

BEHIND THE SHIELD

When Boston police officers fail to tell the truth, the department rarely calls a lie a lie

By [Milton J. Valencia](#), [Andrew Ryan](#) and [Evan Allen](#) Globe Staff, Updated January 2, 2021, 4:46 p.m.



In a statement, Boston Police Commissioner William Gross, pictured during a press conference outside City Hall in November, said that “honesty and integrity are the core values of the Boston Police Department.” CRAIG F. WALKER/GLOBE STAFF

Fifth in an occasional series. Read [part one](#), [part two](#), [part three](#), and [part four](#).

On the witness stand of a Boston courtroom, police Sergeant Stephen Green outlined the steps that led to a search warrant for an alleged drug dealer’s cellphone, which later led to

steps that led to a search warrant for an alleged drug dealer's cellphone, which later led to a trove of incriminating text messages.

The Boston detective's testimony in January 2019 helped seal a conviction and a four- to five-year sentence for drug trafficking.

But Green's story, according to new evidence, was untruthful. A forensic investigator determined that Green had been fishing through the phone for more than four hours before applying for a warrant — even at one point watching the defendant's personal sex videos.

Now, the defendant is free on bail, his conviction is in limbo, and a Suffolk Superior Court judge is weighing the testimony.



“I can't think of anything that would get my goat more than a demonstration that there had been some false testimony,” Superior Court Judge Jeffrey A. Locke said in court in May 2019, noting the gravity of the matter, and his decision to release the defendant.

“I will not have the defendant held where there is a concern that the proceeding may be tainted by false evidence presented by the government,” Locke said.

If citizens lied on the witness stand, they could be prosecuted for perjury. And if they lied in their work reports, they could be fired. But police officers don't always face that fate.

The practice of police officers fudging the facts is common enough that it even has a name — “testilying” — and it has plagued the Boston Police Department for decades. In the ’90s, Commissioner William F. Bratton called it a significant problem that merited attention and training, much to the chagrin of the rank and file. More than a decade later, Commissioner Edward F. Davis took it one step further, declaring that any officer who lied would be fired. The department followed through in a handful of instances, but hardly in all the cases brought to its attention.

Today, some officers continue to [struggle with telling the truth](#), whether in court or everyday police matters, and BPD has no mechanism to monitor officer testimony or truthfulness. Quite often, records show, internal affairs investigators are reluctant to call a lie a lie.

When a team of officers was implicated in an overtime fraud scandal out of West Roxbury District Court in 2012 — the officers forged court summonses so that they could claim fraudulent overtime pay — the department determined they had either failed to “properly record and process evidence,” neglected their duty, or showed poor judgment. But it did not say the officers were lying.

When Officer Charles Burch entered false information on a detail slip in 2015, claiming hours he didn’t work, the department said he used “unreasonable judgment.” He served a one-day suspension.

A Globe review of internal affairs cases from January 2010 to August 2020 shows the department received 191 total allegations of untruthfulness in that period. In about half of those cases, the department confirmed the allegations and sustained the untruthfulness charges, while other investigations are still pending.

And yet in other cases, such as the one involving Green’s testimony, the department did not know about — and did not look into — allegations of lying by an officer.

In response to questions, the police department said it would examine Green’s case and at least one other cited by the Globe. In court, Green denied fishing through the phone or

looking at any data; he said he unlocked the phone after discovering its passcode, but said he went no further.

In a statement, Police Commissioner William Gross said “honesty and integrity are the core values of the Boston Police Department,” and that police officers must be held to the highest of standards.

“At the end of the day, the success of our work is rooted in community trust,” he added. “We’ll continue to work day in and day out to build greater trust with the people we serve and protect.”

Gross noted that every Boston police officer undergoes ethics training. In the last 10 years, the department has fired six officers for misconduct that included untruthfulness, while another 10 retired with untruthfulness charges pending.

Suffolk District Attorney Rachael Rollins recently created a “Law Enforcement Automatic Discovery” database that tracks police officers whose integrity has been questioned, and that information is made public and provided to defense attorneys. More than 130 names were put on the list. But most of the officers were added to the database based on media reports about them, rather than from some internal system that flags problematic incidents.

“Police officers are different than everyone else. They walk into a courtroom cloaked in credibility,” Rollins said in a statement. “We realize that law enforcements credibility can and should be questioned, by jurors, by judges, and by the defense bar. We, too, should be diligent to examine how their testimony fits in to the prosecution.”

As for Green, Rollins noted that the allegations that he testified untruthfully are still under review by a judge.

The police department declined to make Green, or any other officers cited in this story,

available for comment.

Lawyers who practice in state courts and a spokeswoman for the state court system said they were not aware of any requirements that judges report officers who provide false testimony. Judges wouldn't necessarily be precluded from reporting officers, either.

And while state police reforms that were recently approved are meant to improve police accountability, they do not directly address untruthfulness.

Chris Burbank, vice president for law enforcement strategy at the Center for Policing Equity and a former Salt Lake City police chief, said law enforcement organizations must fire officers who lie, plain and simple. He said an officer's truthfulness, whether in court testimony, in police narratives or paperwork submissions — in any interactions with the public — goes to the credibility of an entire organization. That includes small lies, he said; otherwise they become “standard.”

“How do you look the public in the face, and then send [an officer] to court, and say ‘they only lied then’, or ‘they only lied a little bit?’” he asked.

As a police chief, Burbank said he would rather lose a case or let a drug dealer go free, than have an officer lie in a report or to a jury.

