



Preparing for a Hiring Frenzy in Law Enforcement

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Over the past several years, there have been common refrains from law enforcement leaders and the recruiters tasked with filling the ranks of law enforcement across the country. *In an era of low unemployment and plentiful job opportunities in the private sector, why choose a career in law enforcement with the stress, danger, and public scrutiny that comes with it?*

But in the last few weeks, in the face of the economic downturn caused by the COVID-19 crisis, men and women across the United States are facing staggering challenges in finding a way to support themselves and their families. In fact, there are entire industries within the U.S. economy that appear unlikely to fully recover for years to come. If the past is any indication, economic downturns tend to correspond with a flood of applications for law enforcement agencies as applicants are harder pressed to find stable employment. **Moving forward, the new challenges may be associated with a hiring frenzy and the crucial errors that often accompany them.**

The Economic Picture

The dry spell for law enforcement hiring greatly increased as unemployment plummeted in the U.S. after 2016. Law enforcement agencies have had to compete with other professions (including safer professions that offer higher salaries) as the economy surged. And law enforcement was not the only profession having trouble recruiting qualified individuals. A 2017 report by the National Center for Health Workforce Analysis indicated the nation was critically

short of nurses.¹ A 2019 report by the Economic Policy Institute revealed that public K-12 schools had numerous unfilled teacher vacancies, with as many as 50% of positions unfilled in some school districts.² Both the U.S. military and commercial aviation have also struggled with shortages of pilots.³

All that, however, might be about to change due to the economic effects of the COVID-19 quarantine. According to the U.S. Bureau of Labor Statistics, only 3.5% of the U.S. population was receiving unemployment benefits in February, 2020. **During March 2020, the number of people receiving unemployment benefits rose 26%, and it is continuing to rise in April.** The fields most hit by permanent layoffs have been leisure, entertainment, and hospitality, health care (dentist and physician office staff), social assistance (social work, special needs, and day care services), and the retail sales industry.⁴ **As more businesses and industries collapse, more people will be out looking for new sources of employment.**

An Overloaded Background Investigation Process

The past experience of law enforcement hiring frenzies in the late 1980s and early 1990s should teach us that bad things happen when we “hire them now and ask tough questions later.” Skyrocketing violent crime rates, a mild economic recession, and federal funding assistance to hire more police officers nationwide resulted in hiring frenzies in law enforcement agencies across that nation during that period. But accomplishing the goal of quickly getting “boots on the ground” often came at the expense of hiring quality candidates.

The New York City Police Department’s hiring frenzy directly contributed to a corruption scandal in the 1990s. In May 1992, a joint drug task force in New York City revealed a ring of corrupt NYPD officers who stole drugs and money, sold drugs themselves, and engaged in various forms of brutality. An investigation by **the Mollen Commission revealed, in the midst of the hiring frenzy, overworked background investigators were not conducting thorough**

¹ National Center for Health Workforce Analysis. *Supply and Demand Projections of the Nursing Workforce: 2014-2030*. National Center for Health Workforce Analysis, July, 2017.

² Garcia, Emma, & Weiss, Elaine. *The Teacher Shortage is Real, Large and Growing, and Worse Than We Thought*. Economic Policy Institute, 2019

³ CAE. *Airline Pilot Demand Outlook: 10-year View*. CAE, 2016: Taylor, William, Moore, Craig, & Roll, Charles. *The Air Force Pilot Shortage: A Crisis for Operational Units?* Rand, 2000.

⁴ U.S. Bureau of Labor Statistics. *The Unemployment Situation – March 2020*. Bureau of Labor Statistics, 2020.

investigations and the department was placing applicants in the academy before background checks had even been completed.⁵

The authors of the Mollen Commission Report stated that “Approximately 20 percent of the officers suspended or dismissed should never have been admitted into the Department.” The Commission noted the failure to follow proper applicant screening procedures when it wrote, “The Department has routinely admitted applicants to the Department—and put them on the streets as sworn officers with guns and shields—before their background checks are complete. Eighty-eight percent of the officers in our study, for example, entered the Police Academy before the completion of their background (investigation).”⁶

