

Bound By Oath | Season 2 | Episode 7: The Shooting of Bobby Moore

Part 1

John: Hello and welcome to Episode 7 of Season 2 of Bound By Oath. If this is your first time listening, please back up and start with Episode 1. If you've already listened to the previous six episodes, thanks for sticking around. And may I ask you to please rate or review the podcast on Apple or share it on social media or however you can get the word out? Or not. If you want to keep us to yourself, that's fine too. On the last episode, we explored the birth of qualified immunity, which shields officials against accusations of violating the Constitution. On this episode, we'll look at another party you may be able to sue under Section 1983: municipalities. In the case that we talked about on Episode 3, Lee Saunders not only sued the prison guards, he also sued Brevard County, Florida.

Judge Martin: The allegation is that ... there was vomit and excrement and urine and on and on, on the floors of the cell where he had to walk barefoot.

John: And in the case that we talked about on Episode 5, *Monroe v. Pape* ...

Donald Page Moore: As the Deputy Chief of Detectives would ask these questions of Mr. Monroe, he was striking or punching his flashlight into the stomach of the naked man.

John: ... not only did the Monroe family sue Captain Pape and the other police officers. They also sued the City of Chicago.

Donald Page Moore: Of course, we have gone further and we have alleged that the City of Chicago is liable.

John: In Part 2 of this episode, which we'll release in a few days, we'll talk about the history of suing local governments under Section 1983. We'll talk about the very high standard, verging on being its own special form of immunity, that the Supreme Court says plaintiffs must meet in order to bring a constitutional claim against a municipality. And we'll talk about an emerging and very troubling trend in the lower courts that takes that already-high standard and raises it still further. But first, in Part 1, we'll talk about a police shooting in Little Rock, Arkansas in 2012 where an officer named Josh Hastings killed a 15-year-old named Bobby Moore.

Mike Laux: Josh Hastings has been an officer for five years and this guy has got a rap sheet that is longer than probably most of the criminals he encountered. It was truly a smorgasbord of police policy violations. I mean this guy ran the gamut.

John: That's Michael Laux, a civil rights attorney who represented Bobby Moore's mother, Sylvia Perkins, in her lawsuit against the city.

Sylvia Perkins: Josh Hastings this man did this for nothing. I would never forgive him. Never. Cuz you did wrong. You lied about that night. You lied.

John: When she filed her lawsuit, Sylvia argued that Josh Hastings violated Bobby's constitutional right to be free of excessive force, and a jury ultimately agreed. But she also sued the City of Little Rock for hiring an officer who was unfit for the job and then failing to train and to supervise him properly. And further, she claimed that the Little Rock Police Department had a custom or an informal policy of turning a blind eye to excessive force by its officers. And just a heads up, there is some occasional bad language in this episode.

BBO Montage

John: A month before he shot 15-year-old Bobby Moore, Officer Josh Hastings did something that should have been the end of his career.

Mike Laux: There's a reported commercial burglary at a place called City Market. And the call goes out that someone has broken in and could very well be in the business right now.

John: Hastings was on patrol nearby, and he drove to the business.

Mike Laux: He says that he got out of his car. He went and he checked the doors, pulled on them. He said they were firm and locked. He saw no sign of any criminal activity. He said that's a false call. And he went on his way. That's what he wrote in his report. That's what he said on the radio.

John: But that was a lie. And the business owner called the police back.

Mike Laux: When the business owner called, he said, I thought you're gonna send somebody. I'm now in the front of the store and the place has been ransacked. The front window was kicked in. The glass was shattered on the lower half of the front door.

John: Supposedly, Josh Hastings' dashcam video wasn't working that day. But the business had surveillance video of its own. And that showed Josh Hastings' patrol car enter the parking lot, slowly drive by the building, and then just pull away.

Mike Laux: And the video proved that. So the Chief of Police of the Little Rock Police Department, Stuart Thomas, knew that Josh Hastings had lied in an official report. Not only is he guilty of malfeasance, not doing his job, not protecting and serving the business owners of Little Rock. But he lied about it in an official police report. The minute that Stuart Thomas learned that he lied any reasonable chief would say you, my friend, are gone.

John: But that's not what Chief Thomas did. Instead, Hastings was told when you're out on patrol, you do not get to answer any calls by yourself. Another officer has to accompany you. Which was a special accommodation crafted just for Josh that was outside of the usual disciplinary procedures. A month later, on the night Josh Hastings killed Bobby Moore, he was supposed to wait for an officer named Arthur McDaniel. McDaniel was also an officer whose judgment was not beyond reproach.

Mike Laux: Not long after the Bobby Moore shooting, McDaniel took an early retirement.

