The National Landscape:

Cases, Trends, Strategy – and What It Means for You

Richard Poulson
Exec. Director, Labor Relations Information System
Partner, Willig, Williams & Davidson
Philadelphia, PA
www.wwdlaw.com

LRIS LABOR RELATIONS INFORMATION SYSTEM

Part One:

THE BARGAINING LANDSCAPE: *WHAT'S CHANGING?*

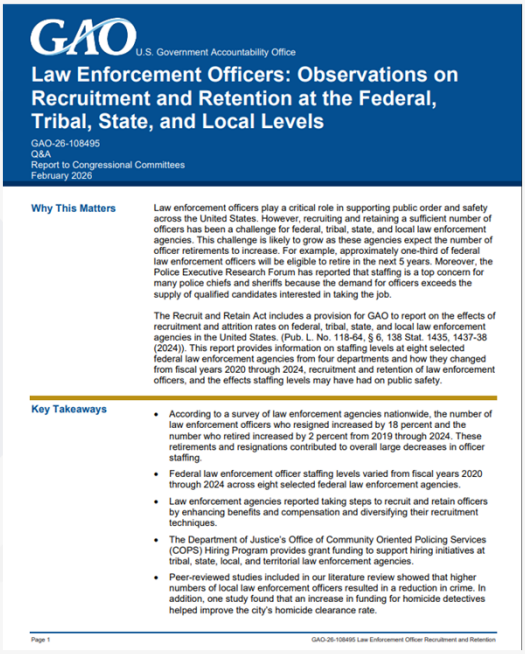
Recruiting Is Improving — Retention Is Not

- **Public safety workforce remains below pre-2020 levels.**
- **Law enforcement agencies are competing for the same officers.**
- **Agencies have experienced *some* hiring gains—but not enough.**
- **Experienced employees are leaving at high rates.**
- **2026 PERF Survey:**
  - Staffing rose 1.4% in 2025, returning to its 2022 level but remaining below 2020.
  - Hiring rose 17.6% from 2024 to 2025.
  - Resignations were essentially flat in 2025 but remained above pre-pandemic levels.
  - Retirements rose 16.4% from 2024 to 2025.

Source: Police Executive Research Forum, May 2026 survey of responding member agencies.

2026 GAO Study

- **Feb 2026.** U.S. Govt Accountability Office issues report on police recruiting and retention.
- From 2019-2024, officer resignations increased by 18%.
  - Better pay and benefits elsewhere.
- Retirements are stable but departments are facing a retirement wave of COPs-funded hires (1994-2001).
- **Retirement reasons are changing.** Burnout and work-life balance. Public perception.
- **New recruits see it differently.** Fewer officers expect to retire as police. Come from different recruiting pools.



GAO U.S. Government Accountability Office

Law Enforcement Officers: Observations on Recruitment and Retention at the Federal, Tribal, State, and Local Levels

GAO-26-108495
Q&A
Report to Congressional Committees
February 2026

Why This Matters

Law enforcement officers play a critical role in supporting public order and safety across the United States. However, recruiting and retaining a sufficient number of officers has been a challenge for federal, tribal, state, and local law enforcement agencies. This challenge is likely to grow as these agencies expect the number of officer retirements to increase. For example, approximately one-third of federal law enforcement officers will be eligible to retire in the next 5 years. Moreover, the Police Executive Research Forum has reported that staffing is a top concern for many police chiefs and sheriffs because the demand for officers exceeds the supply of qualified candidates interested in taking the job.

The Recruit and Retain Act includes a provision for GAO to report on the effects of recruitment and attrition rates on federal, tribal, state, and local law enforcement agencies in the United States. (Pub. L. No. 118-64, § 6, 138 Stat. 1435, 1437-38 (2024)). This report provides information on staffing levels at eight selected federal law enforcement agencies from four departments and how they changed from fiscal years 2020 through 2024, recruitment and retention of law enforcement officers, and the effects staffing levels may have had on public safety.

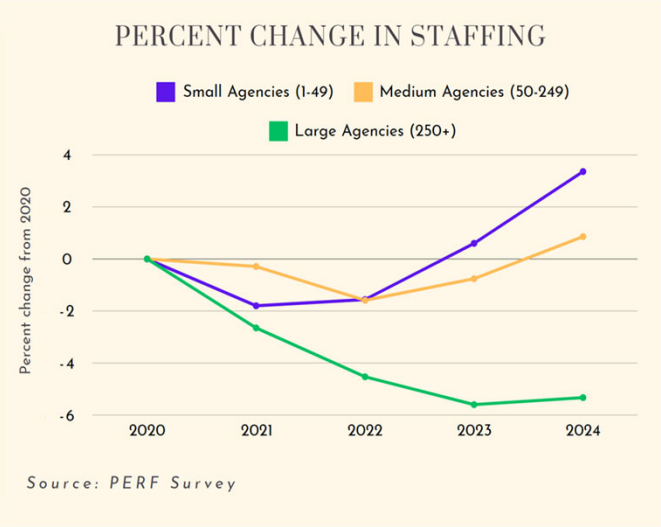
Key Takeaways

- According to a survey of law enforcement agencies nationwide, the number of law enforcement officers who resigned increased by 18 percent and the number who retired increased by 2 percent from 2019 through 2024. These retirements and resignations contributed to overall large decreases in officer staffing.
- Federal law enforcement officer staffing levels varied from fiscal years 2020 through 2024 across eight selected federal law enforcement agencies.
- Law enforcement agencies reported taking steps to recruit and retain officers by enhancing benefits and compensation and diversifying their recruitment techniques.
- The Department of Justice's Office of Community Oriented Policing Services (COPS) Hiring Program provides grant funding to support hiring initiatives at tribal, state, local, and territorial law enforcement agencies.
- Peer-reviewed studies included in our literature review showed that higher numbers of local law enforcement officers resulted in a reduction in crime. In addition, one study found that an increase in funding for homicide detectives helped improve the city's homicide clearance rate.

Page 1 GAO-26-108495 Law Enforcement Officer Recruitment and Retention

Large Agencies At Risk

- 2025 PERF staffing survey showed first increase in year-to-year staffing in police agencies in 4 years.
- But increase was modest.
- And larger agencies are still suffering …



Los Angeles County

Number of people leaving or joining the Sheriff's Department

Year	Leaving	Joining	Total sworn
2020	-491	409	9,664
2021	-590	81	9,937
2022	-617	381	9,510
2023	-527	241	9,193
2024	-493	341	9,019

L.A. County Sheriff's Department

Lorena Iñiguez Elebee LOS ANGELES TIMES

"In 35 years, I've never seen things this bad. Deputy morale is at rock bottom due to all the forced overtime. … Operations, training, and recruitment are all suffering due to this crisis. Anyone who has ever had to call 911 knows what short staffing can mean during an emergency."

Source: LA Times, April 15, 2025

2026 California Study

- **April 2026.** Public Policy Institute of California issues *"Understanding Trends in Law Enforcement Staffing."*
- Retention Has Declined. Separations increased by 11% from 2016-2020, then spiked to 30% from 2020-2022.
- Larger agencies have borne the brunt.
- From 2011 to 2023, inflation-adjusted base pay fell about 5%, from $116,000 to $110,000.
- But … average annual overtime pay rose from about $10,000 to more than $25,000 over the same period.
- Competition for Talent. "Agency competition and pay" are a major issue.

