



“Gypsy Cops”: Does Your Agency Have a Policy?

[Attorney Matt Dolan](#)

December 2017

The intense media spotlight placed on law enforcement in recent years has often been one-sided, unfair or even disingenuously slanted against the profession. *However, at least one area of scrutiny should be welcomed by law enforcement professionals: the nation-wide problem of agency hopping, problem-prone individuals known as “gypsy cops”.*

For years, law enforcement leaders have been aware of this widespread problem within the profession. A very small number of toxic individuals are bouncing from agency to agency, leaving a trail of lawsuits, depleted community trust and YouTube® moments in their wake. **What is most frustrating is the fact that they keep getting hired.**

Why Do They Keep Getting Hired?

Background investigators often produce valid waivers and request work history information, only to be told that “Mr. Smith was employed here from 2013 until 2017” without anything further. Agencies are not cooperating with background investigations that are intended to uncover past misconduct, if it exists. **Many uncooperative agencies are acting out of fear that if they disclose any substantive information, it will result in some kind of lawsuit. This concern is prevalent throughout the country in spite of the fact that, in the vast majority of states, agencies are immune from liability absent evidence that the former agency was seeking to “blacklist” their former employee by maliciously giving false information.**

Many of the same background investigators who are frustrated by the brick walls they hit in dealing with an officer’s past employer simultaneously acknowledge that their own agencies turn around and put up a similar brick wall in dealing with other agencies inquiring about *their* past problem officers. **So, there is a circular motion in which Agency A stays silent about a problem officer who was fired or left in the midst of an internal affairs investigation, and then find themselves in the same bind when Agency B refuses to cooperate in discussing the work history of their past problem officer.**

In spite of this lack of cooperation, and the resulting lack of vital information, agencies are hiring these former officers anyway. Why? Because they are already certified officers and therefore represent a short-term savings in terms of cost and training. Because agencies “need warm bodies.” Because backgrounds are not necessarily valued inside the organization as they should be. And, regrettably, because **many agencies don’t even have a formal policy for conducting background investigations until they have already made national headlines or seen an officer sentenced to jail time. It is often only**

then that agencies create policies prohibiting the hiring of officers from other agencies without gaining access to their work history.

What Is Your Agency's Policy?

Recently, Michigan passed legislation aimed at addressing this problem by requiring law enforcement agencies to communicate the circumstances surrounding an officer's departure. And, as previously mentioned, laws across the vast majority of states provide statutory immunity to agencies that disclose this type of crucial work performance information absent evidence of willful dishonesty.

It is yet to be seen how effective legislation of the type recently passed in Michigan will be. It's possible that more states will follow suit. **But it seems that agency leaders should be asking themselves a fundamental question regardless of the decisions made in state legislatures: *Do we need the state to tell us to exercise due diligence in hiring officers?*** The notion of hiring an officer without reviewing the terms of their departure can and should be standard operating procedure for law enforcement agencies. It should be policy and it should be practice.

As for the common concern that "we don't have enough to justify not hiring this person," agency leaders must ask themselves what type of an individual leaves an agency for unknown reasons, applies for a position with your department, and then threatens to bring a lawsuit if you refuse to hire them without due diligence? **As leaders in law enforcement, part of the job is deciding which lawsuits you are willing to take on. With very few exceptions, it's not the officers you don't hire that cost you time, money, and public trust. It's sometimes the ones you *do* hire.**