

Lower those standards.

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Amongst lawmakers and law enforcers there has long been a concern about two problems that, I believe, have the same solution: the unwillingness of cops to testify against cops, and of physicians to testify against other physicians, or to report their errors. Recently the scandal with the Roman Catholic Church in the United States has added a new item to the list of professions that defend their members indiscriminately.

These are important problems. A recent study by the Institute of Medicine puts the number of deaths in U.S. hospitals due to medical errors at between 44,000 and 98,000 per year. In contrast, the number of deaths in automobile accidents was 43,458 for 1998, and deaths by AIDS was 16.516. Despite this, two thirds of the nation's hospitals hadn't reported a single adverse incident involving a physician between 1992 and 2000. Presumably, if errors were sanctioned, the number of deaths due to errors would be reduced both because of increased care by physicians, and because the number of bad physicians in the profession would be reduced.

The question then arises: why do they defend each other? At the individual level, an immediate answer is that there are various enforcement mechanisms in place to encourage solidarity. For example, doctors could put whistle blowers out of business by refusing to refer them patients. Officers who testify against other officers face a variety of sanctions ranging from a social shunning to a lack of adequate "back-up" in dangerous situations. However, this answer begs the question of why these sanctions are there in the first place. After all, one could just as easily imagine a police culture in which officers who testify against corrupt, incompetent, or overly violent colleagues are rewarded rather than sanctioned.

Policing is a stressful and dangerous job that engenders the sense that protection will come only from within. This factor encourages a bonding which may find expression in an uncompromising support system. While this explanation doubtless has much validity, it remains incomplete. Police unions, presumably acting on behalf of the general pool of officers, also strongly defend (almost) all officers accused of inappropriate behavior. The unions could adopt a more nuanced approach while line officers maintained a strict supportive attitude. Similarly, Bishops could be more "neutral" in their evaluations of abusive priests.

The reason for a universal defense of officers may seem obvious: An officer acting properly may be mistaken for one acting improperly, especially by outsiders but even by other officers. Defending all policemen, including justifiably accused ones, protects the falsely accused. This explanation, however, neglects the costs associated with a broad defense.

I believe that the reason why even good guys defend bad guys is because of the low likelihood that any member will be found guilty of its mistakes in the absence of expert reports. To illustrate this point, consider an individual who is deciding whether he would want his colleagues to be candid or defend indiscriminately any accused member of the profession. Imagine, for the sake of argument, that the information possessed by whoever will make the judgement (which I will call the "court") is insufficient to convict the accused person, in the absence of expert reports. If the profession is indiscriminate in defending its members, nobody will ever be convicted, then.

Consider now the situation of a "good" member of the profession. Even if the candidness of the profession will most likely reveal that he is a good guy, there is a small chance that the profession's reports will be mistaken about him, and therefore, that he will be convicted. Hence, even good members of the profession will want an indiscriminate defense of all members.

From this analysis, it is clear that there is at least one way in which one could get cooperation from the professions: lower the standard of conviction. I argued earlier that the reason why cops do not testify against cops is that a priori it is in all cops' best interest that the profession is indiscriminate in defending its members. The reason for this was precisely because in the absence of expert reports the court's information is insufficient to convict. Therefore, the court could get all cops to cooperate by lowering the "amount" of evidence that is needed to convict a cop. The reason is that it will be in the good cops' interest to have the profession be candid.

In the past a "clerical wall of silence," both on the part of priests and church leaders, has protected accused priests; now the church has changed its stance and vows to be forthcoming in investigations. The prediction that lowering standards of conviction will breach the cops and doctors' walls of silence is consistent with the recent change in the Church's policy. New revelations have indicated that the number of abusive priests is far greater than had previously been suspected and hence, the wall of silence is no longer an effective strategy: presented with little (additional) information people will now believe a priest to be guilty where they would previously have believed him to be innocent.