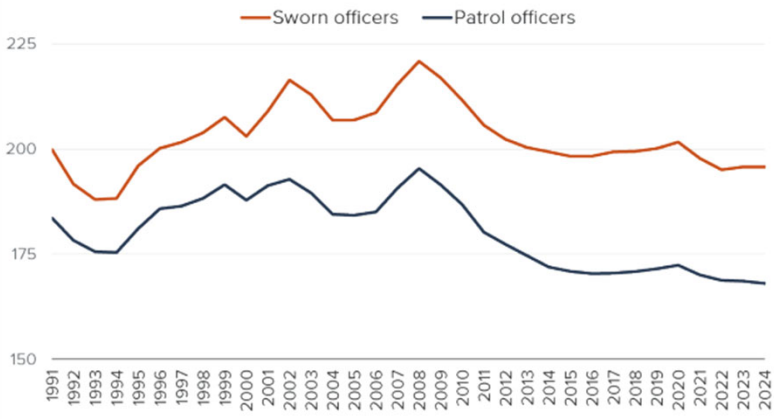


2026 California Study

Figure 2

Officer staffing reached a peak in 2008, then declined during the Great Recession and the pandemic

Officers per 100,000 residents



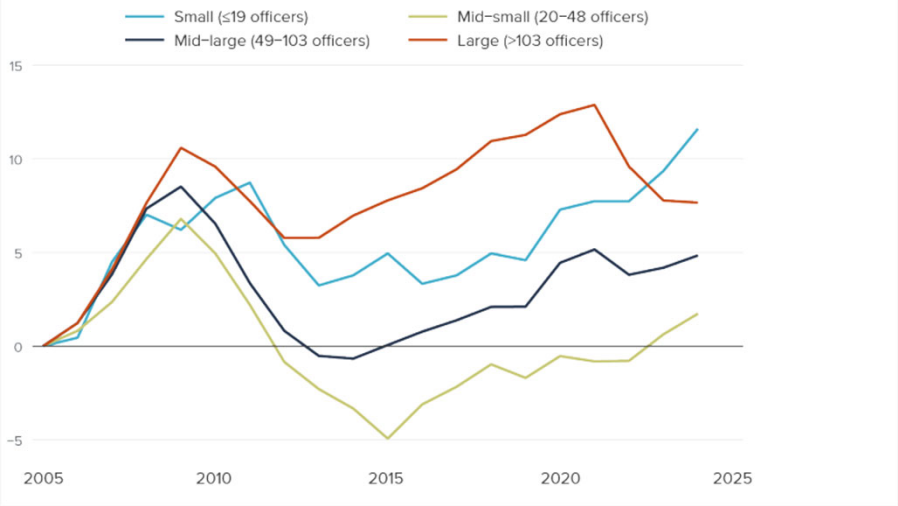
Source: Understanding Trends in Law Enforcement Staffing, Public Policy Institute of California, April 2026.

2026 California Study

Figure 6

After the pandemic, drops in officer staffing have been concentrated in larger agencies

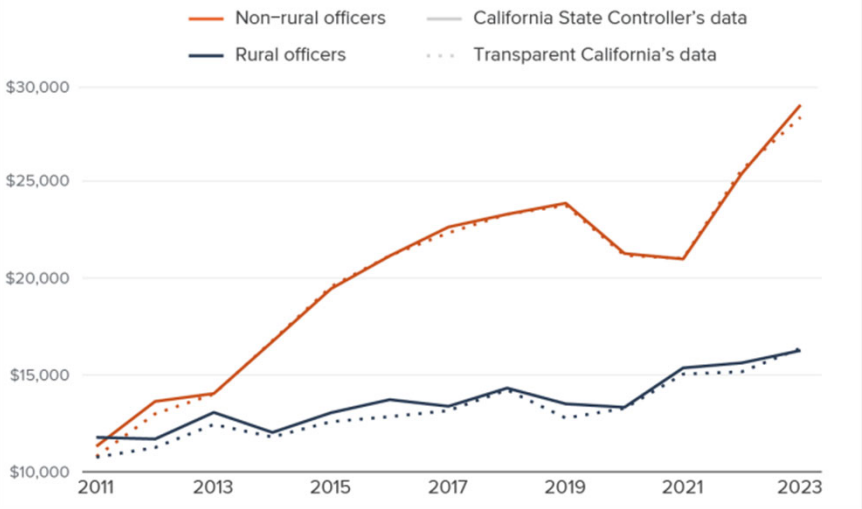
Percent change in staffing from 2005

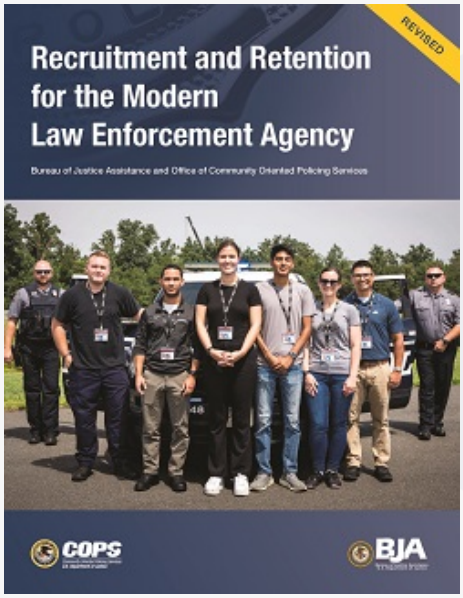


2026 California Study

Figure 12

Overtime payment has increased, particularly for non-rural officers





US Department of Justice Recruitment and Retention

Casting a Wider Net, or Lowering Standards?

- Relax restrictions on visible tattoos and other traditional appearance or "grooming" requirements.
- Revisit physical fitness standards.
- Consider "adjustments" to educational requirements.
- Consider "adjustments" around drug use.
- Reconsider bars based on minor, isolated criminal offenses.
- Reevaluate the importance of financial history and credit scores.

Lowering Standards – The Memphis Example

- Following Tyre Nichols incident, Associated Press reported concerns of former Memphis police recruiters about the "growing desperation to fill hundreds of slots in recent years that drove the department to increase incentives and lower its standards."
- *"They would allow just pretty much anybody to be a police officer because they just want these numbers,"* said a former lieutenant in charge of recruiting before he retired last year out of frustration.

Source: Tyre Nichols case highlights US police recruiting and retention crisis, Associated Press, Feb 8, 2023.

Lowering Standards – The Memphis Example

- MPD offered new recruits $15,000 signing bonuses and $10,000 relocation allowances while phasing out requirements to have either college credits, military service or previous police work. All that's now required is two years' work experience – *any work experience.*
- MPD also sought state waivers to hire applicants with criminal records and the training academy slackened fitness standards.
- *"Another former patrol officer turned recruiter who recently left the department told the AP that in addition to drawing from other law enforcement agencies and college campuses, recruits were increasingly coming from jobs at the McDonald's and Dunkin' drive-thru outlets. **A stripper applied, though didn't get in.**"*

Filling Vacancies — At What Cost?

- Lower hiring standards may improve staffing numbers without improving workforce quality.
- Academy failures and inadequate preparation can shift the burden to experienced employees.
- Poor hiring decisions can increase training demands, safety risks and disciplinary problems.
- Question: *Who bears the cost of lowering standards?*
- Another question: *How do we retain employees and minimize vacancies?*

New Research on Police Incentives (Feb 2026)



- February 2026 national study on recruiting & retention incentives.
- Analyzed 29 different financial incentives used by police agencies to recruit/retain.
- Assessed impact of incentives across key metrics: staffing levels, speed of impact, cost, workload & operations, and quality of policing.
- Rated by 30 police practitioners—executives, command staff, and supervisors from agencies nationwide.
- Focus was on ***what actually works*** in the field.

Source: *Financial incentives for police recruitment and retention: perceived effectiveness and tradeoffs,* Police Practice & Research, Feb 26, 2026.

What Actually Works (And What Doesn't)

- **Direct compensation wins.** Salary increases rated the most effective tool for boosting staffing levels.
- Ongoing pay/benefits outperform one-time bonuses.
- **Retirement security** is important. Improvements to pensions/benefits ranked near the top for recruiting and retention.
- Education pay and wellness benefits (e.g., gym memberships) showed measurable impact.
- Targeted incentives like childcare stipends, housing, etc. can improve diversity and access.
- People respond most to **tangible, ongoing economic value.**

Do Retention Bonuses Even Work?

2026 Journal of Experimental Criminology Study

- 2026 study examined officers from 16 Ohio police agencies.
- Tested hypothetical bonuses of 5% and 10%, with and without repayment requirements.
- Larger bonuses **did not** significantly increase officers' stated willingness to stay.
- Implication: Permanent compensation and working conditions may matter more than one-time payments.

How Are Agencies Responding?

- **Residency and Housing**
  - Washington DC. Take-home cars for officers who live in the city.
  - Bloomington, Indiana. $100k interest-free home loan.
  - Baltimore, MD. $2500 annual City property tax credit.
  - Chicago. $5000 assistance to buy home in low-income area.
- **Work Schedule Experiments**
  - Golden, CO. **32-hour**, 4-day week for same annual salary.
  - Arlington, VA. **37.5-hour** work week for same salary. 10-hr shifts. 15 days per month, 5-on/5-off style blocks. Every other weekend.
  - Philadelphia CO's. "Choose your own adventure" work schedule.