“The reason we are suffering as a profession, this crisis of legitimacy, is this reason,” Burbank said.

Boston Police have been dogged for decades by testilying, a term used by civil liberties advocates and lawyers such as Alan Dershowitz as far back as the O.J. Simpson trial.

A Globe Spotlight series in 1997 exposed several cases in which lies by police officers led to wrongful convictions and flawed trials. The series led then-Police Commissioner Paul Evans and Suffolk District Attorney Ralph Martin to announce a crackdown, with a new system that would allow judges to report police officers suspected of lying for further

inquiry. But years later, the Globe found the system was never implemented, and examples of police lies continue to turn up in media reports.

Few cases garnered as much public attention as that of Boston police Officer Rance Cooley, who in 2008 was accused by a federal judge of providing false information during an evidentiary hearing in a gun case, in which the defendant faced a minimum 10-year sentence. Cooley and other members of a BPD gang unit had responded to a complaint of several people playing loud music and smoking marijuana in Dorchester.

Under oath, Cooley swore he recognized the defendant and grew suspicious when he fled on a bicycle. That testimony contradicted Cooley's original police reports and the accounts he gave to a federal prosecutor. The police reports said the defendant was identified later, after several officers tackled him and found a gun in his pocket.

After the hearing, US District Court Judge Mark L. Wolf noted that Cooley gave false testimony. But the judge set his ire not on Cooley, but on the federal prosecutor who had failed to note Cooley's contradictions to the defense team, as required by law.

Cooley emerged relatively unscathed from the fiasco: Four years later, he quietly reached a settlement with supervisors for a five-day suspension, with three days to serve, for violations of "neglect of duty" and "inaccurate reporting." A personnel order obtained by the Globe states that he "failed to accurately document a portion of an incident that involved another officer in an incident report, failed to adequately review an affidavit prior to signing the document, and failed to properly prepare himself for court testimony."

Cooley remains on the force. His lawyer, Kenneth Anderson, denied Cooley was untruthful, saying the incident was a case of miscommunication with a prosecutor.

This was one of several publicized cases that spurred then-Commissioner Davis in 2009 to draft a "bright line rule" that would make lying a firing offense. "The consequences for

not being truthful have not been clear. ... I'm changing that," Davis said at the time.

Shortly thereafter, Davis fired police Officer Brian Barry, a nine-year veteran, for lying to a grand jury about his use of force in an arrest. The firing was later upheld in arbitration, in spite of a challenge from the police union that the punishment was inconsistent with past cases. It became one of the first examples of a Boston officer losing his job solely for lying, though he did not face a criminal prosecution.

In an interview, Davis, who retired in 2013, said the bright line rule was meant to "make it clear that in this business, if you lie, you're really of no use to the police department anymore as a witness."

But the standard hasn't always been upheld, Davis acknowledged. And it needs to be built into department culture over time, he said, through training and enforcement. Otherwise, officers will disregard it.

"It's a cancer that grows in the organization, and if you allow that to be part of the culture, it becomes these types of incidents, where people think, 'I can get away with this,'" he said.

Local defense attorneys and criminal justice reform advocates have long drawn attention to police untruthfulness. With the nation currently engaged in a historic reckoning over police abuses and reforms of police procedures, they say any meaningful change will ultimately hang on the credibility of police.

"There is zero accountability for lies, zero accountability for their corruption, zero accountability for anything they do — because it's easier to believe the defendant did it, no harm no foul, than to say the cops lied," said Rosemary Scapicchio, a veteran Boston attorney who has had clients' convictions overturned due to erroneous police testimony.

"It's so much easier for them to deny it and say it didn't happen, then to accept it and have to deal with it," she said. "That's the problem."

In March 2019, Maurice Collins went to trial in Boston Municipal Court to challenge his arrest for disturbing the peace, resisting arrest, and assault and battery on a police officer. The charges stem from a melee outside the West End Johnnies bar on Super Bowl Sunday in 2018.

One of Collins's friends was intoxicated, and was removed from the bar by a bouncer. Police were called, and the person continued to be unruly, leading to a confrontation with officers.

In their reports, police said Collins grabbed one of the officers, and at one point charged Officer Brian Garney, swinging at him with closed fists. Garney used pepper spray on Collins who, he said, "immediately stopped fighting and began to run away." Garney reported taking Collins to the ground, where he "continued to actively resist on the ground" before he was handcuffed.

Garney recounted the incident during his testimony, under oath.

But the officer's account was contradicted by a video Collins's lawyers obtained, which showed a far different scene. Collins had his hands up for a large amount of the time. He doesn't appear to be throwing punches. But he is seen shrugging his shoulder when his mother, who was also involved in the commotion, is thrown to the ground by a police officer. He did not run, but rather turned away after being pepper sprayed in the face.

Garney responded under cross-examination that the video was from a cellphone and was incomplete. Boston Municipal Court Judge Mark H. Summerville took note of the contradictions, saying in court that Garney "has some serious credibility issues. Serious."

Collins was acquitted by the jury of all counts. A police spokesman said the department was unaware of the case and that investigators would look into it.

Milton J. Valencia can be reached at milton.valencia@globe.com. Follow him on Twitter [@miltonvalencia](https://twitter.com/miltonvalencia). Andrew Ryan can be reached at andrew.ryan@globe.com Follow him on Twitter [@globeandrewryan](https://twitter.com/globeandrewryan). Evan Allen can be reached at evan.allen@globe.com. Follow her on Twitter [@evanmallen](https://twitter.com/evanmallen).

[Show 172 comments](#)
