing the culture of masculinity that pervades many police departments and its negative impacts).

<sup>229</sup> See, e.g., Lisa Mullins, *Former DOJ Investigator: Widespread ‘Blue Code of Silence’ Within Chicago Police Department*, WBUR (Jan. 18, 2019), <https://www.wbur.org/hereandnow/2019/01/18/chicago-police-laquan-mcdonald> [<https://perma.cc/R295-7CVB>] (describing the operation of the blue wall of silence in the context of the Chicago Police Department and its impact on attempts to hold police officers accountable for the shooting of Laquan McDonald).

<sup>230</sup> See, e.g., Huq & McAdams, *supra* note 172, at 215; Musa al-Gharbi, *Police Punish the ‘Good Apples’*, THE ATLANTIC (July 1, 2020), <https://www.theatlantic.com/ideas/archive/2020/07/what-police-departments-do-whistle-blowers/613687> [<https://perma.cc/VQT9-7HNK>] (describing how police retaliate against officers who violate unwritten codes); Gina Barton, Daphne Duret & Brett Murphy, *Behind the Blue Wall of Silence*, USA TODAY (May 9, 2022), <https://www.usatoday.com/in-depth/news/investigations/2021/12/09/blue-wall-police-misconduct-whistleblower-retaliation/8836387002> [<https://perma.cc/TY9X-YN2H>] (providing multiple examples of police abusing whistleblowers); Casey J. Bastian, *The Blue Wall of Silence: Law Enforcement Whistleblowers Face Severe Retaliation*, CRIM. LEGAL NEWS (Sept. 15, 2022), <https://www.criminallegalnews.org/news/2022/sep/15/blue-wall-silence-law-enforcement-whistleblowers-face-severe-retaliation> [<https://perma.cc/2EAS-2DF8>] (discussing the prevalence of retaliation against officers who tell on others).

The blue wall of silence, in turn, has immensely negative effects on the behavior of officers and the operation of police departments.<sup>231</sup> When police officers will not testify to wrongdoing they witness or actively aid in covering it up, it frustrates efforts to hold misbehaving officers accountable. This in turn perpetuates police abuse and misbehavior, as wrongdoers remain on the force and offend again,<sup>232</sup> and as all police know that the likelihood of sanction for malfeasance is low. If policing functioned like other jobs, with higher rates of lateral movement, the blue wall of silence might not be so impenetrable.

#### 4. *Interference with Officer Discipline*

The contractual and statutory labor rights that compensate officers for their limited lateral mobility, like the blue wall of silence, stymie leadership in sanctioning officers for misconduct. A decreased risk of sanctions, in turn, likely increases the incidence of wrongdoing. Legal scholars and criminologists have long believed this to be the case;<sup>233</sup> empirical evidence has recently begun to accumulate, though researchers' findings are somewhat mixed.<sup>234</sup> Beyond its immediate

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<sup>231</sup> See generally *Blue Wall of Silence: A Curated Collection of Links*, THE MARSHALL PROJECT, <https://www.themarshallproject.org/records/605-blue-wall-of-silence> [<https://perma.cc/XHJ6-BTzM>] (last updated Dec. 10, 2021, 4:14 PM) (collecting a variety of sources detailing the reasons for and effects of the blue wall of silence).

<sup>232</sup> See Kyle Rozema & Max Schanzenbach, *Good Cop, Bad Cop: Using Civilian Allegations to Predict Police Misconduct*, 11 AM. ECON. J.: ECON. POL'Y 225 (2019) (finding that civilian allegations of misconduct predict future serious misconduct by police officers).

<sup>233</sup> See, e.g., Samuel Walker, *The Neglect of Police Unions: Exploring One of the Most Important Areas of American Policing*, 9 POLICE PRAC. & RSCH. 95, 95 (2008) (describing how police unions block investigations of officers); Seth W. Stoughton, *The Incidental Regulation of Policing*, 98 MINN. L. REV. 2179, 2211–14 (2014) (revealing how collective bargaining prevents enforcing discipline on officers); Stephen Rushin, *Police Union Contracts*, 66 DUKE L.J. 1191, 1195 (2017) (ascribing lack of corrective action in police forces to public employee labor law); Catherine L. Fisk & L. Song Richardson, *Police Unions*, 85 GEO. WASH. L. REV. 712, 747 (2017) (providing examples of police unions supporting officers accused of misconduct).

<sup>234</sup> Compare Dhammika Dharmapala, Richard H. McAdams & John Rappaport, *Collective Bargaining Rights and Police Misconduct: Evidence from Florida*, 38 J.L. ECON. & ORG. 1, 5 (2020) (finding that collective bargaining rights lead to a substantial increase in violent incidents of misconduct among sheriffs' offices relative to police departments); Jamein Cunningham, Donna Feir & Rob Gillezeau, *Collective Bargaining Rights, Policing, and Civilian Deaths* 3 (IZA Inst. Lab. Econ., Discussion Paper No. 14208, 2021), <https://docs.iza.org/dp14208.pdf> [<https://perma.cc/7YUZ-A6SC>] (indicating that collective bargaining rights account for a significant increase in non-white civilian deaths caused by police); and Rad, *supra* note 175 (arguing that incidence of police abuse of citizens is strongly correlated with the strength of police union protections), with Cunningham et al., *supra* note 171, at 176 (2022) (finding no evidence that the introduction of LEOBORs impacted police killings of civilians); and Felipe Goncalves, *Do Police Unions Increase Misconduct?* (March 2021) (working paper) (on file with author), [https://static1.squarespace.com/static/58d9a8d71e5b6c72dc2a90f1/t/60622724b6a902732b636324/1617045285669/Goncalves\\_Unions.pdf](https://static1.squarespace.com/static/58d9a8d71e5b6c72dc2a90f1/t/60622724b6a902732b636324/1617045285669/Goncalves_Unions.pdf) [<https://perma.cc/T9FF-53N8>] (arguing that police unionization has an insignificant impact on deaths by police).