John: In the midst of an internal affairs investigation into an incident where McDaniel was pumping gas at a gas station.

Mike Laux: He saw a white woman with a biracial baby out by the pumps. And he called this woman a nigger lover. And he went into a tirade about her baby and about her.

John: Allegedly. The LRPD brass granted McDaniel's early retirement request, and the investigation was closed without reaching a conclusion.

Mike Laux: So that's Arthur McDaniel, right. That's the guy that the LRPD says: Josh Hastings, before you do anything crazy, wait for Arthur McDaniel.

John: So when police received a call that some teens were breaking into cars at an apartment complex, Josh Hastings waited for Arthur McDaniel. Until he didn't.

Radley Balko: Hastings and his partner agree on this plan of how they're going to confront these teenagers.

John: That's Radley Balko, an investigative reporter at *The Washington Post*, who has written a series of pieces about policing in Little Rock.

Radley Balko: But then when they arrive, Hastings ditches the plan because he finds a hole in the perimeter fence that leads into the parking lot.

John: When he entered the parking lot, Hastings saw 15-year-old Bobby Moore and two friends in a Honda Civic that they'd broken into and gotten started.

Radley Balko: Hastings then jumps out and draws his gun.

John: There should have been at least audio of what happened, because Hastings was wearing a body microphone, but he radio'd that it had malfunctioned.

Mike Laux: What happens next becomes the the issue of the case. Was the car going forward in an attempt to try to run Josh Hastings over? Or was it going backwards in an attempt to avoid capture.

Radley Balko: So he says he jumps out, orders the car to stop. He claimed the car has plenty of room to drive around him. He testifies the car then accelerates directly at him, eventually reaching somewhere between he estimates 25 to 30 miles per hour.

John: According to Hastings, Bobby tried to run him over. So he retreated back up a steep embankment that surrounded the parking lot.

Radley Balko: He says the car jumps the curb, climbs the embankment, and he fears is going to pin him against the fence. And this is when he says he fires his gun.

Mike Laux: So Hastings opens fire on the car. And the car going up hill, in drive, stopped miraculously, and then slowly drifted backwards, down that incline, and rolled until it hit, with its

rear bumper, a parking garage girder and stopped. The two people in Bobby's car at that point, jumped out of the backseat and ran away. And Bobby was dead behind the wheel.

John: That's what Josh Hastings said happened. But his account was a lie.

Mike Laux: Bobby should not have been breaking into cars. We all know this. I've had a car broken into several times in my life. It sucks. It's total violation.

John: Bobby Moore broke into a car and tried to go for a joyride. What he didn't do was try to run over a police officer.

Mike Laux: There were no indications on the car, on the rocks, on the curb, or on the grass to even begin to support what Hastings was saying.

John: There was no physical evidence of any kind that the car ever went near the embankment. And the shell casings from Hastings' gun weren't anywhere near the place they should have been if Hastings was telling the truth.

Radley Balko: Both of the other boys who were with Moore said that Hastings jumped directly in front of the car not off to the side as he claimed. One boy said it was in reverse. The other side it was stopped when Hastings fired.

John: Which was consistent with Bobby's wounds.

Radley Balko: One of the bullets went in the front of his hand through his middle finger and then struck him in the left side of the head. Which would be consistent with somebody who had a hand on the wheel and was looking backward as if they were going in reverse.

Mike Laux: Now I submitted to the jury that the car was in reverse, right? Bobby put the car in reverse. He turned his head over his right shoulder so that he could reverse it. And when he did that Hastings opened fire. Well, how'd it get in neutral?

Radley Balko: The car itself was was found in neutral, which is a little odd, right? Because Bobby Moore was either driving toward Hastings or the car was in reverse.

Mike Laux: Now, for a moment, Hastings was there by himself. After the two other boys ran away, it was Hastings, the car and Bobby dead in the front seat. He's got just a few moments. Shots fired. People are going to start coming in a hurry. How is he going to explain the car in reverse? That not consistent with being run over. Well, he should put it in drive, right?

John: Maybe not.

Mike Laux: If he puts it in drive, then it might lurch forward. It might go forward a few feet or it might come off of the pillar. You can't do that. Big, life-altering decision he's got to make in the next 45 seconds. Well, what do you do? You put it neutral.

John: Maybe that's what happened. But we'll never know for sure because Little Rock police botched the investigation.

Mike Laux: The investigation that they did was just enough to say that he violated policy, even though it's a criminal homicide investigation. What you had here is friends and colleagues of Hastings, friends and colleagues and subordinates of Hastings' father, and all subordinates of Hastings father's buddy, Stuart Thomas, the chief.

John: Josh Hastings had grown up around the Little Rock Police Department. His father, Terry Hastings, was the department's media spokesman and the number three ranking officer in the department -- and also a close friend of the chief. Josh's uncle, cousins, and brother-in-law all were or had been officers.

