

CONVICTED, BUT STILL POLICING

SCROLL

Over the past two decades, hundreds of Minnesota law enforcement officers have been convicted of criminal offenses. Most were never disciplined by the state.

By Jennifer Bjorhus (<http://www.startribune.com/x/34031274/>) and MaryJo Webster (<http://www.startribune.com/x/303594441/>) • Star Tribune **OCTOBER 1, 2017 — 12:00AM**

Jared Taylor choked a man until he blacked out.

Steven Brown fired a .38 Special during a confrontation with his fiancée.

Tom Bernardson punched a man so viciously that he put him in the hospital with a concussion.

All three were convicted in Minnesota courts.

And all three still work in law enforcement.

They are among hundreds of sworn officers in Minnesota who were convicted of criminal offenses in the past two decades yet kept their state law enforcement licenses, according to public records examined by the Star Tribune. Dozens of them are still on the job with a badge, a gun and the public's trust that they will uphold the law.

The cases reveal a state licensing system that is failing repeatedly to hold officers accountable for reckless, sometimes violent, conduct.

In Minnesota, doctors and lawyers can lose their professional licenses for conduct that is unethical or unprofessional — even if they never break a law. Yet law enforcement officers can stay on the job for years even when a judge or jury finds them guilty of criminal behavior.

“The public trusts that we’re not going to act like that,” said former Prior Lake Police Chief Bill O’Rourke, describing an officer who kept his state license despite being fired for a violent outburst. “The public needs to trust that those officers are going to be held accountable.”

Records also show that scores of the convictions stemmed from off-duty misconduct — including brawls, stalking and domestic altercations — that raise questions about an officer’s temperament for a job that authorizes the use of force.

Law enforcement leaders say it’s important for citizens to have confidence that officers are held to the highest ethical standards — on duty or off duty. In fact, Minnesota’s model code of ethics says that officers shall not discredit themselves or their agency either on-duty or off. Yet Minnesota seems to have developed a culture of second chances for those who wear a badge, said Neil Melton, a former Bloomington police officer who ran Minnesota’s licensing board for 16 years.

“Benefit of the doubt. Benefit of the doubt. Benefit of the doubt,” Melton said. “At what point do we say enough is enough?”

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(<http://www.startribune.com/x/446218753/>) of officers having criminal convictions yet keeping their police license.

Records also show that Minnesota, once a pioneer in professionalizing police work, has fallen far behind other states on police discipline. Among 44 states with comparable licensing, Minnesota ranks 38th in revoking law enforcement licenses, based on numbers compiled by Seattle University criminologist Matthew Hickman. The national average for revocations is 12 times higher than Minnesota’s.

In Georgia, for example, the state board can revoke an officer’s license for committing any act “which is indicative of bad moral character or untrustworthiness.” In Minnesota, revocation almost always requires a criminal conviction.

In Oregon, officers lose their licenses for any criminal conviction with an element of domestic violence. The state, which has fewer police than Minnesota, revokes about 35 licenses each year.

Today, Minnesota revokes one or two.

‘We were never empowered’

To assess Minnesota’s performance, the Star Tribune reviewed hundreds of pages of documents from the state’s police oversight agency, the Peace Officer Standards and Training (POST) Board, as well as court records, victim statements and police reports.

The review found more than 500 current or former licensed peace officers who have been convicted of at least one crime since 1995. About half the convictions involved drinking and driving. But dozens of others involved more serious offenses, including assault, trespassing and disorderly conduct.

Three-quarters of all officers convicted are never disciplined. Only one-fifth of those officers lost their professional license — and half of those cases involved felonies, where revocation is automatic under state law.

More than 140 are still on the job.



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LIMITED SCOPE: Nathan Gove, head of the state's Peace Officer Standards and Training Board, said it is not "internal affairs."

In an interview, POST Board Executive Director Nathan Gove expressed surprise that so many active officers have criminal convictions. Scanning a list compiled by the Star Tribune, he said nearly all the active officers had crimes that fell outside the board's jurisdiction for discipline. He also noted that the board did pull licenses in the most egregious cases, such as felonies and any level of theft.

In response to the Star Tribune's findings, Gove said, the board is reviewing "approximately three" officers for possible discipline. He declined to name them.

In a separate interview to discuss the findings, the board's civilian chairman, Tim Bildsoe, said it is time for Minnesota to re-examine the board's authority, specifically over discipline.

"This is a '70s model," said Bildsoe, an insurance manager in Minneapolis. "We need to find ways to capture more individuals that are falling through. Now is the time for the Legislature to take this up."