harms, police misconduct tends to erode public trust in the police, which may reduce cooperation and potentially even lower the clearance rate for serious crimes.

#### IV PATHS FORWARD

In this Part, we consider legal and policy reforms aimed at ameliorating the costs of low law enforcement labor mobility. We are mindful of the fact, as noted above, that labor stability confers benefits and not merely costs. That is, greater labor mobility is not necessarily an unalloyed good. Accordingly, we cannot simply recommend any measure that will diminish labor frictions, though we catalogue several of them. On the contrary, we believe the optimal approaches would be reforms (or packages of reforms) that best confer the advantages of labor mobility while preserving the benefits of employment stability. We suggest, for example, that one cost of increased mobility—weakened incentives to invest in training and expertise—could be offset by heightened support for training at the state and federal levels, where the benefits can be internalized even when officers are more mobile. Future empirical research may shed light on the efficacy and relative importance of these reforms.

These suggestions should be understood in contrast to how similar problems would be addressed if they arose in the private sector. If some type of private-sector firm held the same type of monopsony power over labor that state and local police have, it would be an immediate target for antitrust lawsuits by the Department of Justice Antitrust Division and private plaintiffs. It is beyond dispute that local police forces are monopsonistic employers of law enforcement officers within their jurisdictions: An overwhelming percentage of the law enforcement jobs available within Chicago are provided by the Chicago Police Department;<sup>235</sup> an overwhelming percentage of the law enforcement jobs available within Elgin, Illinois are provided by the Elgin Police Department; and so forth. Moreover, states have created these monopsonies deliberately, by law, by setting non-overlapping

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*See generally supra* note 1 (reviewing the research concerning the effects of unions on police forces).

<sup>235</sup> The Chicago Police Department employs approximately 12,000 officers. *Chicago Police Department Staffing Analysis*, THE CIVIC FED'N (July 8, 2022), <https://www.civiced.org/civic-federation/blog/chicago-police-department-staffing-analysis> [https://perma.cc/WS9E-2UH6]. Meanwhile, the city's second-largest police force—the University of Chicago Police Department—employs approximately 100. Brochure from Univ. of Chicago Police Dep't (2019), [https://d3qi0qp55mx5f5.cloudfront.net/safety-security/uploads/files/2019\\_UCPD\\_Brochure.pdf?mtime=1626028500](https://d3qi0qp55mx5f5.cloudfront.net/safety-security/uploads/files/2019_UCPD_Brochure.pdf?mtime=1626028500) [https://perma.cc/5JAU-LVKT].



jurisdictional boundaries between police forces. In the private sector, the geographic division of markets is *per se* unlawful conduct under the Sherman Act.<sup>236</sup> If this were the private sector, it would be hard to find a more straightforward case of unlawful antitrust conduct.

There are, of course, good reasons why policing jurisdictions are geographically delineated. A system of multiple police forces with competing and overlapping jurisdictions could cause enormous operational problems well exceeding the costs of low police labor mobility. Antitrust laws are not meant to contravene these types of public policy design choices, which is why state action is exempt from them.<sup>237</sup> But that does not change the fact that the labor marketplace conditions that are commonplace for police officers would never be tolerated for plumbers, doctors, or accountants.<sup>238</sup> That antitrust law is not an option renders consideration of other approaches all the more critical. With that in mind, we turn to a few possibilities.

#### *A. Portability of Pensions, Rank, Seniority, and Certification*

As we detailed at length above, among the most serious impediments to police officer mobility is the fact that an officer who moves laterally typically must sacrifice her rank, seniority, and often even some or all of her pension. If she moves across state lines, she must also be recertified. These frictions exist because of legal rules, rules that could simply be amended. We mean “simply” not in the political sense—as we’ve explained, these rules are the product of powerful interest groups and will not be easily undone—but in the legal sense: There is no mystery as to what is creating the frictions.

Sufficiently motivated states and localities could implement open-door rules stating that departments within the jurisdiction have the authority to (or even must) credit any officer hired laterally with the pension service credit, rank, and seniority she had accrued in her prior job. After all, this is how things work in the private sector: One does not go from being a Senior Vice President for Widgets at Corporation

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<sup>236</sup> *Leegin Creative Leather Prods., Inc. v. PSKS, Inc.*, 551 U.S. 877, 886 (2007) (“Restraints that are *per se* unlawful include horizontal agreements among competitors to . . . divide markets . . .”).