Mike Laux: And they don't want little Josh to go to jail for 25 years. But he can't stick around anymore. So the investigation was perfunctory and just enough to justify a termination and to befuddle any criminal investigation.

John: Investigators did not dust the gear shifter for fingerprints.

Mike Laux: If Josh Hastings' fingerprints are on that gear shifter, forget about it. He's gone.

John: Investigators also didn't follow up with either of two witnesses, who, on the night of the shooting, told an officer canvassing the area that they were witnesses.

Mike Laux: I had to track these women down, doing the work that the police department should have done four years earlier.

John: Neither of them saw the shooting, but they did contradict details of Josh's story about the aftermath. And one other thing investigators didn't follow up on was a bottle of prescription opioid medication that was found in the Civic.

Radley Balko: And the name on the bottle was Philip Staggs. This was a police officer actually who had trained Hastings at the police academy and had recently been fired over misconduct related to drug abuse.

John: Opioids belonging to a former police officer who had trained Hastings were found in the car, and no one looked into it.

Mike Laux: There's no connection between Bobby Moore and Philip Staggs. There is no connection between the owner of that stolen vehicle and Philip Staggs. So what's the inference? I think the inference is that maybe Josh Hastings had those on his person.

Radley Balko: Perhaps Hastings was messing with the crime scene and the bottle somehow fell off of his person. That's really the most plausible explanation, I think. But whatever the explanation is for it, it wasn't investigated.

Mike Laux: LRPD investigations of police-involved shootings, I don't remember one of them -- and I've done a bunch of them -- I don't remember one of them being like, okay, okay. Everything makes sense here. The officer had no choice. There's nothing unusual here. Yeah, this was a legitimate, unfortunate, but legitimate shooting. That never happened.

John: One other thing that never happened in Little Rock was a police officer getting criminally charged for killing someone. Until Josh Hastings. He was prosecuted for manslaughter. Twice. But both times the jury failed to reach a unanimous verdict. And both times the prosecutor didn't really bring his A-game.

Mike Laux: He laid down on the job and he never impeached Hastings with his untruthfulness. And I think this is because he didn't want to convict Hastings.

John: A big part of the juries' decision came down to whether they thought Hastings was credible.

Mike Laux: Now juries hate liars. That's all he had to do. That's how you begin your questioning of Hastings. Did the LRPD sustain a claim of untruthfulness against you, based on something that happened about a month and a half prior to your shooting of Bobby Moore? Yes or no?

John: The prosecution didn't introduce evidence that Josh Hastings had lied about the City Market incident.

Mike Laux: You could just tell you could tell that the prosecutor didn't care. Every morning he was giving handshakes and smiles to Hastings' family and Hastings and all the police officers who showed up to support and literally and figuratively turning his back on the family of the young man that he's supposed to be prosecuting on behalf of.

Sylvia Perkins: That's what let me know. This man wasn't with me. They were just leading me on.

John: That's Bobby Moore's mother, Sylvia Perkins. When the prosecution announced it was not going to try Josh a third time, the county prosecutor shook hands with every officer in the room.

Sylvia Perkins: He went around and shook all of their hands. Josh Hastings looked at me with a smile. A smirk.

John: Unsurprisingly, Bobby's death and police and prosecutors closing ranks to ensure that no one would be held accountable really did a number on Sylvia's family.

Sylvia Perkins: This here really put my family in a hard place especially my kids. My grandkids would actually be scared to ride in the car and see a police behind their mom or anything. We went through this for years.

John: To this day, Sylvia says that if she ever needs help, she won't call the police.

Sylvia Perkins: I refuse to even call them if something goes wrong. And I hate that my family feels the same way.

John: After the criminal trials, Sylvia sued Josh in civil court, and this time the jury heard evidence that prosecutors failed to put forward in the criminal case.

Mike Laux: What I said during the closing argument, when I pleaded to that all-white jury to find Josh Hastings guilty, what I said was he needs this almost as much as my client does. This young man has never stood on his own two feet in his entire life. I think it might be just what he needs to taste some element of accountability.

John: The jury found that Josh Hastings had violated Bobby's constitutional rights and ordered him to pay over \$400,000 in damages. But Hastings didn't pay the judgment, and the City of Little Rock refused to pay it either. As we said on Episode 3, over 99 percent of the time, cities indemnify police officers. Josh Hastings is the less than 1 percent. He declared bankruptcy, and Sylvia ultimately settled the case, in the words of her lawyer, for peanuts. But Josh Hastings was not the only party Sylvia Perkins sued. She also sued the city. We're going to take a quick break, and when we come back we'll talk about the case against Little Rock and the chief of police.

