

Loopholes let in troubled deputies

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Legal loopholes, weak regulations and abuses have allowed Dallas County constables to employ deputies with troubled pasts, a Dallas Morning News investigation has found.

In some cases, constables failed to conduct thorough background checks - or even basic checks. Deputies made statements or omissions on their job applications that were, at a minimum, misleading. State laws that require law enforcement agencies to obtain some background information do not ensure that a thorough review is done.

Also, some government agencies - in an attempt to avoid liability - enter into settlement agreements that help problem officers hide their past. And because some officer standards were passed only recently, a deputy fired repeatedly for misconduct or with criminal records can still carry a badge.

That's despite repeated efforts by lawmakers and the state agency that licenses peace officers to improve standards and the quality of background checks. One example is the 2005 "gypsy cop" law, which sought to weed out problem officers who bounce from one job to the next.

The News examined records of more than 200 deputies. In many cases, documents kept by previous employers - that should have been readily available to constable background investigators - revealed disciplinary problems.

Tim Braaten, executive director of the Texas Commission on Law Enforcement Officers Standards and Education, which licenses peace officers in the state, said the basic employment information his agency requires on officers ideally should be a starting point, not the end-all.

"It's kind of 'shame on you' if you don't do a background investigation," he said. "Then you deserve to get what you get ... there is never a minute wasted during a background investigation. You always find something."

In some cases, Dallas County constables wouldn't have had to look far.

Disparate scrutiny

Jamie Powell was terminated as a Dallas County sheriff's jailer in 2007 after seven months. A background check revealed that he had been untruthful during an internal affairs investigation while he was an [Arlington](#) police officer.

Precinct 1 Constable Derick Evans hired Powell as a deputy a few weeks later. Powell was one of at least three former sheriff's employees demoted or terminated for serious misconduct who later were hired by Evans.

Evans did not respond to requests for comment.

How much scrutiny job candidates get still varies widely from one law enforcement agency to the next.

Large metropolitan police departments often conduct extensive background checks that go far beyond state requirements. Smaller agencies may do little more than what is required by state law. That may be because of limited resources, or concerns that looking too carefully will deplete their applicant pool - or because requiring higher standards might compel them to offer better pay.

And sometimes, top law enforcement administrators simply don't appear to be interested in making the effort - including some "politically elected law enforcement department heads like sheriffs and constables who don't feel like they need to abide by any standard rule of character or background with regard to the people who they appoint," said Chris Heaton, executive director of the Texas Municipal Police Association, which played a key role in passage of the 2005 gypsy cop law.

That legislation requires law enforcement agencies to obtain copies of a state-mandated termination form known as an F-5 that is completed and sent to TCLEOSE, the law enforcement standards and education commission, whenever a peace officer leaves a job. It records the circumstances in which an officer left, such as a voluntary separation or dishonorable circumstances.

Agencies must submit signed paperwork to the state certifying that they obtained the F-5, conducted a criminal background check and contacted the candidate's previous law enforcement employers. Later legislation made personnel files more accessible for background checks.

Heaton said such steps were designed to prevent peace officers "with a sullied work record and background" from moving from one agency to another without at least some of their past being known.

But in Dallas County, some constables apparently aren't even following all of those requirements.

A TCLEOSE audit of Precinct 5's personnel files in July found that the office hadn't requested F-5s when hiring new deputies before February. And at least five personnel files still didn't have letters requesting F-5s as well as other required documentation.

Fired, then hired

One of the deputies without required documentation, Roy Logan, was convicted of DWI before he began his law enforcement career as a Houston police officer.

And Logan was fired in 2001 from his last job as a licensed peace officer before becoming a Precinct 5 deputy. His explanation on a Dallas County job application: "terminated by newly elected sheriff."

[Kaufman County Sheriff David Byrnes](#) said Logan was fired after a Texas [Department of Public Safety](#) officer reported seeing him playing an eight-liner gambling machine while on duty - about eight months after Byrnes took office.