<sup>237</sup> See *Parker v. Brown*, 317 U.S. 341, 351–52 (1943) (finding that the purpose of the Sherman Act did not include restricting state action).

<sup>238</sup> It is possible that similar arguments could be made regarding other public-sector employees, such as teachers. That is not the focus of our paper, and nothing we say here depends on police officers being unique among public-sector employees. Our point is merely to highlight the differential labor markets faced by private-sector and these public-sector employees and the ways in which the laws are geared toward protecting the former and not the latter.

A to working in the mail room in Corporation B. And while some law enforcement agencies may promise to promote experienced lateral hires quickly, the prospective lateral must bear the risk of non-promotion, discouraging lateral movement.

It may be difficult to imagine Illinois unilaterally creating a rule that makes it easier for police officers in other states to find jobs in Illinois but does nothing to help Illinois police officers find jobs in other states. But the political economy behind such a law is not actually so obscure. Illinois has a strong interest in cultivating the best possible police departments, staffed by officers who successfully investigate serious crimes and don't commit unlawful acts of violence against Illinois residents. For that matter, the police officer who moves to Illinois becomes an Illinois resident, and there is no obvious reason for the Illinois legislature to favor today's Illinoisian over tomorrow's.

Even if such rules seem infeasible, there are other options. States could pass laws mandating portability of pensions, rank, and seniority for in-state lateral moves, migrate from defined-benefit to defined-contribution pension plans, or even just reduce pension vesting periods.<sup>239</sup> Groups of states could create cross-state reciprocity rules for certification and more, allowing portability within the group. For instance, one could imagine Massachusetts, Connecticut, and Rhode

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<sup>239</sup> For Illinois, that would mean amending the civil service code, enacting a law that overrides (or at least prohibits in new contracts) the seniority provisions commonly found in collective bargaining agreements, and simplifying the complex statutory rules governing pension portability. Evidence from the pension context suggests that worker mobility responds to such incentives, though research findings aren't uniform. *See, e.g.,* Vincenzo Andrietti & Vincent A. Hildebrand, *Evaluating Pension Portability Reforms: The Tax Reform Act of 1986 as a Natural Experiment Abstract*, 54 ECON. INQUIRY 1402, 1416 (2016) (finding that reduced vesting periods for defined-benefit pensions increased job mobility); Marloes Lammers, Hans Bloemen & Stefan Hochguertel, *Pension Rules and Labour Market Mobility* 32 (IZA Inst. Lab. Econ., Discussion Paper No. 10840, 2017), <https://docs.iza.org/dp10840.pdf> [<https://perma.cc/T4ND-56DQ>] (finding that shifting from a final-salary to average-salary model for defined-benefit pensions increased civil servant mobility); Cory Koedel, Jason A. Grissom, Shawn Ni & Michael Podgursky, *Pension-Induced Rigidities in the Labor Market for School Leaders* 21 (Nat'l Ctr. for Longitudinal Data in Educ. Rsch., Working Paper No. 71, 2012), <https://files.eric.ed.gov/fulltext/ED529177.pdf> [<https://perma.cc/KN4B-NW3V>] (finding, through simulation, that removing pension borders would increase mobility of school leaders). *But see* Dan Goldhaber, Cyrus Grout & Kristian L. Holden, *Public Pension Reform and Teacher Turnover: Evidence from Washington State* 2–3 (Nat'l Ctr. for Longitudinal Data in Educ. Rsch., Working Paper 142, 2015), <https://caldercenter.org/sites/default/files/WP%20142%20Policy%20Brief.pdf> [<https://perma.cc/GRE8-Z59J>] (finding that shift to defined-contribution plan did not increase teacher mobility); Alan L. Gustman & Thomas L. Steinmeier, *Pension Portability and Labor Mobility: Evidence from the Survey of Income and Program Participation*, 50 J. PUB. ECON. 299 (1999) (arguing, based on empirical evidence, that compensation premiums, rather than nonportability, explain lower rates of mobility for pension-covered workers).

Island forming a multi-state compact to facilitate labor mobility of police officers working in those three states.<sup>240</sup>

Alternatively, the federal government could mandate portability through federal law. Federal law is, after all, the typical mechanism for solving multi-state cooperation and coordination problems. Or, if dictating labor terms to state and local police forces were seen as excessively interventionist, perhaps because it trenches on the state police power, the federal government could create a national pension system available to all law enforcement officers. Any law enforcement officer working in any jurisdiction could join the program, and the pension would be fully portable by virtue of being federal.

To take a half-step back: the political economy arguments we have offered in the past three Parts have implicitly—though perhaps not explicitly—incorporated canonical understandings of the power of concentrated interest groups.<sup>241</sup> States and cities have compelling interests in providing the best possible policing services to their residents. Indeed, this may be the most important thing states and cities do, or perhaps the second-most important, after operating schools. Yet it is not surprising that police unions and the public officials who negotiate with them have come to terms that may not always achieve optimal outcomes for policed communities, particularly those that are marginalized along various dimensions and enjoy less political power. The typical solution in such situations is often federal lawmaking power.