How Are Agencies Responding?

- **Paid Sabbaticals**
  - Citrus Heights, CA. 90,000 population. Mandatory *annual* 4-week (160 hour) sabbatical for patrol. But … in lieu of holidays.
  - Rapid City, SD. 80,000 population. Mandatory 2-week (80 hours) sabbatical every 4 years.
  - Forest Grove, OR. 30,000 population. Mandatory 30-day paid sabbatical after 5th year and then every 4 years.
  - Paynesville, MN. Mandatory 4-week (160 hour) sabbatical between 5th and 6th years.

Aggressive Lateral Recruiting - Torrance, CA

- Torrance's recruitment and retention pilot program incentives include a maximum bonus of up to:
  - $100,000 - Lateral Police Officers
  - $40,000 - New Police Officers
  - $40,000 - Lateral Public Safety Dispatchers
  - $10,000 - New Public Safety Dispatchers
- Program also includes annual retention bonuses for five years of up to $15,000 for sworn staff.

And then there was Fremont



- Northern California community follows the same route.
- Lottery-style $100k bonus to first ten lateral hires. Up from $20k.
  - Paid out over 5 years.
- Mid-term 2% pay adjustment.
- Mandatory OT paid at 2x rate.

Recruiting Tactics Have Changed





But Is It Working? The Houston Police Example

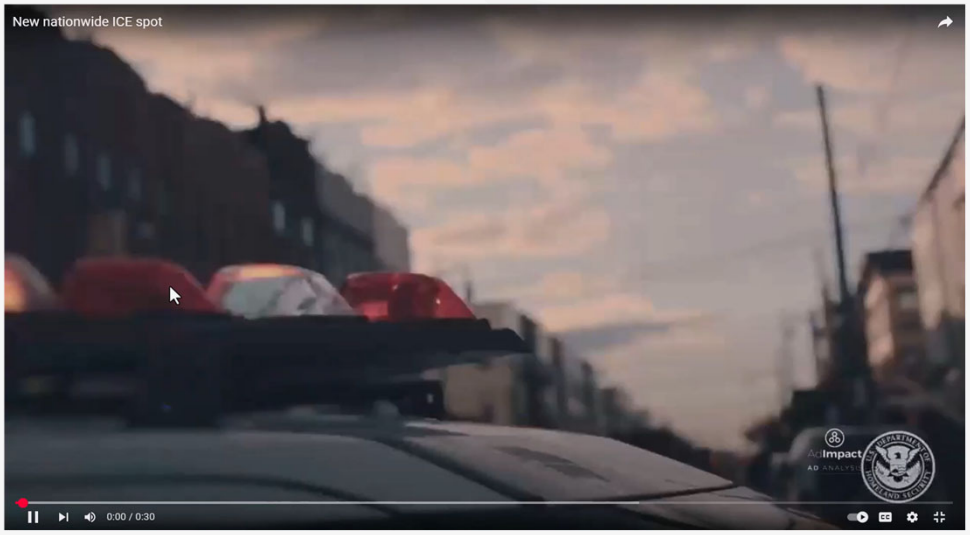
- **May 2025. Houston City Council approved $1 billion contract settlement with Houston Police Officers' Union.**
  - 37% increase to police salaries over 5 years (10, 8, 6, 6, 6.5).
  - Makes Houston the highest paid department in Texas.
- **Applications spiked following contract settlement.**
  - More than 200 area officers requested applications over a 24-hour period following news of the settlement. Approximately 75 identified themselves as members of the Harris County Sheriff's Office.
  - "'These additional resources will be essential in retaining our seasoned officers while also growing our ranks with new recruits,' Police Chief Noe Diaz said. Diaz told ABC13 he plans to poach officers from nearby law enforcement entities."

Source: ABC13 Eyewitness News, May 21, 2025

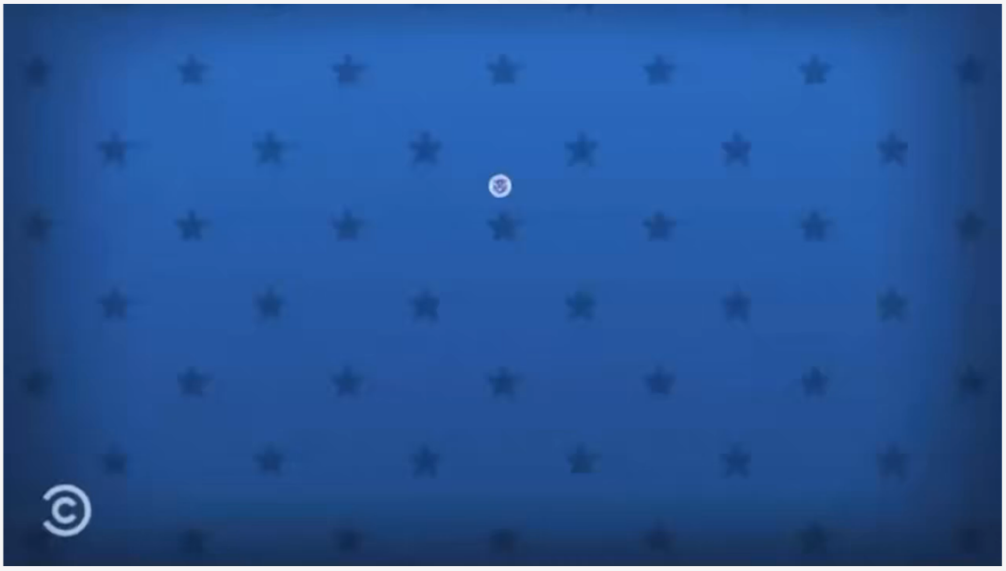
The *Ultimate* Lateral Recruiter – Uncle Sam

- One Big Beautiful Bill Act included $170 BILLION for border security and immigration enforcement.
- ICE budget alone increased from $7 to $77 BILLION.
  - ***$30 BILLION*** earmarked for hiring.
- ICE's ranks have increased to 22,000 nationally, with target of 30,000.

The Ultimate Poaching Video



The *Ultimate* Poaching Video



The Corrections Staffing Cost

- Across 23 states, roughly one in six corrections employees leaves each year.
- State corrections departments spent more than $2 billion on overtime in 2024, about 80% more than in 2019.
- Corrections employees account for roughly 40% of state government overtime spending.
- Bargaining question: What are vacancies costing this employer in overtime, turnover and training?

Source: Safe Inside Project, 2026. The turnover figure covers 23 states; the report's measures draw on different sets of states.

But Is It Working? The Philadelphia Example

- **July 2021 through March 2025. Philadelphia Correctional Officers receive series of pay and working condition improvements to address recruiting and retention crisis.**
  - **Seven (!!)** interest arbitration awards issued over 4 years
  - Base salary increased from $51,197 to $75,561 (48%)
  - $5200 lump sum bonuses plus 20% hiring bonus
  - Hybrid shift schedule introduced (12 and 8-hour options)
  - 8 weeks parental leave plus subsidized day care
  - $2000 yearly attendance bonus plus weekly “on time” pay (4 hrs)
  - Residency requirement eliminated



But Is It Working? The Philadelphia Example

- Jan-June 2025. Prisons Department received 4,200 applications, a 79% jump from the number received in all of 2024.
- Apr 2024-March 2026. Prisons Department hired 526 new cadets and reinstated 48 former officers.