But that didn't stop former Constable [Jaime Cortes](#) from hiring Logan in 2008.

"No one ever contacted us for an employment reference or to look at his personnel file," Byrnes said.

Logan, who said Byrnes had issues with him even before he was elected sheriff, sued Kaufman County but later dropped the suit. At Precinct 5, Logan received verbal counseling and reprimands, court records show.

Earlier this year, Logan sued Dallas County, claiming he was retaliated against after reporting wrongdoing by Cortes. The suit is pending. Logan's job may be eliminated because of budget cuts on Tuesday.

Logan said that when he applied to work for Cortes, "Everything was laid out in plain writing. There was nothing I tried to hide."

Cortes said Dallas County human resources officials handled all background checks until early 2008, when he learned he should have been doing them.

"I'm certainly not God, judge or jury. I worked with the tools Dallas County gave me," Cortes said. If a deputy applicant didn't pass the county's background check, human resources didn't forward the application to his office, Cortes said.

"They got caught with their pants down that they weren't doing any backgrounds," he said of human resources officials.

Dr. Mattye Mauldin-Taylor, the county's human resources director, disputes that account and said background checks have always been the constables' duty.

Byrnes, the Kaufman County sheriff who is an outspoken critic of gypsy cops, said nothing prevents him from hiring a problem officer. But if he does, "I've bought the liability."

For example, he could hire an officer who left another agency while under investigation for sexual harassment. But if his officer is accused again of sexual harassment, "then I have a problem," Byrnes said, referring to legal liability.

Byrnes said gypsy cops are typically a problem for smaller police departments, which don't pay well, may not have the resources to conduct proper background checks and often must rush to fill a vacancy to keep a shift staffed.

"So they maybe take a chance on someone," he said.

Starting pay for a Dallas County deputy constable, however, is \$42,702, which was competitive with other large county law enforcement agencies in 2007, according to a salary survey.

Commissioners' call

In February, [Dallas County commissioners](#) asked their human resources department to tighten hiring procedures for deputy constables after The News reported on the troubled history of Howard Watson, a former Cortes deputy who faces several felony charges.

Commissioners say they want all constable applicants to take a written test, physical assessment and polygraph test, which are required of deputy sheriffs but not deputy constables.

Mauldin-Taylor said she is examining the screening process first.

"In the past, we left too much of it up to the individual constables," she said.

Even with better screening, getting information may be difficult.

For some peace officers with a past, time may be on their side. State law allows governments to destroy the personnel files of former employees five years after they leave. In dozens of cases examined by The News, law enforcement agencies that had previously employed deputy constables no longer had their personnel records.

And in some cases, government officials enter into settlement agreements, promising not to reveal all the details of a former employee's departure. A problem officer who is allowed to resign quietly and leave with a clean personnel record is less likely to sue for wrongful termination, some officials and their attorneys rationalize.

"Human resources departments and police departments and city attorneys are their own worst enemies," said Braaten, of the state law enforcement standards commission. "They are trying to avoid liability by passing their problems on to you."

Precinct 1 Deputy Constable Kelly Head lost her job with the [Duncanville](#) Police Department after she confided to a onetime friend and former police academy classmate why the numbers on her monthly reports were so good, according to police documents.

"Just add a few like me. They'll never know," Head reportedly told her fellow officer.

A review found evidence that Head had over-reported the number of citations she'd written by a significant margin.

In a settlement agreement, Head agreed to accept a three-day suspension and resign from the Duncanville department. The city agreed to provide Head with a neutral job reference and not to disclose any records related to her employment "except as required by law."

On her Dallas County job application, Head wrote that she left Duncanville because of "personality differences."

Duncanville City Manager Kent Cagle said that Head had been a good officer and that such agreements are very rare.

Sometimes, he said, when civil service applies, "it is easier to go that way if they are willing to part ways, and you are, too."