Gove said he believes the board's track record is appropriate for its small size and limited powers. By design, he said, it focuses on training and education rather than discipline, which it largely leaves to local police and sheriff's departments.

“We’re not the statewide internal affairs agency,” Gove said. “We were never empowered by the Legislature 40 years ago to do that.”

Casting a shadow

The 534 current and past officers convicted of crimes represent just a small fraction of the 10,750 sworn officers on the job today in Minnesota. Thousands of officers complete their careers with pristine records. But police officials and advocates for professional reform say the offenders cast a broad shadow, undermining public confidence toward men and women in uniform and making it harder for good officers to do their jobs.

The cases show just how easy it is for a Minnesota officer to avoid state discipline.

Richard Ohren, a deputy with the Mahnomen County Sheriff’s Office, first came to the POST Board’s attention in 1998, when he was convicted of a gross misdemeanor DWI and disorderly conduct. The board suspended his license for three years. Records show another DWI conviction in 2000 and a third in 2015, when Ohren was pulled over after employees of a Hawley, Minn., gas station called 911 about a drunken customer. He was cited for refusing to take a breathalyzer test, a gross misdemeanor. He pleaded guilty to misdemeanor drunken driving, an offense that does not trigger POST Board review.

The county fired him, but Ohren and the police union fought the case, and last year an arbitrator ordered Mahnomen County to rehire him. The county had to apply for a state waiver so Ohren could drive county vehicles without an ignition interlock device, which he’s required to have on his personal vehicle.

Ohren declined to comment. “I’m done with it,” he said. “I’m moving on with my life.”

In another case, Michael Ficken was on duty and in uniform for the Prior Lake Police Department the day he barged into his ex-fiancée’s home, kicked in her locked bedroom door and unleashed a verbal assault, terrifying the woman and a companion.

“Every time I see a Prior Lake squad car, my heart drops and I get a sick feeling in my stomach,” the woman said in her victim impact statement.

Ficken was convicted of disorderly conduct and fourth-degree property damage, both misdemeanors. Prior Lake Police Chief O'Rourke fired him. Yet the POST Board didn't take action because it doesn't consider those misdemeanors grounds for discipline.

Ficken is now a deputy in McKenzie County in North Dakota. He did not respond to interview requests.

An early leader

The creation of the POST Board in 1977 made Minnesota a pioneer in police accountability. A series of highly publicized police shootings and protests at the time — similar to the incidents involving Jamar Clark and Philando Castile — galvanized state lawmakers to create one of the nation's first police licensing systems. Minnesota became the first state to require law officers to hold at least a two-year college degree — a point of pride even today.

Since then, however, other states have expanded the powers of their licensing bodies, while Minnesota's board has continued to emphasize training and education.

Today, the range of behavior considered grounds for state discipline in Minnesota is narrower than in many other states — and has gone nearly unchanged since 1995.

A felony conviction is grounds for mandatory license revocation, and a gross misdemeanor triggers POST Board review, but not necessarily discipline. For misdemeanors, the board concerns itself with only a select group of crimes. Convictions for misdemeanor drunken driving and 5th degree assault, for example, do not trigger a review. Neither does on-duty conduct such as excessive use of force, even when cities pay tens of thousands of dollars to victims to settle claims.

“That's a big omission,” said Don Moe, a retired legislator who helped create the licensing regime with Bill McCutcheon, a former St. Paul police chief and state senator.

The board does have authority to discipline officers for unauthorized use of deadly force in the line of duty. But it appears to have done that only once in the past two decades — in the 1998 case of a Plymouth officer who launched a high-speed chase on Interstate 494 after a shoplifter who made off with 28 cans of baby formula.



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STATE REGULATOR: The Minnesota Peace Officer Standards and Training Board, shown during a meeting in April, was created by the Legislature in 1977.

Roger Goldman, a St. Louis University law school professor who specializes in police licensing, described Minnesota's grounds for discipline as "very narrow." The state's reliance on felony convictions for revocation is "old school," he said.

"The standard ... should not merely be that the person has not been convicted of a serious crime," he said. "If anything, the standard ought to be stricter for someone with the power to arrest and search and use force."

'We're always on alert'

Many police officers, and many in police leadership, argue that officers deserve a second chance for offenses such as drunken driving or disorderly conduct. Police are human, they say, and they have a tough job.

"We're always on alert, we're always ready for bad situations. That doesn't always end when we take our uniforms off," said Madison Lake Police Chief Dan Bunde, explaining why he hired Jared Taylor despite his 2013 conviction for misdemeanor assault and disorderly conduct.