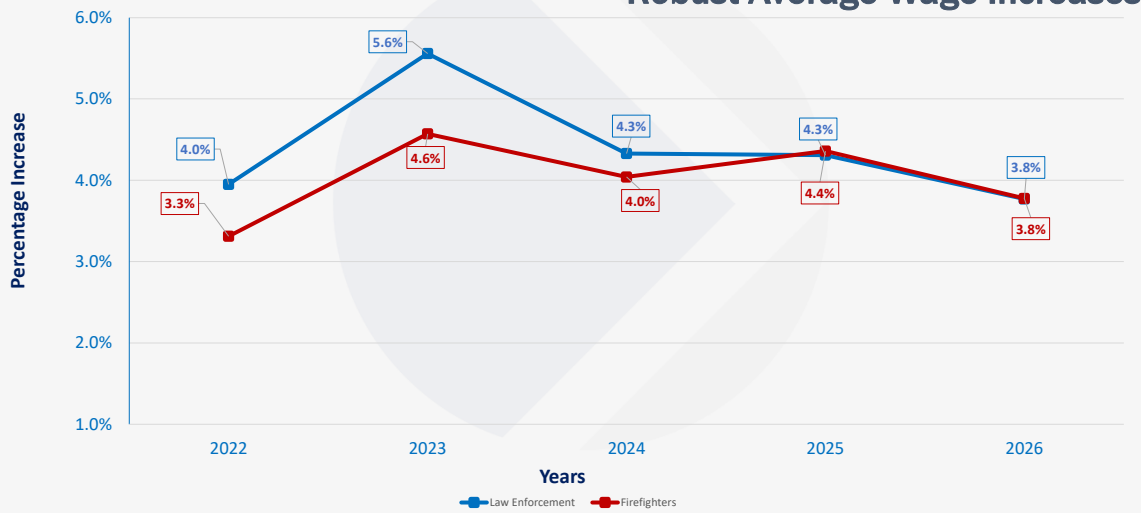
			December 2024		June 2025			
	Position Classification	Budgeted	Filled	Vacant	Filled	Vacant	Vacancies (+/- change)	Vacancy Rate (+/- change)
Sworn Staff	Officers	1712	999	716	1153	559	-157	33% (-9%)
	Sergeants	118	72	46	78	40	-6	34% (-5%)
	Lieutenants	64	49	15	47	17	+2	27% (+4%)
	Captains	29	24	2	32	-3	-5	0% (-7%)
	Custody Total	**1923**	**1144**	**779**	**1310**	**613**	**-166**	**32% (-9%)**
Maintenance Staff	Trades Worker I	7	6	1	7	0	-1	0% (-14%)
	Trades Worker II	18	8	10	9	9	-1	50% (-6%)
	HVAC Mechanic	3	2	1	2	1	0	0% (-33%)
	Building Engineer	1	0	1	1	0	-1	0% (-100%)
	Maintenance Group Leader	1	0	1	1	0	-1	0% (-100%)
	Total Maintenance	**30**	**16**	**14**	**20**	**10**	**-4**	**33% (-14%)**

Collective Bargaining – The Opportunity

- Sustained wage increases and targeted equity adjustments.
- Retention incentives, scheduling and working conditions.
- Competition among agencies for experienced employees.
- Minimal union concessions … but watch out for rising healthcare costs.

Impact On Collective Bargaining

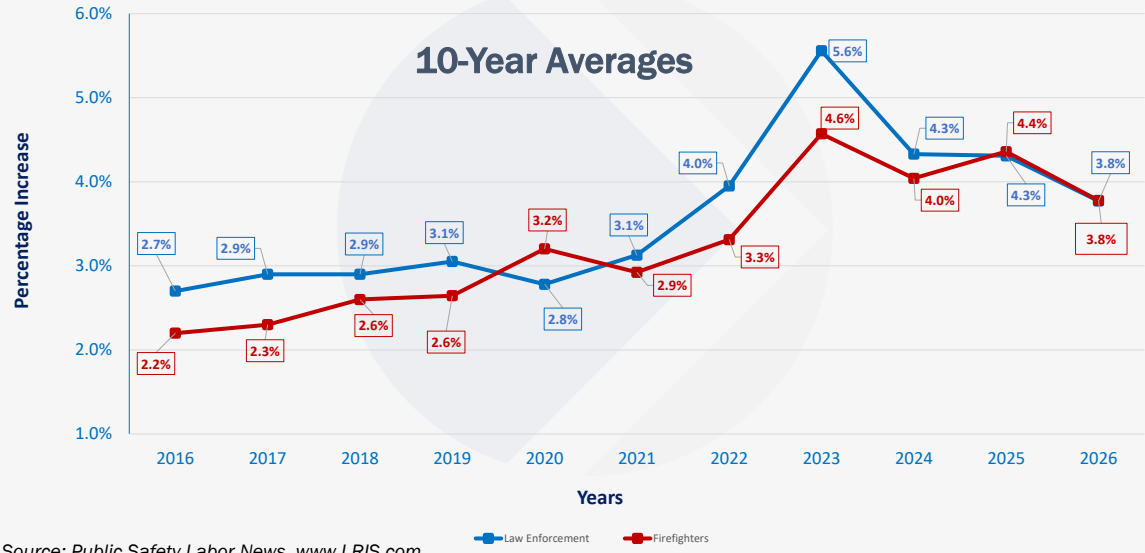
Robust Average Wage Increases



Source: Public Safety Labor News, www.LRIS.com

Impact On Collective Bargaining

10-Year Averages



Source: Public Safety Labor News, www.LRIS.com

Fort Worth: $54 Million Fire/EMS Agreement

- September 2026: Four-year agreement through September 2030.
- Estimated $54 million in additional compensation costs.
- Initial 5% across-the-board wage increase.
- Annual step increases and additional *market-based* adjustments.

Source: News Talk WBAP, Sept. 30, 2026.

Philadelphia: The End of Pay Parity?

- July 2026 arbitration award: 7% over two years for firefighters and EMS personnel.
- Police received 10% over two years, plus a $3,000 bonus.
- Arbitrators distinguished police raises tied to civilianization and operational flexibility.
- Firefighters argued the award broke with two decades of wage parity.

Source: Philadelphia Inquirer, July 9, 2026.

San Antonio: Big Raises, Healthcare Tradeoffs

- September 2026: Three-year police contract costing approximately $102 million.
- Base wage increases totaling 16.5% over three years.
- Additional incentives for weekend shifts, certain assignments and field training.
- Employees assume greater healthcare costs, offsetting approximately $10.3 million in new incentives.

Source: San Antonio Report, Sept. 10, 2026.

Collective Bargaining – The Risks

Health Benefits Return to the Table

- Marsh projects 8.2% growth in employer health benefit costs in 2027, after planned cost reductions.
- Employers estimate 11% growth if they leave their current plans unchanged.
- 59% of surveyed employers plan cost-cutting benefit changes.
- Expect proposals affecting employee contributions, deductibles or coverage.

Health Insurance: The Cost Shift

Kaiser Family Foundation, 2026 Employer Health Benefits Survey, October 22, 2026:

- 2026 average family premium: $28,303, **up** 5%.
- Average employee contribution: $7,471, **up** 9%.
- 44% of large employers **increased** employee premium contributions.
- 21% **increased** deductibles or other cost sharing.

GLP-1 Coverage Under Pressure

- Among employers surveyed by Business Group on Health, coverage of GLP-1 drugs for obesity fell from 72% in 2025 to 60% in 2026.
- GLP-1 products have different approved uses. A plan's treatment of obesity drugs does not necessarily tell us how it covers drugs for diabetes or other indications.
- For public safety employees, the question is concrete: Will the employer narrow an existing prescription benefit, and what does the CBA permit?

GLP-1 Coverage: Employers Pulling Back?

- Only 18% of large employers (200 or more workers) cover GLP-1 drugs primarily for weight loss.
- 12% of non-covering large employers dropped coverage within the past year.
- 29% of covering employers report a significant impact on prescription spending.
- 79% of non-covering employers say they are unlikely to add coverage within 12 months.

Source: KFF, 2026 Employer Health Benefits Survey, October 22, 2026.

What Does the Contract Protect?

- Does the CBA promise a benefit level, a particular plan or a named prescription program?
- What do the plan documents and formulary say about covered drugs, prior authorization and changes during the contract term?
- What choices does the employer retain when a carrier or pharmacy benefit manager changes its coverage?
- Bargaining target: Define material benefit reductions and require advance notice, information and bargaining.

Part Two:

TECHNOLOGY AND EXPANDING SURVEILLANCE

Surveillance: A Bargaining Issue

- Surveillance technology changes how management supervises employees.
- Who is monitored? What is recorded? Who has access?
- Can the information be used to evaluate performance or impose discipline?
- AI dramatically expands management's ability to monitor employees.
- Consider the difference between management having the theoretical ability to review *something* and management having the practical ability to review ***everything***.

