

CONDUCTING BACKGROUNDS ON LATERAL HIRES
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Though certainly not the majority of candidates, most Departments have to occasionally conduct background investigations on applicants who either currently are or recently were police officers. In some parts of the country, as many as 15% of all entry level candidates for sworn positions have recent previous law enforcement experience, though only a few are applicants being considered for higher rank positions - a true lateral hire. A few Departments have even begun requiring candidates to have one or two years of actual (not equivalent) patrol experience prior to application for an entry level position, a real police experiential qualification.

The advantages to hiring someone with past police experience, particularly to the smaller Departments, are obvious. Academy or basic police training costs can be eliminated if there is reciprocity of certification. Candidates can become immediately or at least relatively quickly productive. Most importantly, behaviors and activities that can only be evaluated by past experience can now be evaluated. Very few police applicants have ever worked a job requiring shift changes or night work. The best way to predict whether or not a person can function (not fall asleep on duty) working non-traditional hours is to use past experience working similar non-traditional hours. Few would disagree that law enforcement, for most, can be stressful, both on the applicant and the applicant's family. How can the candidate, let alone the Department, objectively evaluate the personal effects of stress on performance with no equivalent life experience to evaluate?

On the downside, the old adage about teaching old dogs new tricks rings true. In some parts of the country, gratuities such as free coffee, meals or discounts are an "accepted practice" where as in many other parts of the country such practices are strictly forbidden. Do you really think a lateral groomed under the former system can easily comply with the latter? "If it was O.K. before and I was a good cop there, why can't I do the same here?" On a more serious note, the very fact that the candidate is a lateral could be an indication of someone escaping disciplinary actions - or (the opposite) - a highly desirable candidate unwilling to compromise with a corrupt organization.

In any case, there are some special considerations that must be taken into account when conducting backgrounds on candidates with recent, prior law enforcement experience.

1. The Internal Affairs Overtones

Most inquiries regarding integrity involve inquiries about stealing from previous jobs which, in the case of a lateral refers to the present job and might include questions about theft from scenes of investigations, shaking down drunks/dopers, abuse of authority, etc. In others words, a seemingly innocuous inquiry (taking things from a job) suddenly becomes far more threatening for lateral applicants due to the perceived consequences of providing accurate information. In the case of applicants with no prior law enforcement experience, the worst perceived consequence to giving up a disqualifier is that they won't get a job - they don't have! Some applicants might consider misrepresenting their backgrounds by rationalizing that even if they were to get caught misrepresenting, the worst consequence isn't so bad. In the case of a lateral, however, the perceived consequences could be very different: "If I tell you what I'm doing, how do I know you're not going to tell my present Department and I'll lose what I have now?" As will be discussed later, for both legal and ethical reasons, this "fear" is not necessarily misplaced!

2. Criminal Consequences

In many cases, particularly based upon admissions of unacceptable activities (drugs, violence, theft, etc.) elicited during information gathering procedures such as **Objective Pre-employment Interviewing** or polygraph examinations, the activities themselves (being criminal) are perceived as having legal, criminal consequences, a perception that is usually - but not always - untrue. For example, most applicants who admit to recent marijuana usage will be disqualified but the admissions will not usually form the basis of a narcotics investigation. The applicant, however, may not know this and fear that all admissions of criminal acts result in legal consequences.

3. Ethical Ramifications

As a former college instructor of Business Ethics and current law enforcement instructor, I would argue that today "Police" is no longer an honorable occupation (like brick layers) but a true profession. The distinction? Professions require higher levels of formal education but more importantly, require that the means - as well as the end - be ethical. In other words, the bad guys can lie, cheat and steal to obtain their goals but not the good guys. As a Court certified expert and having conducted more Internals than I want to remember, I'm convinced that to be a profession, we have to "police" our own. This creates a whole new set of problems. If an applicant admits something during an interview that makes the entire profession of Police look bad, should this be reported? If so, to whom? What should the protocol be? What kind of admission of counterproductive activity should trigger such a course? Should such applicants be advised that the results of their backgrounds and interviews will not only be used to determine their suitability for the job at hand but can (and will) be reported to their present employers for possible legal and/or disciplinary action? If applicants are not advised of such possible "internal" use of information, how will this be viewed by the rank and file or, even worse, would it violate a work contract? Finally, if the applicant's current employer is informed of a serious problem but chooses not to act and something similar subsequently happens, would they be guilty of negligent retention? These are not simple issues for which there are absolute answers. Nevertheless, by being aware of these issues - and consulting now with the Department's legal advisors - the Administration can create procedures and policies well in advance of their need. As a separate but important point, there is at least one procedural issue that I can answer definitively: when the focus of the background investigation and/or **Objective Pre-employment Interview** switches from pre-employment to criminal - sometimes in the middle of a sentence - there are no requirements that the investigator stop and Mirandize the applicant. The test for Miranda is custody and if the Department is interviewing Police Applicants who are in custody at the time of the background, that Department is beyond desperate.