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BREAK

John: But first, a word about some of what we do at the Institute for Justice.

Beth Kregor: At the IJ Clinic on Entrepreneurship, we're lawyers, we're advocates, and we're boosters for lower income entrepreneurs.

John: That is my colleague Beth Kregor, the director of IJ's Clinic on Entrepreneurship at the University of Chicago.

Beth Kregor: With teams of law students from the University of Chicago Law School, we provide in depth legal counsel to our clients, who are courageous, inspiring small business owners in Chicago.

John: At IJ, we don't just sue bad guys. We also do things like provide legal assistance for lower- to middle-income entrepreneurs who are navigating things like intellectual property law for the first time.

Beth Kregor: And we advocate for law reform in Chicago and Illinois when the laws are holding these courageous entrepreneurs back from pursuing their dreams.

John: The Clinic works in the community and at City Hall to help people who are trying to earn an honest living and find themselves wrapped up in unreasonable red tape.

Beth Kregor: One of the IJ Clinic's current clients is Yohance Lacour. Yohance spent some time in prison. But while he was there, he learned how to work with leather, making handbags and even leather greeting cards for his fellow inmates to send home. When he got home, he wanted to build his own business doing the craft that he loved. He started making designer sneakers and handbags for customers who are just thrilled to have something new and different. Yohance has taught us a lot about the perseverance and courage of entrepreneurs. But we've also

learned about some of the challenges of complying with the laws in Chicago -- even the supposedly simple task of getting a license to start a business in your very own home.

John: This spring, after Beth and her colleagues and clients at the Clinic applied some elbow grease and stick-to-itiveness, the city relaxed many of its rules and expanded what kinds of businesses can operate at home and the square footage they can occupy -- as well as other nuts-and-bolts changes that will make it easier for people to work for themselves from home. Which of course is something we all can appreciate just a bit more after the last year.

Beth Kregor: One of the ways the IJ Clinic responded to the Covid-19 pandemic was to create a website that would connect local Chicagoans -- or people all around the country -- with small businesses in Chicago that were struggling to stay in business. So we started shopinplacechi.com. Originally, we just thought we'd let people know where they could buy soap and puzzles for their kids during the first few weeks of quarantine. But as the pandemic has lasted, Shop in Place Chi has grown. And it includes more than 1000 businesses where people can shop small, right from home sitting at their computers.

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John: For the City of Little Rock to be liable for Josh Hastings shooting Bobby Moore, the Supreme Court has said that plaintiffs like Sylvia Perkins need to show that the city failed to adequately train or supervise employees like Josh, or that it was plainly obvious he should not have been hired in the first place. Or Sylvia had to show that the city had an unconstitutional policy that caused Bobby's death. And one informal policy Sylvia pointed to was Chief Thomas's

tolerance of untruthfulness by his officers. When Josh Hastings lied about shooting Bobby Moore and failing to investigate the burglary of the City Market a few weeks earlier, those lies were not his first. He told his first lie five years earlier, during his very first formal interaction with the LRPD. The lie was about the Ku Klux Klan.

Mike Laux: These recruits they get polygraph testing. And one of the questions they're asked is if they've ever been a member or had an association with a subversive group.

John: Whatever it is a polygraph actually measures, when Josh was asked if he had ever attended a meeting of a subversive, violent, or racist group, something must not have felt quite right to the polygraph examiner.

Mike Laux: He failed that. He failed that question.

John: On a form that he'd filled out before taking the test, Josh checked the box for "no," he'd never been to a meeting of a racist group. But that was not true. And the polygraph examiner stopped the exam, which was against policy. And in handwriting that is not Josh's, someone wrote in a different answer on the form.

Mike Laux: The polygraph examiner, believe it or not, was actually the mother of one of his childhood friends. She knew Josh since he was like a Little Leaguer. And so all I know is you get two different sets of penmanship on the pre-polygraph questionnaire. And in writing that's not Josh Hastings', there's this note that says: attended a KKK meeting and was just curious --

basically admitted to attending a single meeting. We think that the association ran deeper than that.

John: According to that note, about two years before he applied to be a police officer, Josh just happened to pop into a meeting of the Ku Klux Klan. He'd been at a friend's house in rural Arkansas, and he and his friend snuck into a barn where his friend's grandfather was hosting the meeting. He said he listened for a few minutes and then left unobserved.

Mike Laux: To my understanding, you don't just get to blow in and breeze into Klan meetings and then leave.

John: Nobody at the LRPD ever followed up to see if the association ran a little deeper. Nobody interviewed the friend or pressed Hastings for more information. One officer on the hiring committee did write a memo recommending that Hastings not be hired. But Chief Thomas, who was also on the hiring committee, disregarded it.