Washington DOC — The Old GPS Deal

- Washington Department of Corrections had used GPS in transport vehicles since approximately 2011.
- In 2012, the union negotiated restrictions on its use.
  1. GPS information could not be the sole basis for discipline.
  2. GPS could not be used solely to surveil employees for disciplinary purposes.
- More than a decade later, DOC upgraded the software, dramatically expanding its monitoring capabilities.

Teamsters Local 117 v. Washington DOC, Decision 14309-PSRA (Wash. PERC 2026).

Washington DOC — New GPS Produced Discipline

- New GPS program - *Verizon Reveal* - allowed real-time monitoring of vehicle location, speed and stops.
- DOC configured automatic alerts when vehicles exceeded the speed limit by 15 mph or more.
- Alerts triggered investigations and employee incident reports.
- Two employees, recorded traveling 19 and 30 mph over the limit, received written reprimands.
- The union grieved the discipline and challenged implementation of the upgraded system as an unlawful unilateral change.

Teamsters Local 117 v. Washington DOC, Decision 14309-PSRA (Wash. PERC 2026).

Union: You Have to Bargain

- Union alleges a unilateral change.
- Existing GPS use already governed by negotiated restrictions.
- New software materially expands monitoring capabilities.
- Real-time monitoring + automatic speeding alerts.
- System is generating disciplinary investigations.
- Employer had previously bargained over GPS.

But Washington has a statutory problem …

Teamsters Local 117 v. Washington DOC, Decision 14309-PSRA (Wash. PERC 2026).

Washington's Technology Exclusion

Washington's RCW 41.80.040(1):

"The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include but not be limited to the following:

"(a) The functions and programs of the employer, the use of technology, and the structure of the organization;"

- **Hearing Examiner:** New software enhancing GPS functionality is clearly "the use of technology."
- **Result:** DOC had no obligation — or legal authority — to bargain the implementation decision

Teamsters Local 117 v. Washington DOC, Decision 14309-PSRA (Wash. PERC 2026).

But Here's the Weird Part

- **Washington Chapter 41.80:** Covers Washington state employees, including DOC employees. Expressly excludes the use of technology from bargaining.
- **Washington Chapter 41.56:** Covers local public employees, including municipal police officers and many fire/corrections employees. Contains no equivalent categorical exclusion.
- Hearing Examiner specifically discussed the difference in distinguishing an earlier PERC case.
- Even within the same state, *"technology is a management right"* is not a universal answer.

Teamsters Local 117 v. Washington DOC, Decision 14309-PSRA (Wash. PERC 2026).

The Footnote: Mountlake Terrace

- Municipal police department.
- Video surveillance cameras in employee work areas.
- Potential use for employee monitoring / discipline.
- Case arose under Chapter 41.56 because involved local employees.
- PERC treated the technology issue as bargainable.
- DOC Hearing Examiner: *Mountlake Terrace* is "readily distinguishable" because Chapter 41.56 does not prohibit bargaining over technology.

Same state. Similar surveillance issue.

Different statute → different bargaining result.

City of Mountlake Terrace, Decision 11702-A (PECB 2014)

DOC Didn't Win Everything

- Hearing Examiner decided the implementation / bargaining question.
- Hearing Examiner did NOT decide whether the Verizon Reveal information could properly support discipline under the CBA.
  - Decision expressly leaves that question to arbitration under the just-cause provision – and grievance was pending.
- IMPLEMENTATION ≠ USE ≠ DISCIPLINE
  - Implementation: Statutory bargaining question.
  - Use: Contract / policy restrictions.
  - Discipline: Just cause / arbitration.

States Are Making AI a Labor-Relations Issue

Washington — SB 5422 (2025):

- Proposed requiring bargaining over public-employer AI implementation when it affects wages or performance evaluations. The proposal stalled in committee.

New Jersey — S4075 (2026):

- Pending legislation addressing automated employment systems and electronic monitoring, including human oversight and collective negotiations over specified public-employer AI decisions.

Now Scale It Up: Flock / ALPR

- Automated license plate readers capture plates, vehicle images, identifying characteristics, locations and timestamps.
- Flock combines this information in a searchable network.
- Investigators can identify vehicles associated with crimes, missing persons and wanted fugitives.
- The network can also reveal where a particular vehicle has been observed over time.
- What happens when the subject of the search is an employee?

The issue is not the camera. It is the searchable network behind the camera.

Source: Flock Safety, License Plate Reader Usage & Privacy Policy (June 30, 2026).

Why Flock Suddenly Became a National Story


The Washington Post
Democracy Dies in Darkness

Police departments weren't looking for officers abusing Flock. We did it for them.

An investigation by The Post led to the discipline of two officers accused of misusing license-plate readers. Their departments and many others had not done basic oversight.

August 19, 2026

- Washington Post reviewed police/court records and reported at least 50 law-enforcement officers had been charged with or accused of unauthorized ALPR use.
- Flock was involved in 46 of the cases identified in the initial review.
- In 26 cases, investigators/prosecutors said officers used the technology to monitor wives, girlfriends, exes, new partners or women they wanted to meet.
- The broader problem identified by the story: powerful search capability + inconsistent auditing + agencies that often were not looking for misuse

Source: Drew Harwell, Douglas MacMillan & Aaron Schaffer, Washington Post, Aug. 2, 2026; follow-up reporting Aug. 19, 2026.

The Oversight Problem

- The system already created digital records capable of showing who searched what. But many agencies did not regularly audit those records.
- Flock introduced an Audit Assistance tool to identify suspicious patterns — repeated searches of the same vehicle, unusual off-hours activity, etc.
  - At first, that feature was *voluntary*.
- Post reported at least 69 officers had been implicated and that some misuse had gone undetected until journalists reviewed the logs.
- September 2026: Five Indianapolis officers criminally charged after the Post investigation prompted an internal audit.
- Today: Over one-hundred law-enforcement employees have been implicated in similar alleged misconduct.

Flock Responds

Aug. 13, 2026 — Flock announced significant new guardrails:

- Default retention reduced from 30 days to 7 days.
- Evidence Mode allows specific records to be preserved for an active investigation.
- Audit Assistance becomes mandatory rather than optional.
- Automated detection of abnormal search behavior + proactive lockouts.
- Required case codes / stronger search-justification requirements.
- More agency control over sharing and offense categories.
- Mandatory multi-factor authentication and additional security review.

Flock's position: Misuse is a tiny fraction of overall use, and audit tools can identify and hold bad actors accountable.

Source: Flock Safety, "Flock Updates Privacy, Accountability, Security, and Transparency Safeguards," Aug. 13, 2026.

Then It Became a Labor Issue

- September 2026. D.C. Police Union learns Internal Affairs had used ALPR technology to investigate sworn officers.

THE UNION

Says it had not understood the system would be used this way.

Files grievances and misconduct complaints.

THE DEPARTMENT

Subsequently restricts access to the system as concerns about employee searches emerge.

THE TENSION

The union does not deny ALPR's investigative value — but calls for legislative guardrails.

A crime-fighting tool became an employee-investigation tool.

Source: Washington Post, Sept. 12, 2026, "D.C. police union, Alexandria leaders voice concerns over Flock technology."

Why This Matters for Bargaining

- **Washington DOC:** New software transformed existing GPS technology into a disciplinary monitoring tool.
- **Flock:** Technology designed for criminal investigations was also used to investigate employees.
- New software, analytics and data-sharing arrangements can expand surveillance without installing new equipment.
- Unions should negotiate rules governing capabilities, access, permitted uses and future changes.

Bargain over what the technology CAN do — not merely what management says it plans to do today.

Congress Is Now Paying Attention

- Sept. 23, 2026: Senate Judiciary hearing — "Always Watching: Flock's Nationwide AI Surveillance Network."
- Sen. Josh Hawley (R): Stop Flock Abuse Act — written search approvals, mandatory audits and 10-day data retention.
- Sens. Sanders and Merkley (D), Rep. Ocasio-Cortez (D): Ban Flock Act — broad restrictions on federal ALPR use and funding.
- Additional House bills propose restrictions on ALPR surveillance and federal funding.

The debate has moved from oversight to legislation — regulate the technology or prohibit it?

