



Negligent Hiring Liability for Law Enforcement in 2025

[Matt Dolan, J.D.](#)

January, 2025

In the face of widespread staffing shortages, there is an inexcusable, but understandable, temptation for law enforcement leaders to lower hiring standards and skip steps in the background investigation and field training phases in an effort to get “warm bodies” onto their departments. As a result, it is painfully easy to find headlines from 2024 that illustrate the costs associated with a breakdown in the proper vetting of newly hired law enforcement officers.

In March of 2024, a Henderson, Nevada police recruit was arrested for drunk driving within 36 hours of graduating from the police academy.¹ In May, a New Orleans police recruit still in the academy was arrested for aggravated assault with a firearm.² In June, a New York State Police recruit was arrested for assaulting a training instructor in the academy and attempting to take the trainer’s firearm.³ In July, a newly hired Kokomo, Indiana officer, still on probationary status, was arrested and charged with sexual misconduct with a minor.⁴ And in December, local news outlets reported that the Houston Police Department had hired a former Harris County detention officer in April of 2024 in spite of pending investigations into allegations of excessive use of force during his two year tenure as a jailer.⁵ One local outlet reported, “ABC13 asked HPD if they knew about the past incidents when he was hired, and they said that was part of the investigation into what he disclosed on his application.”⁶

These stories point to misconduct—on-duty and off-duty—that occurred so early in each officer’s career that burnout seemed to be an implausible explanation. **Common sense dictates that, if an individual cannot manage to get through the academy and field training without making headlines for misconduct, something was likely missed in the hiring process.**

The issue of negligent hiring is fundamental to every aspect of law enforcement operations—both in the near future and in the long term. **It is in the hiring phase, with a particular emphasis on background investigations and field training, that law enforcement leaders have a unique opportunity to minimize the liability that comes to bear throughout the course of an officer’s career.**

The 2024 stories referenced above come on the heels of a Department of Justice (DOJ) report in October of 2023 urging law enforcement leaders to “modernize eligibility requirements.”⁷ These “modernization” recommendations included removing barriers to entry such as physical fitness, past drug use, ability to pass a written test, past criminal offenses and much else.⁸ In other words, the DOJ report formally touted what too many agencies have adopted informally—lowering hiring standards to fill open officer positions.

While there are undoubtedly agencies that need to reevaluate some eligibility requirements—such as those pertaining to maximum age limits, college credit hours attained, or other requirements which seem to bear little or no relationship to an applicant’s character, competence, or integrity—the eligibility items highlighted by the DOJ report imply that now is the time to lower standards, hire “warm bodies,” and deal with the fallout later. Law enforcement leaders should, instead, follow their ethical compasses and apply common sense. They should look to their own experiences within their agencies, and to the history of modern American policing, and subsequently reject this short-sighted and unethical philosophy of rushed hiring and lowered standards.

At this moment, the law enforcement profession, and the citizens who depend on it, need agency leaders to meet the ethical challenge of resisting the temptation to hire unqualified applicants. In the long run, these applicants have the potential to inflict tremendous damage on agencies, the profession, and the communities that these agencies serve.

The last thing that officers and citizens need now is unqualified new hires in law enforcement who will ultimately bring disrepute to the profession, rather than further the mission to protect and serve. By learning from the mistakes of the past, being wary of common hiring pitfalls and understanding the long-term impact of negligent hiring practices, agency leaders can uphold their integrity and that of the profession without contributing to the detriment of their agencies and communities.

You Cannot Outsource Negligent Hiring Liability

In recent years, many states have attempted to assist local law enforcement agencies in identifying officers with past misconduct issues in an effort to prevent bad actors from moving from agency to agency and being hired without proper regard for their past actions. The

legislation passed in these states includes certification and de-certification processes, increased funding and resources for state-wide accreditation bodies, as well as mandates for local agencies to better communicate with one another in service of more thorough background investigations.

In 2017, the State of Michigan passed a law intended to help end the problem of “gypsy cops”, who bounce from agency to agency engaging in a pattern of misconduct, by mandating thorough background investigations on the part of law enforcement agencies conducting lateral hiring of certified officers. The legislation also required transparent communication on the part of officers’ current or former agencies of employment (1) with the state accreditation body at the time of separation, and (2) with other law enforcement agencies when one of their officers or former officers sought a law enforcement position elsewhere in the state. But this legislation has by no means eliminated negligent hiring cases in which local police leaders fail to conduct thorough, back-to-basics background investigations that go beyond state certification.⁹ In fact, in November, the Detroit Police Department self-reported that 30 of their active officers were not properly licensed with the State of Michigan and had to be placed on administrative duty.¹⁰

In one particularly disturbing 2023 case out of Michigan, a public safety director, when asked by a local reporter if the agency failed to conduct a thorough background investigation when hiring an officer with a history of very public on-duty misconduct with a nearby agency, responded: “No. Not at all. We’re not the licensing authority. The State of Michigan is and we go by what they say.”¹¹

Illinois is another state that has passed legislation in recent years aimed at preventing the hiring of officers with checkered histories.¹² But, much like the situation in Michigan, the reality remains that local law enforcement agencies are still ultimately responsible for engaging in legally and ethically defensible hiring practices.