Of course, increasing mobility through such measures has its potential downsides. To name just two, law enforcement agencies might reduce their investment in training mid-level officers who are now more likely to leave for other jobs; and concerns about reverse-assortative matching might also arise, whereby the best officers gravitate toward the jurisdictions that need them least, such as wealthy, low-crime suburbs. These concerns are undoubtedly important and, for this reason, we cannot necessarily say as a theoretical matter that lubricating the

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<sup>240</sup> There is at least some evidence from the nursing context that interstate compacts like this do materially increase worker mobility. See Aimi Abdul Ghani, *The Impact of the Nurse Licensing Compact on Inter-State Job Mobility in the United States*, in OECD ECONOMIC SURVEY OF THE UNITED STATES: KEY RESEARCH FINDINGS 103, 112 (2019) (finding that states' joining of the Nurse Licensure Compact can boost nurse inter-state job mobility). *But see* Christina DePasquale & Kevin Stange, *Labor Supply Effects of Occupational Regulation: Evidence from the Nurse Licensure Compact 4* (Nat'l Bureau of Econ. Rsch., Working Paper No. 22344, 2016), [https://www.nber.org/system/files/working\\_papers/w22344/w22344.pdf](https://www.nber.org/system/files/working_papers/w22344/w22344.pdf) [<https://perma.cc/CM7B-VG6Q>] (finding no evidence that nurse job mobility increases following states' joining of the Nurse Licensure Compact).

<sup>241</sup> See generally MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* (1971) (providing an overview of traditional theories of group action in the social sciences).

gears of police officer mobility will be beneficial in net. Nevertheless, we mention below several reforms that might address some of these concerns and thus might usefully be packaged with pension, rank, and seniority portability.

### B. Improved Information Flow

Hiring agencies, like all prospective employers, may fear that only the lowest-quality officers enter the lateral job market, biasing them against these candidates. The principal remedy for this problem is information—specifically, information about past performance that allows agencies to distinguish the good officers from the bad. In theory, background checks and job references can supply this information; in practice, however, several obstacles lie in the way. To start, the options for public, readily accessible information about an officer's conduct on the job are minimal. Federal and state databases recording officer misconduct do not exist; few localities publish this information either. There is a national database of officer decertifications, but its coverage is poor.<sup>242</sup> In addition, many agencies—especially the smallest ones—lack the time and resources to conduct thorough background investigations. And even when they do, evidence suggests that many law enforcement employers are reluctant to provide negative references for fear of litigation.<sup>243</sup> Collective bargaining agreements and LEOBORs exacerbate this problem by expunging records of misconduct after a period of years.

All of these problems are solvable. As recently as 2021, Congress considered (but did not enact) legislation that would have created a national database of officer misconduct.<sup>244</sup> States could do the same thing, perhaps under the leadership of the attorney general or POST board.<sup>245</sup>

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<sup>242</sup> See Grunwald & Rappaport, *supra* note 7, at 1696–97 (describing the national database and its limitations).

<sup>243</sup> See *id.* at 1695, 1697 (describing how departments use the offer of a good recommendation to get departing officers to forgo litigation).

<sup>244</sup> See George Floyd Justice in Policing Act of 2021, H.R. 1280, 117th Cong. § 201 (2021) (proposed legislation that would establish a national registry of police misconduct).

<sup>245</sup> See Grunwald & Rappaport, *supra* note 7, at 1758–61 (discussing various potential reforms to national databases to better track officer misconduct); *cf.* *New Jersey Law Enforcement Internal Affairs (IA) Investigations*, OFFICE OF THE ATT'Y GEN., <https://www.njoag.gov/iadata> [<https://perma.cc/6S2L-C8YR>] (state-wide database of anonymized internal affairs investigations that could be easily modified to track names of officers); Steve Janoski, *NJ Attorney General Launches Public Website to Track Every Case in Which Police Use Force*, NORTHJERSEY.COM (Apr. 6, 2021), <https://www.northjersey.com/story/news/new-jersey/2021/04/06/nj-launches-public-website-track-every-police-use-force/7098166002> [<https://perma.cc/MR6K-CX8W>] (describing New Jersey's police use of force database that could serve as a model for a police misconduct one).

State or federal law could mandate background checks before hiring, offering grants or assistance in kind to resource-strapped departments. And state legislation could immunize from tort liability agencies that provide references about their current or past employees, as Florida law already does.<sup>246</sup> Finally, states should repeal LEOBOR provisions that bury evidence of officer misconduct. The typical justification for this position—with which we agree—is that expungement reduces the deterrent effect of administrative sanctions. It also tends to obscure officer quality, raising the risk to the next potential employer and creating a drag on mobility for good officers as well as bad.

To be sure, if officer misbehavior is more transparent, officers might begin to value job security to an even greater degree out of concern they will never find another job if they lose their current one. Yet if everyone's record appears imperfect, perhaps minor imperfections will not be enough to prevent an officer from being hired by a different agency. As with the other suggestions we offer, it is difficult to know with certainty which equilibrium will develop. That, however, augurs in favor of some amount of experimentation, or at least closer empirical study.