Pennsylvania: The Debate Is Happening Now

- **October 19, 2026:** Pennsylvania House passed HB 2771 by a bipartisan 190–13 vote.
- The bill restricts ALPR searches, limits data retention, requires warrants for access or sharing and establishes audit safeguards.
- **October 26:** Referred to Senate Transportation Committee. Not yet law.
- Other Pennsylvania proposals range from stronger oversight to banning networked ALPR surveillance.
- The central debate: How do we preserve legitimate law-enforcement uses while preventing misuse and mass surveillance?

Sources: PA General Assembly, HB 2771 (Oct. 26, 2026); ACLU-PA legislative analysis; Spotlight PA (Oct. 2026).

The Middle Ground

- Start with what ALPR technology does well: stolen vehicles, abducted or missing persons, wanted fugitives, vehicles tied to serious crimes.
- Do not discard useful technology simply because it raises legitimate privacy questions.
- Instead, insist on guardrails: defined purposes, limited access, documented search reasons, audit trails, retention limits, sharing rules and *consequences for misuse*.
- This is also where public safety unions can bring credibility: officers understand both the operational value and the potential for misuse.

Is Workplace Surveillance Bargainable?

It depends on the jurisdiction — and what management intends to do with the technology. But generally **YES**.

- **Implementation:** Management may have the right to acquire and install surveillance technology.
- **Use:** Monitoring employees, evaluating performance and imposing discipline may trigger bargaining obligations.
- **Changes:** New capabilities or expanded uses may create additional bargaining obligations.

The right to install technology is not necessarily the right to use it for any purpose.

New Hampshire: Body Cameras and Bargaining

- Governor ordered state troopers to wear body cameras in 2020.
- Troopers Association demanded bargaining over implementation and impact on working conditions.
- Parties held approximately six impact-bargaining sessions. But State refused to respond to union proposals addressing BWC implementation impacts.
- Labor Board found a failure to bargain in good faith and an obligation for State to engage in impact bargaining over implementation of the body-camera program.
- The decision illustrates *impact-bargaining* obligations — not a union veto over body cameras.

New Hampshire Troopers Association v. N.H. Department of Safety, 2024 WL 1904239 (N.H. PELRB 2024).

Two Tables for Public Safety Unions

THE BARGAINING TABLE

- Employee surveillance / employee searches
- Permitted purposes and access
- Use in discipline
- Search justification / case number
- Audit logs and union access to relevant logs
- Retention and outside-agency sharing
- Notice and remedies for misuse
- Future changes in capability or use

THE LEGISLATIVE TABLE

- Privacy and employee-specific protections
- Audit and transparency requirements
- Limits on secondary uses and sharing
- Accountability for misuse
- Preserve the right to bargain over implementation, effects and disciplinary use

Questions to Answer Before Implementation

ASK FIRST

- Vendor contract + governing policies
- What data is collected and retained?
- Who can access or search it?
- What audit logs exist?
- Can it generate employee-specific searches, scores or alerts?
- What new capabilities can a software update add?

WRITE THE RULES

- Define permissible purposes
- Address routine employee monitoring
- Require meaningful human review
- No discipline based solely on AI / technology output
- Access to information relied upon in discipline
- Auditability + notice of material changes

Sample Contract Concept

- *ALPR or other surveillance technology shall not be used for the purpose of routinely monitoring bargaining-unit employees.*
- *Any search involving a bargaining-unit employee or an employee-owned vehicle must be connected to a documented, legitimate investigation or other authorized public-safety purpose.*
- *All such searches shall be logged and auditable.*
- *Information generated by the system shall not constitute a basis for discipline.*
- *Upon request, the Union shall receive relevant search and audit information relied upon in any disciplinary investigation, subject to lawful confidentiality restrictions.*
- *The Employer shall provide notice and bargain to the extent required by law before any material change in the technology's capabilities, functionality, data-sharing arrangements or permitted uses.*

Part Three:

EMERGING PRIVACY PROTECTIONS

FOIA Law Privacy Claims – An Uphill Battle

- Public records laws generally favor disclosure by the government – *that's the point*.
- Courts emphasize the need for transparency, accountability and public oversight of police departments. Especially since 2020.
- Courts view use-of-force reports as factual records documenting public conduct by government officials rather than protected personnel files.
- Traditional FOIA/RTKL analysis was largely developed before modern concerns over doxxing, viral social media exposure, and targeted harassment of officers and their families became commonplace.

Marsy's Law – A Different Approach

- Marsy's Law changes the analysis by reframing the officer not merely as a government employee, but as the victim of a crime entitled to constitutional or statutory privacy protections.
- Instead of arguing that force or other records are exempt personnel records, the argument becomes that disclosure of officer identities could violate crime-victim protections relating to privacy, safety, intimidation, or harassment.
- In several states, Marsy's Law has emerged as a potentially stronger and more successful tool for protecting officer identities than traditional FOIA-based privacy arguments.

Privacy Rights and Public Records Laws

Mayor & City Council of Ocean City v. Washington Post

- Washington Post requested use of force reports and internal reviews maintained by Ocean City Police Department.
- City argued that the records were "personnel records" protected from disclosure … and lost.
- Court cited Maryland's 2021 "Anton's Law" reform statute that expanded release of police information.
- Court held that UOF reports and individual UOF reviews were not protected from disclosure under Maryland law.

Mayor & City Council of Ocean City v. The Washington Post, No. 774, Sept Term, 2024 (Md.App. Ct. Apr. 3, 2026)

Limited Protections Under Public Records Laws

- Iowa — *Harrison v. Mickey, 18 N.W.3d 477 (Iowa 2025):* Des Moines PD use-of-force reports were treated as factual reports, not employee evaluations. Court ordered production, with possible redactions for juveniles or other protected interests.
- New York — *Abbatoy v. Baxter, 210 N.Y.S.3d 555 (2024):* New York repealed its broad statutory shield for police personnel and disciplinary records. Disclosure is now favored absent a specific privacy or investigative justification.
- New Jersey — *Rivera v. Union County Prosecutor's Office, 250 N.J. 124 (2022):* State public records law bars access to IA affairs reports ***but those reports still must be released*** under common law right of access.

Traditional public-records laws provide limited protections for employee privacy.

What Marsy's Law May Protect

- **Officer name withheld from:**
  - Incident reports
  - Court filings
  - Media and FOIA requests
- **Redaction of personal details:**
  - Address, ID numbers, family info
- **Limits on compelled victim testimony (in some cases)**

Tension with Transparency and Accountability

- In some states, Marsy's Law has been used to withhold officer identities from incident reports, court filings, and FOIA/public-records responses following assaults or officer-involved shootings.
- Agencies and courts have also used Marsy's Law to redact personal information, including addresses, ID numbers, and family information.
- Media and open-government groups have argued that this improperly shields police conduct from public scrutiny.
- The result is an ongoing conflict between officer privacy/safety interests and demands for transparency and public accountability

Florida: Marsy's Law Not Guarantee Anonymity

- Two Tallahassee officers involved in separate fatal shootings in 2020.
- PBA sought to prevent disclosure of their names under Florida's Marsy's Law.
- Florida Supreme Court rejected categorical protection for crime victims' names.
- Court distinguished a victim's name from information that could be used to locate or harass the victim.
- Other statutes expressly protect a victim's identity; Florida's constitutional provision did not.

City of Tallahassee v. Fla. Police Benevolent Ass'n, 368 So. 3d 626 (Fla. 2023)

Privacy Rights and Marsy's Law

Gatehouse Media v. Columbus PD

- July 2023. Two Columbus police officers ambushed by gunman following pursuit on Interstate 70. One officer seriously injured. Officers killed one suspect.
- Columbus Dispatch requested all body-cam and cruiser video.
- Department released footage but redacted officer identities, citing Marsy's Law protections, officer privacy, and ongoing investigation.
- Law defines victim as *"a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act."*

State ex rel. GateHouse Media Ohio Holdings II, Inc. v. Columbus Police Dept., 2025-Ohio-5243, ___ N.E.3d ___ (Ohio Nov. 25, 2025).

Privacy Rights and Marsy's Law

Gatehouse Media v. Columbus PD

- November 5, 2025. Supreme Court of Ohio rules in favor of officer privacy:
  1. *The police officers who were shot at during the criminal shootout were "crime victims" under Marsy's Law.*
  2. *Because they qualified as victims, the officers' identifying information was rightly redacted from public records under the Victim Privacy Law (R.C. 2930.07) without violating public-records rights.*

State ex rel. GateHouse Media Ohio Holdings II, Inc. v. Columbus Police Dept., 2025-Ohio-5243, ___ N.E.3d ___ (Ohio Nov. 25, 2025).