This local responsibility in hiring officers, and the consequences of failures in legally and ethically defensible hiring practices, were brought to national attention following the fatal shooting of Sonya Massey in 2024. Massey, a mentally ill, unarmed woman, was shot and killed by a Sangamon County Sheriff’s deputy who was hired in spite of past misconduct issues in his personal life and as a law enforcement officer at other Illinois agencies. The fatal shooting occurred less than 4 miles from the Illinois State Capitol where the aforementioned legislation was passed.¹³

The now former Sheriff of Sangamon County, who eventually stepped down in the wake of Massey’s death and subsequent evidence of the deputy’s checkered past in law enforcement, defended the deputy’s hiring in a local news interview as follows:

“There is absolutely nothing in his background that would decertify him from working in law enforcement,” Campbell said. “The State of Illinois, the State Standards Board had certified him six times over and over and over again to continue working with law enforcement. There was nothing that we could have predicted.”¹⁴

The financial cost of negligent hiring practices is evident in cases brought by plaintiffs like Yareni Rios-Gonzalez in Colorado. Rios-Gonzalez was handcuffed and left in a squad car parked on train tracks when a train struck and severely injured her. The officer in whose squad car she was placed had recently been hired by his agency despite being labeled incompetent at his previous law enforcement agency. A demotion had been recommended by the previous agency, in light of an internal affairs investigation and concern expressed by fellow officers that he showed disregard for his own safety and the safety of others.¹⁵

In June of 2024, Rios-Gonzalez reached a settlement in the amount of \$8.5 million, receiving equal payments from the two cities whose officers were involved in her arrest. **The cities, whose police leaders had hired and deployed the officers on the scene – *not* the State of Colorado, its law enforcement accrediting body, or any other outside entity tasked with assisting local police leaders in their hiring decisions – were liable for the incident.**¹⁶

Hopefully, state accreditation bodies will continually improve in assisting individual agencies in the hiring process—particularly as it pertains to hiring laterals from within that state. However, **it is clear that when negligent hiring practices lead to the deployment of individuals unfit for the job, the fallout from their subsequent negligence or misconduct falls first and foremost on the agencies that hired them, the agency name which is displayed on the badges that they wear, and *not* the state body that has certified them.**

If We Are Hiring Applicants *Without Leaving the Office*— We Are Doing Something Wrong

Technological advancements have undoubtedly made it possible for background investigators to disqualify applicants with increased efficiency and decreased time commitment. Many dishonest statements on a personal history statement can be readily identified by checking various databases online. Social media activity can be checked for blatantly disqualifying conduct without the necessity of an investigator leaving the office. **But these advancements tend only to assist investigators in *disqualifying* candidates, rather than *approving* them for hire.** These tools are generally limited to identifying automatic disqualifiers and the kind of commonsense disqualifiers that are obvious to anyone with internet access.

The real work for background investigators, which must be done before approving a candidate, requires an *out-of-office-experience*. Technological advancements have not replaced methods including, but not limited to, a home visit, neighborhood canvass, and interviews with past supervisors, FTOs, and firearms instructors.

Law enforcement leaders should be prepared to defend their hiring practices by describing their efforts, outside of minimal in-office background checks, to identify possible character, integrity, and competence issues revealed by past conduct. This is particularly true in light of the financial and public trust costs associated with bad hires, when compared to the costs associated with a thorough background investigation.

IF WE ARE **HIRING**
APPLICANTS
WITHOUT LEAVING
THE OFFICE,
WE ARE DOING
SOMETHING **WRONG.**



About the Author

Matt Dolan, J.D.

Matt Dolan is a licensed attorney who specializes in training and advising public safety agencies in matters of legal liability, risk management and ethical leadership. His training focuses on helping agency leaders create ethically and legally sound policies and procedures as a proactive means of minimizing liability and maximizing agency effectiveness.

A member of a law enforcement family dating back three generations, he serves as both Director and Public Safety Instructor with Dolan Consulting Group.

His training courses include [Internal Affairs Investigations: Legal Liability and Best Practices](#), [Supervisor Liability for Law Enforcement](#), [Recruiting and Hiring for Law Enforcement](#), [Confronting the Toxic Officer](#), [Performance Evaluations for Public Safety](#) and [Confronting Bias in Law Enforcement](#).

Disclaimer: This article is not intended to constitute legal advice on a specific case. The information herein is presented for informational purposes only. Individual legal cases should be referred to proper legal counsel.