### C. *National or State-Level Standardization and Training*

Policing scholars have long bemoaned the excessive decentralization of American law enforcement.<sup>247</sup> Most countries, even large ones, have a single police force, or maybe a handful; the United States has nearly 18,000.<sup>248</sup> As noted, with decentralization comes incredible variation in agency policies, protocols, and even data collection and management. Procedures as simple as the forms officers fill out when they use force or make an arrest vary at the local level.<sup>249</sup> Some of these local variations are surely warranted by circumstance—different environments and

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<sup>246</sup> See FLA. STAT. § 943.134(5) (2021) (provision providing immunity for employers that make required disclosures about employment information).

<sup>247</sup> See, e.g., Maria Ponomarenko, *The Small Agency Problem in American Policing*, 99 N.Y.U. L. REV. 202 (2024) (describing the myriad problems affecting small police departments compared to larger organizations); Jeffrey Fagan & Elliott Ash, *New Policing, New Segregation: From Ferguson to New York*, 106 GEO. L.J. ONLINE 33, 119 (2017) (pointing out that small town police departments are responsible for greater portions of municipal revenue).

<sup>248</sup> ANDREA M. GARDNER & KEVIN M. SCOTT, U.S. DEP'T OF JUST., BUREAU OF JUST. STAT., CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, 2018—STATISTICAL TABLES 1 (2022), <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cslea18st.pdf> [<https://perma.cc/4R97-U6RW>].

<sup>249</sup> See Aurélie Ouss & John Rappaport, *Is Police Behavior Getting Worse?*, 49 J. LEGAL STUD. 153, 158 (2020) (noting the difficulties of collating data across police departments because of differing data structures).

challenges call for different police approaches—but it's hard to believe that greater standardization isn't possible.

While there are other downsides to the lack of standard agency practices, the crucial point here is that extreme local variation heightens the importance of—and the friction created by—employees' firm-specific knowledge. An officer who moves laterally must learn not only a new set of street corners and alleyways, but also new policies and paperwork. This extends the time needed to acclimate to the new job, making the prospect of a lateral transfer less appealing to prospective employer and employee alike.

An array of policy responses—of increasing intensity—could reduce this source of friction. State attorneys general could promulgate model policies and forms and encourage localities to adopt them, perhaps with grants to help smooth the transition.<sup>250</sup> The state legislature could regulate local law enforcement more directly, or empower the attorney general to do the same, as in New Jersey's unique approach.<sup>251</sup> Or the federal government could do many of the same things. It should not escape notice that thousands of local agencies report crime data to the FBI in a single, consistent format, while data on use of force, stop and frisk, personnel, and disciplinary matters remain a mess, as agencies labor under myriad policies and collect data in myriad ways. Location will always matter in policing, but greater standardization would let mobile officers focus on what really counts.

Similarly, state and national governments could play a greater role in training and educating police officers. As we explained above, firms can be reluctant to invest significant resources in training if they fear their employees will leave and use their newly acquired skills elsewhere.<sup>252</sup> In the context of policing, this means that if labor mobility increases in response to some of the other reforms discussed, agencies may grow reluctant to spend on training officers who might depart shortly thereafter. If this comes to pass, states and the national government could pick up the slack. Given that laterally mobile officers are likely to stay in state,<sup>253</sup> states should

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<sup>250</sup> See, e.g., Off. of the Att'y Gen., *Model Policy and Procedure for Eyewitness Identification*, WIS. DEP'T OF JUST. (Apr. 1, 2010), <https://www.doj.state.wi.us/sites/default/files/2009-news/eyewitness-public-20091105.pdf> [<https://perma.cc/NA4X-5XJP>] (example of a model policy).

<sup>251</sup> See New Jersey Criminal Justice Act of 1970, N.J. STAT. ANN. §§ 52:17B-98 to -117 (West 2023) (regarding the Attorney General as the "chief law enforcement officer of the State" and empowering him or her to maintain "general supervision over . . . county prosecutors.").

<sup>252</sup> See *supra* Section III.A.1.

<sup>253</sup> See *supra* Section I.B.

internalize the benefits of training officers working within their borders. And of course the federal government should reap the benefits of training officers working anywhere in the United States, given their propensity to continue working within the country. For that matter, states and the federal government could begin providing more funding to local law enforcement units generally, particularly in a manner that reduces disparities in officer salaries between wealthier and less wealthy jurisdictions.<sup>254</sup> This could help ameliorate the risk of reverse-assortative matching by reducing the flow of high-quality officers to agencies that are able to pay higher salaries. These are not roles states and the federal government have had to play to a great extent thus far, given low levels of police labor mobility. But in a world in which restrictions on mobility are relaxed, training and resources provided at the state and federal levels may become more critical.