Privacy Rights and Marsy's Law

State v. Albaidhani

- Sioux Falls, SD. Two officers involved in foot chase with defendant. Defendant shot at both officers and injured one.
- Officers' names included in the warrant, affidavit and criminal complaint.
- Officers asserted their rights as crime victims under SD Marsy's Law to have their names redacted. Denied.
- Officers intervened in criminal action.
- Officers' requests were denied and they appealed.

State v. Albaidhani, 2026 S.D. 24, ___ N.W.3d ___ (S.D. Apr. 22, 2026).

Privacy Rights and Marsy's Law

State v. Albaidhani

- Court answered two questions.
- 1. Whether LEOs are "victims" under Marsy's Law? YES
  - *"A law enforcement officer is a 'person' under every reasonable interpretation of the word."*
  - Cited Ohio *Gatehouse Media* decision as persuasive.
- 2. Whether LEOs are entitled to have names redacted from public filings. YES
  - *"In the digital information age, a victim's name could be the first and most important piece of information used to locate or harass them."*

State v. Albaidhani, 2026 S.D. 24, ___ N.W.3d ___ (S.D. Apr. 22, 2026).

Privacy Rights and Marsy's Law

Florida HB 1113 of 2026

- April 14, 2026. Florida Gov. Ron DeSantis signs legislation updating Marsy's Law to address Tallahassee decision:
- Police Victims. If police officers are the victim of assault or threatened while on the job, their identity must be confidential for 72 hours after the incident and exempt from disclosures in public records for 60 days.
- Other Victims. Identifying details about *other* crime victims – including any information that could be used to locate, intimidate, harass or abuse a victim – would be exempt indefinitely.

Union Strategies & Takeaways

Bargaining and Policy Actions:

- Negotiate procedures for name redaction and victim confidentiality
- Push for agency policies affirming officers' right to invoke protections

What Union Reps Should Do:

- Educate members on eligibility and process to claim protections
- Coordinate with legal counsel in critical incidents early
- Advocate/bargain for delayed or conditional name release in media disclosures
- Develop relationships with victim rights groups to address concerns.

Technology Issues and Personal Cell Phones

Why would an employer want to examine the contents of an employee's cell phone?



What's On A Cell Phone?

- Call records
- Text and email messages
- Photos
- Location data
- Search history
- Metadata (data that gives information about other data)
- And more …

Privacy Issues, Employer Devices

City of Ontario v. Quon (2010)

- Police department issued text pagers and permitted limited personal use.
- Audit of excessive messaging revealed sexually explicit personal communications by officer to wife and mistress.
- Officer challenged the search under the Fourth Amendment.
- Supreme Court upheld the search as reasonable because it served a legitimate work-related purpose and was not excessively intrusive.
- Key distinction: The device was employer-issued, not personally owned.

City of Ontario v. Quon, 130 S. Ct. 2619 (2010)

Privacy Issues, Personal Cell Phones

Riley v. California (2014)

- Police searched a suspect's phone without a warrant following an arrest.
- Supreme Court held that cell phones contain *extensive* personal information deserving heightened Fourth Amendment protection.
- Police generally must obtain a warrant before searching a cell phone seized incident to arrest.
- But what about workplace investigations?
  - Does the employee have a reasonable expectation of privacy?
  - Can an employer justify a warrantless search under workplace-search principles?
  - Is the proposed search reasonable in scope?

Riley v. California, 573 U.S. 373 (2014)

Privacy Issues, Cell Phones

Port Authority PBA v. Port Authority of NY/NJ (S.D.N.Y. 2017)

- The Port Authority PBA filed a lawsuit alleging that the Port Authority conducted warrantless searches of new officers' personal cell phones, violating their Fourth Amendment rights.
- Court found that the warrantless searches were not justified as work-related and did not fall under any exceptions to the Fourth Amendment.
- Court determined that the new officers did not provide valid consent for the searches – they were coerced.

PSLN, March 2018

Employee-Owned Cell Phones

Turiano v. City of Phoenix (2022)



- During a protest, Phoenix police officer hit a protester in the groin with a 40 mm OC less impact round. Media attention.
- Someone (not the officer) made up a challenge coin depicted a caricature of the protester being hit in the groin by Turiano's munition, along with the words "Good Night Left Nut."
- On the other side, the coin stated the date and location of the protest and the phrase "Make America Great Again One Nut at a Time."

Turiano v. City of Phoenix, No. CV-21-01428-PHX-MTL (D. Ariz. 2022).(PSLN April 2022)

Employee-Owned Cell Phones

- Department investigated an officer's possible connection to the controversial challenge coin.
- Ordered officer to surrender his personal cell phone for examination, threatening discipline for refusal.
- Court found a reasonable expectation of privacy:
  - Officer purchased and paid for the phone.
  - Phone generally was not used for department business.
  - Other employees had no access to its contents.
  - Phone contained extensive personal information unrelated to employment.
- Even under the workplace-search exception, the proposed search violated the Fourth Amendment.

Cell Phones and Public Records Requests

- *City of San Jose v. Superior Court* (California PSLN 2017). City officials' text messages and emails on personal devices/accounts are public records subject to California Public Records Act if they concern official business. Employers may require employees to search their devices for responsive messages.
- *Nissen v. Pierce County (Washington,* PSLN 2015). County prosecutor's text messages on personal device were public records to the extent created or received within the scope of public employment. Court will permit redaction of personal/private content but will require declarations from employees to confirm whether texts meet the criteria.

Cell Phone Advice for the Real World …

- Assume all work-related texts are discoverable, no matter the device.
- Use official channels when possible (department-issued phones/email).
- Agencies should create clear policies for preserving and producing electronic communications.
- Unions should educate members about risks of casual texting in workplace disputes or investigations.
- Address in bargaining to avoid mid-investigation disputes.

Two Provisions Worth Considering

A. *Privacy and Family Safety. The Employer shall not release the identities of any officer involved in a shooting or other use of force if no criminal charges have been filed against the officer, absent the consent of the officer.*

B. *Personal Cell Phones. The Employer shall not be permitted to access an officer's personal cell phone absent a warrant or officer consent.*

Part Four:

THE EXPANDING REACH OF BRADY/GIGLIO

Brady/Giglio: The Essential Rules

- **Brady v. Maryland (1963):** Prosecutors must disclose material evidence favorable to the accused.
- **Giglio v. United States (1972):** Disclosure includes evidence bearing on the credibility of government witnesses.
- **United States v. Bagley (1985):** Disclosure obligations apply even without a defense request.
- **Kyles v. Whitley (1995):** Prosecutors must account for favorable evidence known to the prosecution team, including police.

The employment problem: *A disclosure obligation can become a career-threatening designation or exclusion from prosecutions.*

Disclosure Is Not Disqualification

- DOJ policy requires agencies to report a broad range of potential impeachment information.
- Unsubstantiated, noncredible or exonerated allegations generally are not considered potential impeachment information.
- Prosecutors must evaluate whether information warrants disclosure in a particular criminal case.
- Disclosure does not automatically establish misconduct or render an employee unable to testify.
- **The problem:** Brady disclosures, Brady-list placement and prosecutorial exclusion are sometimes treated as interchangeable.

Source: DOJ Justice Manual § 9-5.100 — Giglio Policy

Brady Discovery Reaches Personal Cell Phones

United States v. David (W.D. Va. June 30, 2026)

- Officers used personal and work phones to exchange messages during a criminal investigation.
- Govt initially maintained that responsive communications did not exist.
- Body-camera footage revealed texting; subsequent searches uncovered hundreds of additional communications.
- Court ordered a limited forensic examination of relevant devices, subject to privacy safeguards.

Takeaway: *Using personal phones for investigative communications creates preservation and discovery obligations. Personal privacy remains relevant but is not an absolute shield.*

Brady/Giglio and Access to IA Records

N.J. Office of the Public Defender v. N.J. Department of Law

- Public Defender sought internal affairs "Appendix K" reports identifying officers and misconduct allegations.
- State denied access, citing confidentiality protections.
- Appellate court held that criminal discovery procedures did not foreclose a separate common-law access claim.
- Remanded for review of the records, appropriate redactions and balancing of competing interests.