References

¹ C.C. McCandless, "Report: Probationary Henderson Police Officer 'Swerving All Over the Road' at Time of DUI Arrest," *FOX 5 KVVU-TV News*, March 26, 2024. Accessed December 23, 2024 at: <https://www.fox5vegas.com/2024/03/26/report-probationary-henderson-police-officer-swerving-all-over-road-time-dui-arrest/>

² Keli Freeman, "NOPD Recruit Arrested, Accused of Assault," *WDSU News*, May 15, 2024. Accessed December 23, 2024 at: <https://www.wdsu.com/article/nopd-recruit-arrested-for-assault/60791531>

³ Jon Moss, "'Erratic' NY State Police Recruit Tries to Grab Training Officer's Gun at Cazenovia Academy, Troopers Say," *Syracuse.com*, July 30, 2024. Accessed December 23, 2024 at: <https://www.syracuse.com/news/2024/07/erratic-ny-state-police-recruit-tries-to-grab-training-officers-gun-at-cazenovia-academy-troopers-say.html>

⁴ Gregg Montgomery, "Former Cop Charged with Sexual Misconduct with Juvenile," *Syracuse.com*, July 23, 2024. Accessed December 23, 2024 at: <https://www.wishtv.com/news/crime-watch-8/former-cop-charged-with-sexual-misconduct-with-juvenile/>

⁵ Mycah Hatfield, "Investigation into How HPD Hired Ex-Detention Officer at Center of Several Investigations Continues," *KTRK-TV News*, December 16, 2024. Accessed December 23, 2024 at: <https://abc13.com/post/ex-harris-county-detention-officer-deven-ortiz-was-allowed-resign-despite-several-investigations/15664981/>

⁶ Ibid.

⁷ Bureau of Justice Assistance and Office of Community Oriented Policing Services, *Recruitment and Retention for the Modern Law Enforcement Agency: Revised* (Washington, DC: Office of Community Oriented Policing Services, 2023).

⁸ BJA and COPS, *Recruitment and Retention for the Modern Law Enforcement Agency*, 4.

⁹ Kevin Deitz, "Bad Officers Let Go Due to Misconduct Moving Easily to New Departments," *WDIV-TV Click On Detroit News*, June 27, 2017. Accessed February 17, 2024 at: <https://www.clickondetroit.com/news/2017/06/27/bad-officers-let-go-due-to-misconduct-moving-easily-to-new-departments-sheriff-says/>.

¹⁰ Ross Jones, "DPD Pulls 30 Officers Off the Street Over Inactive, Lapsed Law Enforcement Licenses," *WXYZ News*, November 21, 2024. Accessed December 23, 2024 at: https://www.wxyz.com/news/local-news/investigations/dpd-pulls-30-officers-off-the-street-over-inactive-lapsed-law-enforcement-licenses#google_vignette

¹¹ Ross Jones, "State Reviews How Officer Joined Eastpointe Police While Facing Firing in Detroit," *WXYZ News*, May 17, 2023. Accessed December 23, 2024 at: <https://www.wxyz.com/news/local-news/investigations/state-reviews-how-officer-joined-eastpointe-police-while-facing-firing-in-detroit>

¹² NBC Chicago, "Here's What to Know About Illinois' SAFE-T Act and the NEW Changes Coming," *NBC Chicago News*, December 2, 2024. Accessed December 23, 2024 at: <https://www.nbcchicago.com/news/local/heres-what-to-know-about-illinois-safe-t-act-and-the-new-changes-coming/3011535/>

¹³ Sangamon County Sheriff's Office Press Release, "Illinois State Police Announce Investigation into Officer Involved Shooting Continues," *Sangamon County Sheriff's Office*, July 10, 2024: Accessed on December 30, 2024 at: <https://sangamonil.gov/departments/s-z/sheriff/sonya-massey-information#:~:text=On%20July%206%2C%202024%20at,deceased%20at%20an%20area%20hospital.>

¹⁴ Danny Connolly, "Sheriff Campbell Planning Policy Changes After Deputy Shooting of Sonya Massey," *WCIA News*, August 1, 2024. Accessed December 23, 2024 at: <https://www.wcia.com/news/sheriff-campbell-planning-policy-changes-after-deputy-shooting-of-sonya-massey/>

¹⁵ Brian Maas, "Platteville Police Officer Parked on Train Tracks Called 'Incompetent' by Fellow Officers, Demotion Recommended at Previous Department," *KCNC News*, October 27, 2022. Accessed February 17, 2024 at: <https://www.cbsnews.com/colorado/news/platteville-police-officer-parked-train-tracks-called-incompetent-fellow-officers-demotion-recommended-sgt-pablo-vazquez/>.

¹⁶ Praveena Somasundaram, "Woman Handcuffed in Police Car Hit by Freight Train Reaches \$8.5M Settlement," *Washington Post*, June 5, 2024. Accessed June 29, 2024 at: <https://www.washingtonpost.com/nation/2024/06/05/colorado-police-car-train-crash/>.