The Commission revealed that, during the hiring surge, background investigations often were not completed until after the applicant became a sworn police officer. “This is particularly troublesome because by the time recruits have graduated from the Police Academy and become sworn members of the Department, much time, energy, and money has been invested in them. **Consequently, the focus shifts from the question of whether the applicant is qualified, to how the Department could justify dismissing a sworn police officer, which carries a heavier burden of proof.**”⁷

The same story was repeated in many other law enforcement agencies across the nation during that era. **A 1985 corruption investigation of the Miami Police Department uncovered a group of corrupt officers that eventually became known as the “Miami River Cops”.** This investigation revealed a contingent of 20 Miami officers who engaged in murders, robberies, burglaries, drug deals, and accepting bribes. An investigation by the lead prosecutor in the case revealed that, **just as had occurred in New York City, the Miami Police Department had gone through a hiring surge, beginning in 1980,** in response to a spike in violent and drug crime. This hiring surge had resulted in a curtailing of thorough background investigations. **Every single one of the 20 convicted Miami River Cops had been hired after 1979 (during the hiring surge) and many had past histories of criminal behavior, violence, drug and alcohol abuse, or mental health issues before their date of hiring.**⁸ Similar situations

⁵ City of New York. *Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department: Commission Report*. City of New York, 1994.

⁶ Mollen Report, p. 111-115.

⁷ Mollen Report, p. 111-115.

⁸ Mancini, Chris. *Pirates in Blue: The True Story of the Miami River Cops*. National Association of Chiefs of Police, 1996.

contributed to criminal scandals in New Orleans, Louisiana and Gary, Indiana in the early 1990s, and the Rampart Division Scandal for the Los Angeles Police Department in the late 1990s.⁹

While these cautionary tales do not indicate that every bad hire will result in criminal behavior and extreme corruption, they do illustrate the disastrous results that can come from cutting corners on the background investigation process. Throughout the country, there are lesser examples of the results of hiring frenzies. There are agencies in which problem officers are dealt with by department members while the police chiefs or sheriffs who were responsible for these hires have long since retired from the profession. **A leader's greatest legacy in law enforcement is the men and women that carry on after the leader has left. Hiring people that have no business joining the ranks of law enforcement hurts your agency and the profession.** The damage ultimately done by today's bad hires on the recruiting efforts of tomorrow is incalculable.

Hiring Discrimination Claims

If law enforcement agencies experience hiring frenzies with more applicants free of automatic disqualifiers than open positions available, leaders should prepare to defend their hiring decisions in the face of failure-to-hire discrimination lawsuits. For years, many agencies have not been choosing a *better qualified candidate over a lesser qualified candidate*—rather, they have hired as many applicants who could survive the background and hiring process, with numerous vacancies still left unfilled.

In vetting candidates, agency leaders should simultaneously focus on holding applicants to stringent standards while also **ensuring that the rationale for not hiring individual applicants is articulated, documented and retained in the event of failure-to-hire litigation. Even the appearance of discriminatory hiring practices risks deteriorating public confidence in the profession and its leaders efforts to ensure that the police are a reasonable reflection of the communities that they serve.**

⁹ Dunphy, Jack. "Taking racial politics to a new low." National Review, February 11, 2005; Filosa, Gwen. "Kim Anh killer appeals death sentence." New Orleans Times-Picayune, October 19, 2006; Filosa, Gwen. "Death penalty upheld for N.O. ex-cop." New Orleans Times-Picayune, May 23, 2007; Harrison, Eric. "Police scandal rocks Indiana steel town as officers are accused of drug thefts." Los Angeles Times, August 24, 1991.

Conclusion

Even as agencies face the present challenges associated with the COVID-19 pandemic, they should begin preparing for the possibility of a hiring frenzy in light of new economic realities. **These realities present opportunities for police departments and sheriff's offices to recruit eager and qualified men and women. But they *also* present these agencies with the distinct challenges associated with hiring frenzies—effectively vetting the next generation of officers while documenting their decision-making in a way that minimizes failure-to-hire discrimination liability.**