Even if there is a settlement agreement, Cagle said, a law enforcement agency should be able to get at least the same information that was obtained by The News.

"If we're going to hire somebody who has been an officer somewhere else, we are going to get every single piece of paper that the city has," he said. And if Duncanville found out that a settlement agreement was involved, "For us, that's enough right there. We'll just pass."

As Precinct 2 Deputy Constable Juston Coffman was resigning from the Celina Police Department in 2003 after having been disciplined several times, he presented a letter to superiors asking that "all negative items" be removed from his files. He asked to be given a "positive letter of reference... citing that I had no complaints from citizens." Coffman also wanted "summaries of the letters of appreciation I received from the various department heads throughout my career in Celina."

That wasn't all. Coffman requested "positive verbal and written reference to any inquiring potential employers" and an entry in official state and city documents that he left for "personal reasons [not in lieu of termination or dismissal]."

"If the city would be willing to grant me these requests, it will be an enormous help and will also help me to better look forward to a new chapter in my life rather than dwelling on the past," Coffmann wrote.

Requests denied

A handwritten notation of "No" appears next to his request to remove negative items from his files and to provide positive references to inquiring potential employers. But Coffman did enter into a settlement agreement with Celina in which he agreed not to reapply for employment, not to disclose the terms of the agreement and not to sue the city or make disparaging remarks about Celina. The agreement states that he would receive a final paycheck for about \$4,000.

Coffman stated on his Dallas County job application that he resigned because of a "personality conflict with chief."

Precinct 2 Constable Michael Gothard said that his office did an "extensive background" on Coffman, who since has left to work for a school district police department, and that all of his previous employers gave him a good recommendation.

Gothard said his background investigator spoke with the Celina police chief, who "said he would hire him back and wished him good luck and hoped we hired him."

Gothard said he didn't know whether the investigator reviewed Coffman's personnel file, but his office typically talks to previous employers rather than looking at personnel files.

Coffman, he said, was upfront about what happened in Celina.

"It wasn't anything that would have kept me from hiring him," Gothard said.

Coffman said leadership changes in the Celina Police Department and city government led to pressure for him to write more tickets.

"I wasn't the kind of police officer they wanted. I was tired of getting nitpicked," he said. "We didn't see eye to eye on what is important in law enforcement."

Coffman said he parted amicably with the city. He said a Precinct 2 background investigator spoke to the Celina police chief, who said he left on cordial terms.

Settlement agreements, Braaten said, defeat the whole purpose of requiring that the F-5 separation form show why officers leave. "They don't even have to say on the F-5 that they resigned under investigation," he said. "They can put it in the category of 'mutual agreement.' They can put whatever they agreed to."

TCLEOSE also works under other constraints.

An applicant's out-of-state work history may not always be known. Texas participates in a national decertification database that identifies individuals who have lost their peace officer certification in 28 states, Braaten said, "and we're trying to get the other 22 to participate."

Since 2007, peace officers who have been terminated, forced into retirement, or resigned in lieu of termination more than once because of criminal misconduct, insubordination or untruthfulness can lose their license. But that only applies to jobs lost after the law was passed.

Also, numerous police officers in Texas have criminal convictions on their records because they were licensed when no law prevented it. For example, officers first hired in the 1980s could be employed in spite of a felony conviction.

"We probably have over 100 felons working as peace officers in the state of Texas," Braaten said.

State law now effectively precludes anyone with a felony conviction or a Class A misdemeanor conviction from getting a peace officer license.

Some law enforcement experts have reservations about any proposal to apply current standards retroactively. What was a felony many years ago may now be a misdemeanor. And there may be circumstances in which a troubled past may not mean someone inevitably will be a bad officer.

"You have to consider the redemptive value of somebody who has a misdemeanor arrest when they were 17 or 18 years old," Heaton said. "And they clean up their act and went on to become a responsible citizen ... vs. someone who is continually getting themselves into trouble and finding themselves in unprofessional or unethical situations."