### CONCLUSION

In 1967, the President's Commission on Law Enforcement and Administration of Justice published a report titled "The Challenge of Crime in a Free Society." The Commission's task was to evaluate the operation of police in deterring and preventing crime and to suggest how law enforcement might operate more efficaciously and equitably. Among the problems the Commission diagnosed was the lack of lateral movement by police officers:

Most police departments today do not permit "lateral entry" into command or staff positions by officers from other departments, or by civilians. This is partly because of civil service regulations that have rigid promotion and prior residence provisions, partly because police pension rights are not movable from department to department, partly because of a traditional police resistance to "outsiders." One consequence is that America's police personnel are virtually frozen into the departments in which they started. An officer whose special skills are in oversupply in his own department cannot move to a department where those skills are in demand. An officer who seeks to improve his situation by moving from a small department where opportunities for advancement are few to a large department where they are numerous cannot do it, nor

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<sup>254</sup> Many states and the federal government already perform this function with respect to public schools. See, e.g., Matthew Chingos et al., *School Funding: Do Poor Kids Get Their Fair Share?*, URBAN INST. (May 2017), <https://apps.urban.org/features/school-funding-do-poor-kids-get-fair-share> [<https://perma.cc/YC6M-SRLL>] (describing how federal funds go to schools with lower income students at a higher rate).

can a city officer who would like to work in a small community follow his inclinations. A department that cannot fill important jobs adequately from its own ranks is precluded from seeking experienced officers elsewhere.<sup>255</sup>

The Commission's recommendation was straightforward:

Personnel . . . should be selected for their talents and abilities without regard to prior police service. Professional policemen should have the same opportunities as other professionals to seek employment where they are most needed. The inhibitions that civil service regulations, retirement plans and hiring policies place on lateral entry should be removed. To encourage lateral movement of police personnel, a nationwide retirement system should be devised that permits the transferring of retirement credits.<sup>256</sup>

As our empirical findings demonstrate, the Commission's report describes the world today as well as it did the landscape of fifty-five years ago. And as our normative analysis suggests, the Commission's position ought to be taken seriously. That said, the question is not as straightforward as the Commission seemed to suppose. While limited police labor mobility entails potentially serious social costs, it generates benefits as well, and it's difficult to be confident about the net effects. Empirical research on this point would be valuable.

If policymakers conclude that opening up the lateral labor market for police would be a positive development, the solutions are not complex. The problem, in many cases, is that they would require overcoming collective action problems and inflict short-term pain on state and local budgets. This suggests a significant role for the federal government, both as coordinator of interstate cooperation and as a funding source. In theory, all parties involved—federal, state, and local governments; police officers; and the citizens themselves—should favor measures that will improve the job satisfaction of police officers, the nature of agency culture, and, consequently, the quality of American policing.

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<sup>255</sup> PRESIDENT'S COMM'N ON L. ENF'T & ADMIN. OF JUST., THE CHALLENGE OF CRIME IN A FREE SOCIETY 111 (1967), <https://www.ojp.gov/pdffiles1/Digitization/42NCJRS.pdf> [<https://perma.cc/K89B-66MY>].

<sup>256</sup> *Id.* at 112.



## APPENDIX

FIGURE A1. COMPARING OFFICER COUNTS FROM THE ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD (ILETSB) AND THE ANNUAL SURVEY OF PUBLIC EMPLOYMENT & PAYROLL (ASPEP)