Mike Laux: That KKK revelation never made it beyond the hiring committee, unfortunately. Which is really the trend of his career. He's had people looking out for him, never had to be accountable for his actions.

John: At the police academy, Hastings continued to get special treatment.

Mike Laux: There are countless anecdotes about him in the academy. And one of them was there's a very strict rule in terms of tests. You take a number of written tests, mostly multiple choice. And you're allowed to fail one test.

John: According to one of the other recruits in Hastings' class, Josh failed two tests. Which was grounds for automatic dismissal. But rather than dismissing him, the instructors had the entire class retake the exam.

Mike Laux: There was some pretext given, but they wound up having to take the test again. All of them. Those are very perfunctory hurdles that they put in front of people who are going to be allowed legally to carry a gun, and to protect and serve. It's a tremendous responsibility. I know it's a thankless job. I know it is. I mean I really do. I've represented police officers many times before, but if you don't make your marks and if you don't pass the qualifications, it's a bad sign. It's a real bad sign.

John: Whatever else Josh learned at the academy, it seems like one lesson that stuck was that the rules weren't really rules. Which, as it happens, is a lesson that many other recruits may have learned as well.

Mike Laux: Don't you believe that when rules are not properly enforced, those who are to follow the rules don't follow them as closely as they would otherwise?

Capt. Helton: No. I think people tend to make choices on their own, people decide to do things on their own.

John: That is the officer in charge of training at the academy at a deposition. He was Josh Hastings' training sergeant.

Capt. Helton: I think that's an internal decision; people tend to make those. I mean a person decides to go out here and do something wrong, then that's something they solely did on their own.

Mike Laux: Right. But isn't that why you have policies?

Capt. Helton: You know as well as I know, some people don't adhere to policies.

John: That officer also testified that when officers who have graduated from the academy have difficulty with basic tasks, that doesn't really reflect on the training they received.

Mike Laux: Most officers have difficulty writing police reports after two and three and four years?

Capt. Helton: Yes, sir.

....

Mike Laux: Does that reflect on the training that they receive?

Capt. Helton: No, I don't think so.

....

Mike Laux: What I'm saying is when an officer graduates from the academy and he or she still has problems report writing, doesn't it suggest that they weren't properly trained in report writing?

Capt. Helton: No, sir, it doesn't.

John: When he graduated from the academy, Josh Hastings, like many of his fellow officers, had trouble writing police reports.

Radley Balko: One of his supervising officers admitted that she often had to assist him in writing his reports because of his illegible handwriting, misspelled words, improper grammar, improper usage, as she put it.

John: In addition to having trouble with reports, Hastings was also a poor driver. Which, given who was assigned to teach him how to drive a patrol car, may not be too surprising.

Radley Balko: Officer Kelly Lepore was Hastings driving instructor. Just over a year before Hastings was hired, Lepore pulled her gun on a DWI suspect, then pushed her gun into the driver's face.

John: The driver fled.

Radley Balko: Which I probably would too. He was later apprehended by another officer who -- after hearing the Lepore's report -- thought he was dangerous and shot the driver after seeing him reach for what he said was something shiny. There was no gun in the car.

John: Officer Lepore said that the reason she pulled her gun is because the driver had grabbed hold of her arm and started driving away, dragging her somewhere in the vicinity of 60 feet down the road. But that was a lie. At deposition, she was shown video from her own dashcam.

Mike Laux: Ok, let's play that video if we could please. ... So this is on. He ran the stop sign, right?

Officer Lepore: Yes.

Mike Laux: Now he's pulled over, right?

Officer Lepore: Yes.

Mike Laux: Were you dragged 60 feet by that car?

Officer Lepore: No, sir.

John: She was dragged zero feet.

Mike Laux: You pointed that gun in his face, didn't you?

Officer Lepore: I pointed it at him. It wasn't directly in his face. It was pointed at him.

...

Mike Laux: Is that consistent with your training?

Officer Lepore: I am going to say yes because I couldn't see inside that vehicle.

John: In a different deposition, a superior officer testified that that was not consistent with her training.

Mike Laux: Were you ever disciplined for any of that?

Officer Lepore: Not that I can recall.

John: The LRPD's driving instructor didn't follow the rules she was supposed to be teaching. She got people shot. She lied about what she'd done. And she got away with it. And possibly young officers like Hastings learned a lesson from that.

Radley Balko: Hastings was repeatedly cited for reckless driving. At one point he after had been given multiple warnings for speeding and engaging in too many high speed chases, he was instructed to never exceed 85 miles per hour in his car.

John: He ignored that order.

