WHY ARE POLICE UNIONS BLOCKING REFORM?

Their defense of officers’ working conditions is a barrier to investigating misconduct claims and getting rid of those who break the rules.

By James Surowiecki

On August 26th, Colin Kaepernick, a quarterback for the San Francisco 49ers, refused to stand for the national anthem, as a protest against police brutality. Since then, he’s been attacked by just about everyone—politicians, coaches, players, talk-radio hosts, veterans’ groups. But the harshest criticism has come from Bay Area police unions. The head of the San Francisco police association lambasted his “naïveté” and “total lack of sensitivity,” and called on the 49ers to “denounce” the gesture. The Santa Clara police union said that its members, many of whom provide security at 49ers games, might refuse to go to work if no action was taken against Kaepernick. A work stoppage to punish a player for expressing his opinion may seem extreme. But in the world of police unions it’s business as usual. Indeed, most of them were formed as a reaction against public demands in the nineteen-sixties and seventies for more civilian
oversight of the police. Recently, even as the use of excessive force against minorities has caused outcry and urgent calls for reform, police unions have resisted attempts to change the status quo, attacking their critics as enablers of crime.

Police unions emerged later than many other public-service unions, but they’ve made up for lost time. Thanks to the bargains they’ve struck on wages and benefits, police officers are among the best-paid civil servants. More important, they’ve been extraordinarily effective in establishing control over working conditions. All unions seek to insure that their members have due-process rights and aren’t subject to arbitrary discipline, but police unions have defined working conditions in the broadest possible terms. This position has made it hard to investigate misconduct claims, and to get rid of officers who break the rules. A study of collective bargaining by big-city police unions, published this summer by the reform group Campaign Zero, found that agreements routinely guarantee that officers aren’t interrogated immediately after use-of-force incidents and often insure that disciplinary records are purged after three to five years.

Furthermore, thanks to union contracts, even officers who are fired can frequently get their jobs back. Perhaps the most egregious example was Hector Jimenez, an Oakland police officer who was dismissed in 2009, after killing two unarmed men, but who then successfully appealed and, two years later, was reinstated, with full back pay. The protection that unions have secured has helped create what Samuel Walker, an emeritus professor of criminal justice at the University of Nebraska at Omaha, and an expert on police accountability, calls a “culture of impunity.” Citing a recent Justice Department investigation of Baltimore’s police department, which found a systemic pattern of
“serious violations of the U.S. Constitution and federal law,” he told me, “Knowing that it’s hard to be punished for misconduct fosters an attitude where you think you don’t have to answer for your behavior.”

For the past fifty years, police unions have done their best to block policing reforms of all kinds. In the seventies, they opposed officers’ having to wear name tags. More recently, they’ve opposed the use of body cameras and have protested proposals to document racial profiling and to track excessive-force complaints. They have lobbied to keep disciplinary histories sealed. If a doctor commits malpractice, it’s a matter of public record, but, in much of the country, a police officer’s use of excessive force is not. Across the nation, unions have led the battle to limit the power of civilian-review boards, generally by arguing that civilians are in no position to judge the split-second decisions that police officers make. Earlier this year, Newark created a civilian-review board that was acclaimed as a model of oversight. The city’s police union immediately announced that it would sue to shut it down.

Cities don’t have to concede so much power to police unions. So why do they? Big-city unions have large membership bases and are generous when it comes to campaign contributions. Neither liberals nor conservatives have been keen to challenge the unions’ power. Liberals are generally supportive of public-sector unions; some of the worst police departments in the country are in cities, like Baltimore and Oakland, run by liberal mayors. And though conservatives regularly castigate public-sector unions as parasites, they typically exempt the police. Perhaps most crucial, Walker says, “police unions can make life very difficult for mayors, attacking them as soft on crime and warning that, unless they get their way, it will go up. The fear of crime—which is often a code
word for race—still has a powerful political impact.” As a result, while most unions in the U.S. have grown weaker since the seventies, police unions have grown stronger.

All labor unions represent the interests of the workers against the bosses. But police officers are not like other workers: they have state-sanctioned power of life and death over fellow-citizens. It’s hardly unreasonable to demand real oversight in exchange. Union control over police working conditions necessarily entails less control for the public, and that means less transparency and less accountability in cases of police violence. It’s long past time we watched the watchmen. ♦

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