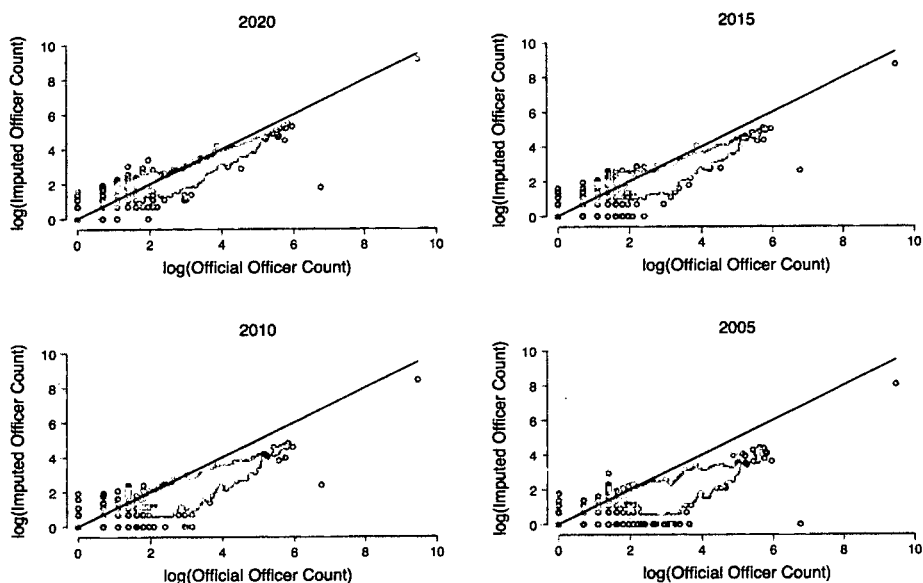


FIGURE A2. FRACTION OF OFFICERS LEAVING THEIR AGENCY EACH YEAR IN FLORIDA, BY NUMBER OF YEARS ON THE JOB

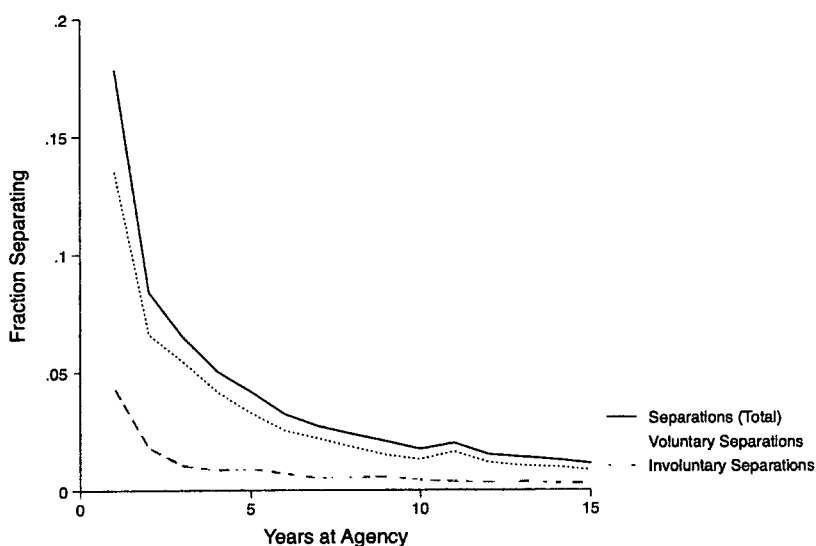


FIGURE A3. FRACTION OF OFFICERS VOLUNTARILY LEAVING THEIR AGENCY EACH YEAR IN FLORIDA, BY NUMBER OF YEARS ON THE JOB

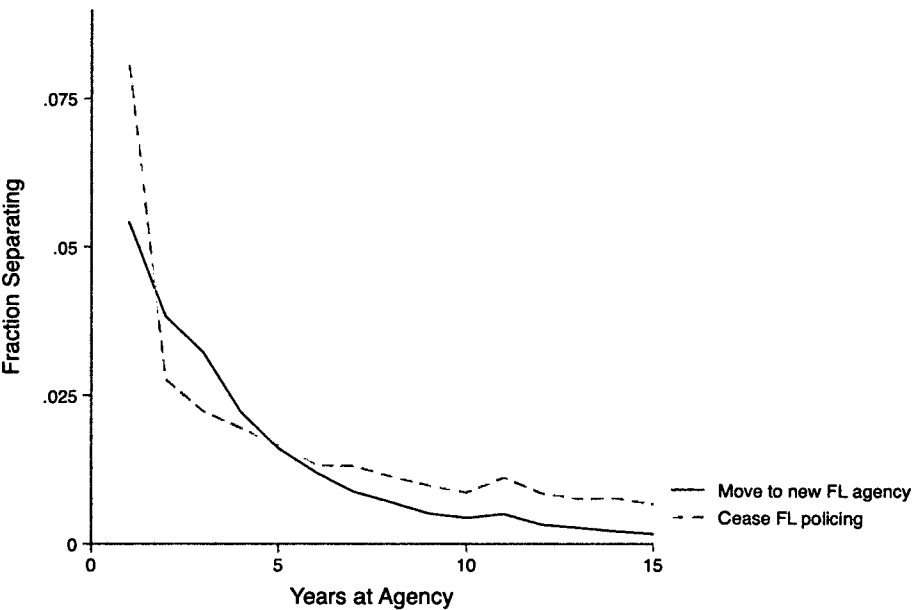


FIGURE A4. DISTRIBUTION OF CHANGES IN SALARIES FOR OFFICERS WHO VOLUNTARILY CHANGE AGENCIES IN FLORIDA

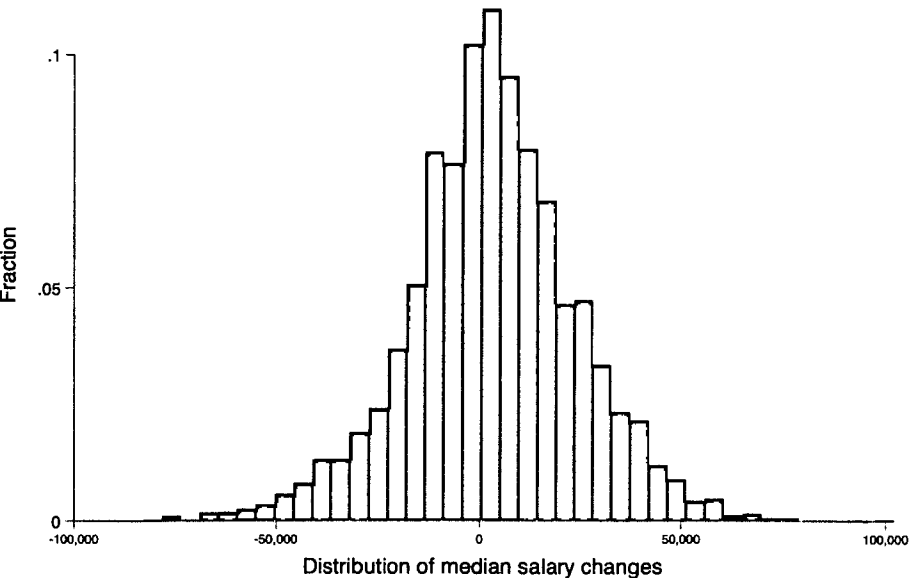


FIGURE A5. FRACTION OF OFFICERS (LOG) WHO VOLUNTARILY SEPARATED IN 2018 IN FLORIDA, BY AGENCY SIZE

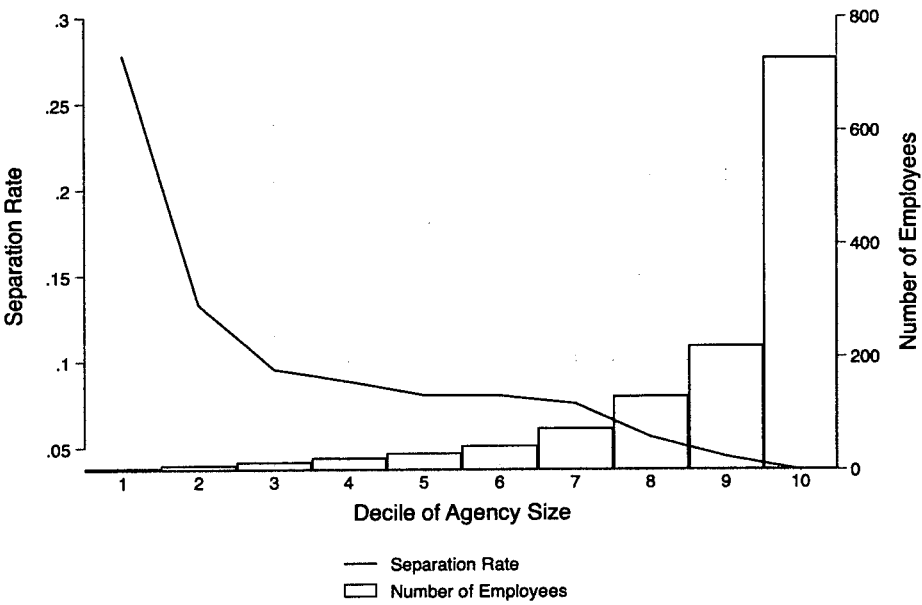


TABLE A1. PERCENTAGE OF OFFICERS WHO WORKED IN 1, 2, 3, OR 4+ AGENCIES IN FLORIDA

Number of agencies	% of officers
1	68.8
2	24.1
3	5.7
4+	1.4
Total	100.0
Observations	82,900

TABLE A2. SOCIODEMOGRAPHICS AND EMPLOYMENT STATUS, 5 YEARS AFTER START DATE AT AN AGENCY, IN FLORIDA

	All	Male	Female	White	Black	Hispanic	HS	Assoc	BA
Still working	0.57	0.57	0.59	0.56	0.56	0.60	0.54	0.60	0.61
Left	0.40	0.40	0.39	0.42	0.37	0.35	0.41	0.39	0.38
Fired	0.10	0.10	0.10	0.09	0.14	0.10	0.12	0.08	0.07
Left FL	0.36	0.36	0.35	0.36	0.38	0.33	0.40	0.33	0.31
New job in FL	0.07	0.07	0.06	0.08	0.06	0.07	0.07	0.08	0.08
Observations	11,668	9,842	1,826	7,938	1,221	2,129	4,277	1,609	3,652

## DATA APPENDIX

**Data source:** We obtained data from the Illinois Law Enforcement Training and Standards Board (ILETSB) in March of 2021. The quality of the data improves with time, and we describe below how this affected our analyses. ILETSB's data are organized into the following four datasets. We describe the variables that we use in our analyses from each of these datasets:

**Officers:** List of all licensed Illinois police officers, including ILETSB ID, name, race, sex, education, and date of birth.

**Form ES:** Changes in employment status with an agency. These include:

Starting or leaving a position

Switching from full-time to part-time work

Changing ranks

Changing names or any other sociodemographic information