Radley Balko: Soon after that he was involved in another high speed chase that ended with the person he was chasing crashing into a children's hospital. And Hastings was exonerated of any wrongdoing, despite the fact that he had violated the order that he had just been given to not exceed 85 miles per hour.

John: Over the course of his career, Hastings also missed court dates repeatedly. And each time he was called on it, he'd promise never to do it again. And then he missed more court dates.

Mike Laux: He assured Chief Thomas that this is never gonna happen again. And the reason it's never gonna happen again is because he has a new system in place. And the new system in place is that when he gets a subpoena for court, not only does he put it in his telephone, and not only does he put it on his marker board, but he also tells his father, Lieutenant Terry Hastings, who sets a reminder for him. And, of course, he missed more court calls after that.

John: Over the course of his career, Hastings was sustained for disciplinary infractions more than 30 times.

Radley Balko: Everything from loafing or sleeping on the job to abusive language, failure to file reports, failure to appear in court, failure to notify authorities of a dead body, conduct unbecoming an officer, insubordination and untruthfulness.

Mike Laux: He truly was a renaissance man in terms of bad conduct. He was supposed to make arrangements for dead bodies to be transported to the coroner's office. Instead, he left and went on vacation. Leaving these people I mean, it's unbelievable.

Radley Balko: If you look at one one-year period between March 2008 and March 2009, Hastings was suspended, warned for failing to submit reports, warned for submitting incorrect reports. He was given a letter of counseling for missing court. He was given a bad performance review, and he was issued a letter of reprimand.

John: One month later in April 2009, he was named Officer of the Month.

Radley Balko: He goes one month without getting written up or having any disciplinary problems and they name him Officer of the Month. I think that really sums up his career probably better than anything.

John: Missing court, sloppy reports. By and large, the things that Hastings got disciplined for were relatively minor. Which was part of a pattern at the LRPD.

Mike Laux: When you look through the sustained violations at the Little Rock Police Department during this timeframe, overwhelmingly those sustained violations of policy pertain to your more administrative types of rules: vehicle accidents in the parking lot that cost money, missing court, jeopardizing criminal cases, not responding to calls, doing things that inconvenience other officers.

John: What Josh didn't get in trouble for was using excessive force.

Mike Laux : He's a big guy, and he would often rough people up and just basically show a lack of respect for predominantly black people. He was such a favored person there, with such clout through his father, that he just flew under the radar and allowed the excessive force that he used -- mostly with his nightstick or with mace or with his hands -- that should have raised the red flag but did not.

John: Josh Hastings used force at least 63 times over the course of his short career, disproportionately against African Americans.

Radley Balko: In one case he was accused of body slamming a mentally ill homeless black woman, and then sat on her stomach as he waited for help to arrive.

John: But his supervisor covered for him.

Radley Balko: But then his supervisor, when his supervisor wrote up the report, he wrote that Hastings, quote, “wrapped his arms around the woman and placed her on the ground” almost sort of an act of gallantry. And even Hastings himself admitted in a deposition that that was not an accurate portrayal.

Mike Laux: If Josh Hastings has anything in his defense, I think it might be that they picked bad people to surround Josh with. Supervisors with a lot of baggage. Supervisors who lack the moral authority and lack the work history to make any credible demands or to give any credible instructions to Josh Hastings. What these people all have in common is this tremendous lack of judgment and of sobriety when it comes to wearing the uniform and what that represents.

John: Hastings’ field training officer, the very first officer he was attached to to learn how to do the job after the academy, was a man named Ralph Breshears.

Mike Laux: Ralph Breshears was a very troubled officer with a very lengthy and significant discipline history.

Radley Balko: He's had multiple car accidents. He had at least 12 complaints of excessive force against him that were ruled unfounded or unsustainable. Five complaints from citizens for verbal abuse, two complaints for theft and one for racial profiling.

John: Before being assigned to Hastings, Breshears had been fired for making an illegal arrest and then lying about it. But he sued and was reinstated and then assigned to train rookie cops.

Several years after Hastings shot Bobby Moore, Ralph Breshears also shot someone in very similar circumstances. He fired into a moving car and claimed that he thought the driver was going to run him over. But there was [surveillance video](#) from a nearby business.

Ralph Breshears: Get out of the car!

Officer: Shots fired....

Ralph Breshears: Get out of the car now!

Suspect: I'm sorry.

Ralph Breshears: Get out of the car! ...

Suspect: I can't get out please help me.

John: The video made clear that Ralph Breshears was a liar. He wasn't going to be run over. He was standing on the passenger side of the car well out of harm's way.

Radley Balko: So that was just the very first guy ~~that~~ that Hastings is assigned to. His very first exposure to being a professional police officer is this guy Ralph Breshears. And it doesn't get really any better from there.