4. Adjusting Information Targets to include unique problems associated with Laterals

For a variety of legal reasons the attributes, characteristics and behaviors (Information Targets) selected for evaluation in candidates with or without previous law enforcement experience, must be the same. Likewise, the criteria and Acceptance Guidelines used to establish Qualifiers and Disqualifiers must remain consistent for all candidates applying for the same position. This, however, does not mean that the applicants have to be asked exactly the same questions in an interview. The "exactly the same question" requirement only applies to Departments using subjective or scenario type questions techniques such as BARS (Behaviorally Anchored Rating Scale) for which the interviewers' scoring method has been validated using certain, specific questions. **Objective Pre-employment Interviewing** targets 19 different Areas of Inquiry for patrol positions all of which involve numerous subtopics:

1. Biographical data
2. Employment history and discipline
3. Relocation attitude and commitment
4. Shift attitude, availability and commitment
5. Retention and permanency
6. Financial responsibility
7. Integrity
8. Drug behaviors
9. Alcohol behaviors
10. Criminal activities
11. Military history and discipline
12. Driving history
13. Reliability
14. Service attitude and response
15. Certification/educational history
16. Perjury/falsification of official reports/records
17. Bribes and gratuities
18. Excessive force/violence
19. Child abuse

Each of these should be customized to fit the unique background of every applicant but in the case of laterals, the investigator needs to know what's on the menu before the process can even begin. Since publication requirements limit the length of discussion, a single common Area of Inquiry, Employment History and Discipline, might serve to demonstrate how each can be customized to match some of the unique problems associated with laterals.

Employment history and discipline

While all past employment information should be elicited and verified, laterals differ from other types of Police Applicants in that the candidates skills, knowledge, experience and abilities **as they directly relate to the police job being considered** need to be checked out and verified. If the candidate does not actually have the skills, knowledge, abilities or experiences one would assume from having been a police officer previously, then the problems with hiring laterals will immediately outweigh any possible benefits. In addition, there clearly are differences based upon the type of law enforcement agency the candidate comes from: many federal law enforcement agencies do not deal with either the kinds of people or crimes one would be required to master at any city police department. Obviously Railroad Police is not the equivalent of Campus Police is not the same as Military Police and so on.

More seriously, with regard to determining why the candidate is leaving his or her present Department for the hiring Department, there appears to be a growing trend within the law enforcement community, perhaps based upon fears of litigation involving slander, defamation and libel, not to report concerns and problems to prospective employers. In some cases it has been found that some law enforcement agencies will even attempt to dump off their weak links by not only failing to reveal problems but actually giving out complimentary recommendations on known bad apples. Background investigators who have access to the lateral's personnel file are well advised to remember that if a person quits or is encouraged to resign during the course of an internal investigation - **no matter how obvious the guilt might appear from the case file** - if the lateral was never found to be guilty, such conclusions might in fact justify charges of slander, defamation and libel. One of the prime advantages to admissions obtained directly from the applicant, should they form the primary basis for a subsequent disqualification, is that the problems associated with hearsay, profiling, supposition and assumption can often be eliminated. If the lateral says he did it - even if the present or previous Department was unable to prove it, the admission is not only more than sufficient should it be a disqualifier but is usually perceived as more valid than disqualifiers established through third parties. Police Applicants don't make up false disqualifiers - past intimates or employers might. Finally, with regard to previous disciplinary action, never forget that one Department's cause for action may not be equivalent to your own. I once worked with a Department where banishment to Airport Duty was considered moderate punishment until those so banished discovered that they never had to do anything and they were in a perpetual "radio dead zone". In any case, the real reasons for reassignments, demotions, suspensions, reprimands, IA investigations, complaints and grievances are always known to the lateral even if the previous employer refuses to provide accurate information. The 62% of large Departments and near unanimous use of special interviewing and/or polygraph techniques by federal law enforcement agencies is tacit acknowledgement that most critical information needs can only be satisfied by the applicant, not third parties or records. In the case of laterals, using the applicant as the primary information source is even more critical provided the Department customizes procedures to target those problems unique to certain applicants with previous law enforcement experience.

Stanley M. Slowik has conducted over 19,000 pre-employment, internal and criminal interviews and currently provides interview training for small and large law enforcement agencies at dozens of locations around the country. For further information, see www.stanleyslowik.com or contact slowik@att.net

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