For each status change, we observe the event date as well the officer's ILETSB ID, name, rank, race, sex, education, employment type (part-time or full-time), agency, and agency type (e.g., law enforcement, corrections, court security).

**Employment History:** Information on start date and, when applicable, separation date and reason for each employment stint worked by any licensed officer at an Illinois agency. This dataset is organized at the person-agency level.

**Agencies:** List of all Illinois law enforcement agencies, including address and date when agency data was last updated.

**Data cleaning:** We applied several restrictions to our data.

We limited our sample to law enforcement agencies. That is, we dropped, for example, correctional and court security agencies that are also covered by ILETSB but are not the subject of our study.

We dropped all agencies that were disbanded at some point during our observation period. This represented only 17 agencies out of 1,327 in our sample.

We limited our sample to municipal and county agencies. Specifically, we dropped specialized police agencies, such as those at schools, universities, parks, airports, and railroads.

We also limited our sample to officers whose first job was in 2000 or later. Before 2000, some agencies did not report reliable date information for employment stints.

For our analyses on officer rank, we have also run analyses (not included in the paper) further restricting our sample to officers who began working no later than 2008, when, according to ILETSB

personnel, rank data improved. Our results are qualitatively similar for this smaller sample.

Lastly, we dropped the roughly 10% of officers who only ever worked part-time. We also dropped part-time stints at agencies at which an officer never worked full-time.

The following table presents demographic characteristics of police officers in our main sample:

<b>Race and ethnicity</b>	
White, non-Hispanic	71%
Black	11%
White Hispanic	16%
<b>Sex and age</b>	
Female	17%
Average age at first job	28
<b>Education</b>	
High School or less	13%
Some College	20%
Associate's Degree	18%
Bachelor's Degree or more	42%
<b>Sample size</b>	30,095