John: The next officer to supervise Josh Hastings was Sergeant Cristie Young.

Radley Balko: Young herself has been suspended multiple times, including for making terroristic threats, insubordination, and interfering with a police investigation.

John: Sergeant Young probably should not have been a cop. Here's a note she wrote on social media to her ex-husband's new girlfriend.

Cristie Young: Do you have a death wish? You can have the guy, my soon to be ex, he's worthless you'll see. But if I catch you around my kid, I'll pull that fucking fried ass brown hair out of your head and beat your fucking ass. Ask him I'm fucking crazy. I'll fucking get you.

John: Sergeant Young did not get fired for that. She kept her rank, and the department continued to assign young officers to her for mentoring.

Mike Laux: Another one of his supervisors was a gentleman by the name of Corey Hall, who just has tremendous temperament problems. He's gotten in fights at bars. He identified himself as an officer, vowed retribution in drunken screams at bouncers who are trying to remove him.

John: While he was supervising Hastings, Corey Hall was suspended for domestic violence. And that wasn't his first incident like that.

Radley Balko: In 1997, Hall was also fired after he drove to Oklahoma and pointed his gun at his ex wife's boyfriend. He too sued the department, won, and was reinstated. He's since been sued for sexually harassing a female officer. He was the target of an excessive force lawsuit that the city had to settle.

John: In instances where an officer was fired for their misconduct, time and time again they would sue and be reinstated. Which might seem like that something that was out of Chief Thomas's hands. He'd fire an officer and be forced to rehire them. But it turns out that that's only part of the picture.

Mike Laux: By allowing officers to be undisciplined for gratuitous violations of policy, especially use of force, what Thomas does like his predecessors, is established the precedence for what can't be disciplined.

John: For example, if an officer beats someone up and they get fired for it, a winning argument that they can make in arbitration is to point to all the other times officers have beaten someone up and Chief Thomas didn't fire them.

Mike Laux: He creates precedent that can be used in these civil service hearings to get bad officers back on the force. And they've done that for years.

John: Another precedent at the LRPD was shoddy investigations into the use of deadly force. If a police officer killed someone, on paper, it looked like the LRPD had a rigorous, multi-layered investigation process. First, there would be a criminal homicide investigation to see if charges were warranted against an officer. Then that would be followed by a separate Internal Affairs investigation. And then a third review was undertaken by something called the Deadly Force Review Board to determine if any new training or policies needed to be implemented to avoid future incidents. But have a listen to this deposition of the officer in charge of training at the

police academy about a shooting that he looked into as a member of a Deadly Force Review Board.

Mike Laux: Whether it's General Order 309 or another general order, did you see or detect any red flags in that video where you thought training wasn't properly followed?

John: In 2009, two Little Rock police officers shot and killed a mentally ill man who had been holding a knife to his own throat.

Capt. Helton: Obviously, it's easy to Monday night quarterback a deal, but what those officers were seeing, I don't – I can't testify to what or speak to what they were seeing at that time, so I don't – I don't know.

John: [The officers](#) violated a bunch of different policies, including General Order 309, which, among other things, says officers shouldn't scream at people who are in the midst a mental health crisis.

Mike Laux: You've said a couple of times now Monday morning quarterbacking, right? Isn't that precisely what the Deadly Force Review Board is supposed to do? You're supposed to look at what happened, take a deep breath, and figure out whether it complied with policy or whether it adhered to training and things of that nature, aren't you?

Capt. Helton: Given the information. But, like I said, I can't testify on the actions of what led them to want to pull that trigger, other than what I read in their officers letter. I mean, they're the ones that are experiencing that at that point.

John: One of the officers who pulled the trigger in that case was Josh Hastings' cousin. Which is to say that three years before Josh Hastings shot and killed Bobby Moore, Hastings' cousin shot and killed someone, violating a slew of department policies in the process, and got exonerated by a Deadly Force Review Board that didn't want to be Monday-morning quarterbacks. And the officer in charge of determining whether the shooting comported with officer training, well ...

Capt. Helton: I don't know if there had been an adequacy of training issue. I mean, if it was something that was, you know, brought up, then that would have – you know, could have been discussed there.

John: As it happens, that was not the only time one of Josh's cousins shot and killed someone. In 2008, several officers, including a different cousin of Josh's, shot a man they wrongly suspected of burglary in the back of the head. The department's spokesperson, Lt. Terry Hastings, told the public that the victim had been armed and had fired at the officers first. But that wasn't true. According to one witness, the victim was pinned on the ground with his arms behind him when he was shot. Even more suspiciously, a different witness told police that the victim didn't have a gun. But a written transcript of that witness' statement on video was altered to say that the victim did have a gun. Nevertheless, the LRPD cleared everyone of wrongdoing and closed the file. Which was typical. From 2000 to 2015, Little Rock officers shot or killed

someone 85 times. And in every instance, except for Josh Hastings, the department concluded that its policies on the use of force had not been violated.

