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Collective Bargaining and Police Misconduct

Evidence from Florida

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Police unions sometimes successfully resist the imposition of discipline on officers who commit misconduct. Prior research shows that many collective bargaining agreements (CBAs) in law enforcement create procedural rights for officers that make it difficult for agencies to investigate and discipline misconduct, including the excessive use of force. Scholars have expressed concern that such contractual provisions undermine the ability of management to deter misconduct and thus may promote its commission. Unions may also successfully lobby for state and local legislation that provides the same kind of procedural protections against investigations and discipline, or lobby and litigate against reform efforts.

At the same time, unionization might reduce misconduct by producing a sense of empowerment and increased job satisfaction. Collective bargaining tends to improve wages and benefits, and some have argued that higher compensation can deter malfeasance among law enforcers by raising its opportunity cost. Likewise, the theory of efficiency wages holds that paying wages above the market-clearing equilibrium may improve productivity, which, in the context of police, could entail decreased misconduct. Thus, the impact of collective bargaining on law enforcement misconduct is ultimately an empirical question.

We offer empirical evidence of the causal role that

collective bargaining rights play in the behavior of law enforcement by exploiting a January 2003 change in Florida labor law. By a judicial decision that month in *Coastal Florida Police Benevolent Association v. Williams*, county sheriffs' deputies won the right to organize for collective bargaining. *Williams* led to substantial unionization among sheriffs' offices (SOs). Officers at municipal police departments (PDs), in contrast, had the right to bargain collectively both before and after that date. Importantly, *Williams* creates exogenous variation in collective bargaining rights rather than in unionization *per se*, as SOs' post-*Williams* decisions to adopt CBAs are potentially endogenous with respect to factors that may affect misconduct. Thus, *Williams* represents a treatment that involves collective bargaining rights, regardless of whether those rights are exercised. This interpretation highlights the possibility that officers at agencies without CBAs bargain in the shadow of collective bargaining rights.

We examine how *Williams* affected incidents of misconduct committed by law enforcement personnel at these two types of agencies. The empirical strategy involves the use of a difference-in-difference framework in which the treatment group consists of SOs, which were affected by *Williams*, and the control group consists of PDs, which were unaffected. Officers at agencies in both the treatment and control groups perform similar job functions and are drawn from similar

pools of applicants. The treatment and control groups also experienced similar trends in misconduct prior to *Williams*.

Our analysis uses a comprehensive administrative data set on Florida law enforcement agencies—covering both SOs and PDs—from 1996 to 2015. Our data set combines annual Criminal Justice Agency Profile surveys conducted by the Florida Department of Law Enforcement (FDLE) with administrative data from the FDLE on incidents of misconduct and disciplinary actions against officers, known as the Automated Training Management System (ATMS). The ATMS database records allegations of officer misconduct, most of which have been sustained by local agencies. These allegations typically begin as civilian or internal-affairs complaints investigated by a local agency. If the local agency sustains the allegation (using a “preponderance of the evidence” standard) and the offense violates a “good moral character” requirement, the agency is required to report its findings to the FDLE, which opens its own complaint file and begins an independent disciplinary process. These state-level investigations form the basis for the misconduct data in the ATMS database. “Moral character” violations are defined by regulation to include the commission of any Florida felony or any of a substantial list of Florida misdemeanors (whether prosecuted or not), or excessive force or misuse of official position as defined by state statute. Within the universe of moral character violations, we focus on the subset involving express or implied violence.

We find that violent incidents rose substantially among the SOs treated by *Williams* (relative to the control group of PDs) in the years after *Williams*. Our estimates imply that the right to bargain collectively led to an increase of about 40 percent in violent incidents at SOs. While this effect may seem strikingly large, the baseline rate of violent incidents is low. The estimated effect implies an increase of 0.2 violent incidents per agency year, relative to a pre-*Williams* mean among SOs of about 0.5. At a typical SO with 210 officers, this effect corresponds to one officer being involved in one additional violent incident every five years. Described this way, the estimated effect is not implausibly large; nonetheless, it points to a substantial divergence between SOs and PDs following *Williams*.

The estimated effect appears to be concentrated among SOs that adopted CBAs. The effect for these agencies is large and statistically significant at the 5 percent level. For SOs that did not adopt CBAs following *Williams*, the point

estimate is smaller in magnitude and of only borderline statistical significance. Taken together, these results provide some reassurance that the mechanism driving the baseline result involves collective bargaining, as opposed to some extraneous factor that differentially affected SOs after 2003. Yet they also suggest the possibility that SOs that did not adopt CBAs nevertheless bargained in the shadow of their newfound collective bargaining rights.

This latter point, in turn, casts doubt on a potential alternative explanation for our finding—that unionization may increase “bureaucratization.” This explanation would posit that management in a unionized agency is more likely to formalize complaints, so the increase in violent incidents we detect may actually reflect changes in reporting behavior rather than officer behavior on the street. Yet this formalization effect is unlikely to apply within SOs that did not unionize. That these agencies also have a positive (albeit weaker) effect on violent misconduct therefore undermines the bureaucratization explanation.

Unfortunately, it is difficult to distinguish statistically between this “shadow” effect and the effect of CBAs. This may be because virtually all CBAs among SOs were adopted in the immediate aftermath of *Williams* (during 2003–2006) and so were closely contemporaneous with *Williams*’ impact on collective bargaining rights. Controlling for the primary *Williams* effect, the point estimate suggests that the adoption of CBAs among SOs is associated with further increases in violent incidents; however, the latter effect is not statistically significant. It is noteworthy, though, that a simple regression of violent incidents on the adoption of CBAs by SOs yields a substantial positive and statistically significant association. This underscores that the basic result seems attributable to unions and collective bargaining, even though the precise delineation of the relative magnitudes of the shadow and CBA effects is elusive in our data.

NOTE:

This research brief is based on Dhammika Dharmapala, Richard H. McAdams, and John Rappaport, “Collective Bargaining and Police Misconduct: Evidence from Florida,” University of Chicago Coase-Sandor Institute for Law & Economics Research Paper no. 831, May 2019, https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=3095217.