OF OFFICERS CONVICTED, 76% GO UNDISCIPLINED

Only a fraction of the police officers convicted of serious crimes in Minnesota are ever disciplined by the state's top licensing authority, the Minnesota Peace Officer Standards and Training Board. Licensing discipline includes reprimands, probations, suspensions or revocations.

1995-2017 cases involving Minnesota officers

Of 534 officers convicted . . .

■ 408 not disciplined
■ 126 disciplined



Note: 2017 data through end of May
Source: Star Tribune analysis of Minnesota district court records

“If everybody gets blackballed because of something, I think we’d lose a lot of good cops out there.”

Police Lt. Bob Kroll, head of the Police Officers Federation of Minneapolis, said aggressive cops are exactly the ones you need on the street.

“Your SWAT guys, your heat seekers, your guys that lead in ... arrests, guns recovered, shootouts ... they’re the ones where their personal life is a disaster,” Kroll said. “They drink too much. They cheat on their wives.”

That view contradicts the profession’s own codes of ethics. For more than half a century, the International Association of Chiefs of Police has instructed officers to “keep my private life unsullied as an example to all.” Police departments in both Minneapolis and St. Paul have adopted the code and the term “unsullied.”

Likewise, the POST Board’s model policy on professional conduct says officers shall not engage in conduct that discredits themselves or their agency, on duty or off.

An arbitrator summed up the philosophy in a 2011 ruling on the firing of Stearns County Deputy Eric Grabmeier for snorting cocaine at a party:

“An officer who is high on cocaine on a Saturday night may not be trustworthy in operating firearms or a vehicle on a Sunday morning,” the arbitrator wrote. “By publicly engaging in unlawful behavior, the grievant’s conduct ... undermines public confidence in both law compliance and law enforcement.”

Grabmeier was never prosecuted, and the POST Board took no action. He’s now a part-time patrol officer in Albany, where he has not been the subject of any complaints.

In some cases, inaction by the POST Board leaves an officer free to commit subsequent offenses.

Michael Lorsung was police chief of Frazee, Minn., in 2010, when he was put on administrative leave after an ex-girlfriend got a restraining order against him. In a court filing, she accused him of harassing and stalking her. Lorsung resigned but was never criminally charged. The POST Board never took action.

Résumé intact, Lorsung moved to Colorado and became marshal of the small town of De Beque. Trouble surfaced again. This time he was charged with felony theft and embezzlement after prosecutors said he hid a Ford F-150 patrol vehicle behind a six-foot privacy fence at his home, titled it to himself, then sold it and pocketed the \$5,000.

Lorsung was fired and later pleaded guilty to felony embezzlement of public property. In 2016, he pleaded guilty to felony theft in a similar scam with a different truck. He did not respond to requests for an interview.

‘Why can’t we see?’

At the POST Board’s offices in St. Paul’s Midway neighborhood, Gove directs a 10-person staff with an annual budget of \$4 million, most of which flows to local agencies for training.

ON THE POST BOARD

- The Minnesota Peace Officer Standards and Training Board, created by the Legislature in 1977, oversees professional standards and licensing for all law enforcement officers in Minnesota.
- It has the power to revoke licenses, but it generally leaves discipline to local law enforcement agencies.
- The board's 15 members (<http://www.startribune.com/446801223>) include 10 law enforcement officers, two educators and two members of the public, all appointed by the governor, plus the superintendent of the state Bureau of Criminal Apprehension, who serves ex officio.

Gove, a retired Golden Valley police commander, reports to a 15-member board of directors appointed by the governor. State law requires just two public members, and the board is dominated by law enforcement officers. After the outcry over recent shootings of black men in the Twin Cities, Gov. Mark Dayton recently appointed the uncle of Philando Castile, Clarence Castile, to one of the public seats.

Potential discipline cases are reviewed by a three-person complaints committee, two of whom must be sworn officers. Its meetings are closed to the public; its decisions are not published except for a mention in the regular minutes of the board.

“It’s really easy to see when doctors and lawyers and nurses do bad things,” said Rich Neumeister, an activist for open government. “Why can’t we see the bad things cops are doing?”

Melton, the retired Bloomington officer who ran the POST Board for 16 years, said there has long been discussion about expanding the board’s discipline authority. But, he said, there’s never been a consensus or any urgency at the state Legislature.

Gove said there’s no current interest in expanding the board’s powers and that discipline is handled best by the local police chief or sheriff.

“We have a strong mechanism to ensure that the people who are out policing the rest of us meet some of the highest standards,” Gove said. “I’m confident in the sheriffs and police chiefs to take appropriate discipline.”

Melton is less confident.

“Police are not doing a good job of policing themselves under the current law,” he said.