Mike Laux: Do you have any regrets about your tenure as chief of police ... anything that you've done or didn't do that you wish you had or didn't?

Stuart Thomas: No sir, not specifically.

John: That's Stuart Thomas, the chief of police. When Bobby Moore's mother, Sylvia Perkins, sued the City of Little Rock under Section 1983, she argued that Stuart Thomas was aware of these problems in his department and did nothing to stop them. Starting with the culture of dishonesty on official reports and during investigations into uses of force.

Mike Laux: You don't think allowing an officer who was determined to be untruthful while on duty or during an investigation -- you don't think that letting that officer continue their employment and interact with the public -- you don't think that puts the public at any degree of increased risk?

Stuart Thomas: I don't necessarily know that I could say that. I think you look at the situation and you look at the officer and you deal with it as it comes along.

John: According to Chief Thomas himself, he was a quote "hands-on" chief who personally reviewed all police shooting investigations, all police misconduct investigations, all citizen complaint investigations, and all Internal Affairs investigations. And he also testified that he reviewed every file generated by the department's Early Intervention System. That system is a computer program that combs through a database of LRPD reports and generates alerts on

officers if it seems like, for instance, they're using force against members of the public concerningly frequently. It doesn't necessarily mean that each use of force is unjustified. It just means that a supervisor should look into it.

Mike Laux: Do you think that you did everything that you reasonably could have done to make sure that the Early Intervention System worked properly while you were chief of police?

Stuart Thomas: I don't know.

John: From [2005 to 2010](#), the EIS system identified 1,670 uses of force. And in every single one of them, the LRPD and Chief Thomas determined that the use of force was justified.

Mike Laux: Do you agree with me that there have been occasions where an officer has exceeded the use of force threshold, you have have subsequently said "no further action," after reviewing the file, and then that officer has gone on to shoot somebody?

Stuart Thomas: Ah yes, I think that's correct.

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Mike Laux: Do you think that you implemented the system effectively?

Stuart Thomas: I don't know that we got into it as quickly and as effectively as we possibly maximum could have. But I don't think that we did not use or utilize the system.

John: The primary way that an alleged use of excessive force or some other kind of misconduct would go up the chain of internal review was for a citizen to make complaint.

Mike Laux: A very daunting process where you have to show up in person and go through the bowels of the department around corners and corridors. You could very well bump into the person that you want to make a charge against.

John: And for a complaint to be sustained, there almost had to be video or audio of the incident.

Mike Laux: If you look at the complaints that are successful that alleged excessive force, they are almost exclusively aided by video or audio.

John: When it was just someone's word against an officer's, the officer would almost invariably get off the hook -- even it was an officer with a history of untruthfulness.

Mike Laux: There have been instances in your career where a citizen has made a complaint of use of excessive force against an officer. And they have no evidence. They have no evidence other than their story. The officer has no evidence either. Maybe their MVR wasn't on. The point is it's a classic he said she said, except the officer has a prior untruthful sustained. Do you give that prior untruthfulness any weight when you're deciding who is telling the truth?

Stuart Thomas: No, sir.

John: Under Chief Thomas, recording equipment wasn't well-maintained, and it frequently malfunctioned. Or at least officers said it frequently malfunctioned.

Mike Laux: If the rules are being followed, you're going to get disciplined for having malfunctioning equipment. Because you should have reported that at the beginning of your shift. Or you need to show why it worked at the beginning of your shift, but four hours later it doesn't work. If you can't show that you're gonna get disciplined. That's what the rules say.

John: But in practice discipline was light to nonexistent for officers who didn't have their equipment on or who turned off their equipment right before something bad happened. So on the night he killed Bobby Moore, when Josh Hastings radio'd to say that his equipment wasn't working, he had good reason to believe he'd get away with that. When he violated department policy by jumping in front of a moving car and then again by firing his weapon even though he wasn't in fear for his life, he had good reason to think he'd get away with that too. Every other officer who'd violated department policy on the use of force and had shot someone had gotten away with it. And when Josh lied about what he'd done -- well, the first thing he ever did at the LRPD was lie about attending a Klan meeting. His supervisors, mentors, and colleagues had lied about their misconduct, and they'd gotten away with it. When the investigation into the shooting wasn't all that meticulous, again, that was just more of the same. And it beggars belief that Chief Thomas, the hands-on chief, didn't know what was going on in his department. But would all that mean that Sylvia Perkins could get her claims against the city in front of a jury? Coming up on Part 2, which we will release very shortly, we'll answer that question.

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