Brady-related information may become the subject of broader records-access litigation, even outside individual criminal cases.

2026 N.J. Super. Unpub. LEXIS 757 (unpublished).

Brady Lists and Exclusion Lists: Not the Same

- Brady/Giglio list: Identifies officers whose records may contain information requiring **disclosure** in criminal cases.
- Exclusion list: Identifies officers whom prosecutors **will not call** as witnesses or whose cases they will decline to prosecute.
- Standards and procedures vary significantly among jurisdictions.
- Placement on either list can have serious employment consequences.
- **The central concern:** Who decides, what process is provided and how can an officer challenge the designation?

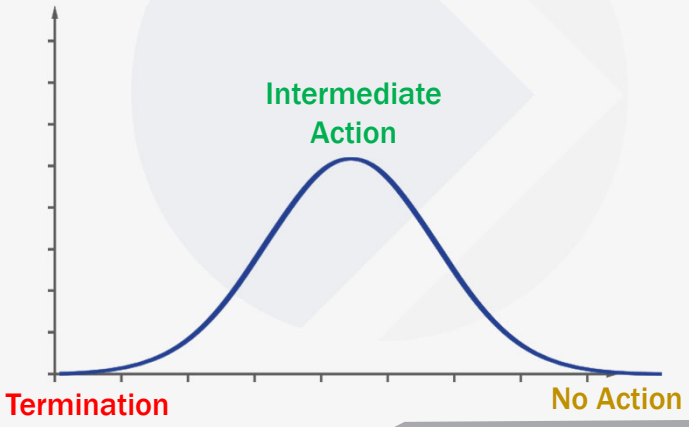
Brady/Giglio: The Cook County Approach

- State's Attorney Eileen O'Neill Burke replaced public Brady disclosure and Do Not Call lists with internal records and a revised review process.
- Under the December 2025 policy, officers stripped of police powers are placed on an internal exclusion list.
- August 2026 reporting identified 254 law enforcement officers barred from testifying, including 240 current or former Chicago officers.
- Many officers face unresolved disciplinary proceedings while their ability to testify remains restricted.

Chicago Tribune, August 2026; The Chicago Reporter, August 2026.

Agency Reactions To The *Brady* Rule

The vast majority of jurisdictions fall *somewhere* on the *Brady* continuum.



Brady Restrictions and Termination

Hubacz v. Village of Waterbury (Vt. 2018) (PSLN May 2018)

- DA refused to pursue cases involving an officer for Brady/Giglio reasons.
- Employer terminated the officer, arguing that he could no longer perform essential job duties.
- Vermont Supreme Court rejected automatic termination based on the prosecutor's decision.
- **Rule:** Employer must consider whether the restriction can reasonably be accommodated through reassignment, witnessed arrests or other measures.
- **Takeaway:** A prosecutor's refusal to use an officer does not necessarily establish just cause for termination.

Collateral Impact

Cox v. SEPTA, (3d Cir. 2026) (PSLN Apr 2026)

- Transit police officer terminated for excessive force re: arrest.
- Also charged with dishonesty during investigatory interview.
- Transit Authority notifies county DA → officer placed on Giglio list.
- Officer files race discrimination lawsuit (Title VII, PHRA, §§ 1981/1983). Claims disparate treatment from other officers.
- **Case dismissed.** Officer not "qualified" for job in first place because of the loss of a "core job function" – inability to testify.
- Court analogizes to loss of required credential (e.g., driver license).

Prosecutorial Absolute Immunity

Harris v. Krasner, (3d Cir. 2024)(PSLN Oct 2024)

- Complaint against officer filed by her domestic partner in response to officer acting on sexual assault against her child.
- IA investigates – complaint dismissed as unfounded and expunged.
- 4 years later. Officer learns of placement in the DA's Police Misconduct Database based on *unfounded* complaint.
- Third Circuit noted that prosecutors should err on the side of disclosure when unsure about whether information is disclosable under *Brady*. DA immune from suit.

Prosecutorial Immunity – Extreme Cases

Pownall v. Krasner (3d Cir. 2024)

- Philadelphia police officer charged with murder following OIS.
- Prosecutor withheld an expert report supporting the officer's justification for the shooting. Criminal charges dismissed.
- Arbitrator subsequently reinstated with back pay.
- Third Circuit held that *absolute* prosecutorial immunity protected conduct undertaken in the prosecutor's advocacy role, including grand jury proceedings.

Takeaway: *Even serious allegations of prosecutorial misconduct may not overcome absolute immunity.*

Prosecutorial Immunity Has Limits

Bevill v. Wheeler, 2024 WL 2762493 (5th Cir. 2024)

- Police captain alleged retaliation after participating in a friend's criminal defense.
- District attorney threatened to stop prosecuting cases from the *entire* police department.
- Fifth Circuit rejected absolute immunity for the alleged threat.
- The threat was directed at influencing an employment decision, not prosecuting a particular criminal case.

Takeaway: *Prosecutorial immunity depends on the function being performed, not merely the prosecutor's title.*

Due Process and Brady Lists

FOP Lodge No. 5 v. City of Philadelphia (Pa. Cmwlth. 2021)

- Officers challenged placement on the DA's Brady and Do Not Call lists, including cases involving overturned or unfounded misconduct allegations.
- Commonwealth Court found the DA's review process that was limited to correcting factual errors did not provide a meaningful opportunity to contest placement.
- An impartial review process was essential – *"adequate due process requires an impartial tribunal."*

Takeaway: *Prosecutorial disclosure obligations do not eliminate officers' procedural due process rights.*

Due Process and Giglio Designations

Leech v. State, 922 S.E.2d 732 (N.C. Ct. App. 2025)

- Officer discarded a boxcutter after confirming with his supervisor that it was unrelated to a rape investigation.
- DA questioned his explanation, issued a Giglio letter and refused to use him as a witness.
- Officer resigned after the department initiated termination proceedings.
- North Carolina law required reporting of Giglio designations to a statewide database accessible to future law enforcement employers. No process for officer to dispute.
- Appeals court revived the officer's constitutional challenges to the designation process and the statute.

Recent Due Process Gains? The Big One

Richmond v. Jefferson County Attorney (Iowa 2026)

- Sheriff Bart Richmond placed on the county attorney's Brady/Giglio list after a dispute over an investigation into a deputy sheriff's use of force.
- Prosecutor concluded the Sheriff's conduct raised concerns about his "credibility, candor and truthfulness."
- Iowa law allowed the Sheriff to seek judicial review, and the trial court ordered his removal from the list.
- Prosecutor appealed. Argued that Iowa's Brady/Giglio review statute was unconstitutional because it interfered with prosecutors' Brady obligations and discretion.

Richmond: The Iowa Supreme Court Rules

Richmond v. Jefferson County Attorney (Iowa 2026)

- Prosecutor argued that the statute prevented him from discharging constitutional obligation to criminal defendants.
- Court rejected this argument. Held that judicial review of Brady/Giglio placements does not violate due process because prosecutors remain free to disclose impeachment evidence in individual cases.
- The statute regulates *placement on a Brady/Giglio list*, not a prosecutor's constitutional disclosure obligations.

Brady/Giglio: What Unions Can Negotiate

- Notice and an opportunity to respond before potentially disqualifying information is sent to prosecutors.
- Procedures for correcting inaccurate information and challenging Brady-list placement.
- Confidentiality protections and limits on release of personnel records.
- Protection against additional discipline based solely on a subsequent Brady designation.
- Reassignment or accommodation before termination based on prosecutorial restrictions.

Bargaining cannot eliminate constitutional disclosure obligations, but it can protect employees from unfair employment consequences.

Brady/Giglio In Arbitration

From Arbitrator Joe Daly, 2019:

"There is overwhelming arbitral precedent that an officer's Brady status is not a substitute for just cause and is not in and of itself grounds for termination. In recent years, law enforcement agencies have increasingly sought to 'weaponize' Brady by asserting, as the City does in the present case, that a Brady-impaired officer is effectively disqualified from employment because he or she will be unable to testify in future criminal cases."

"But . . . arbitrators have repeatedly rejected this argument, holding that a Brady designation cannot be construed as a "silver bullet" for employers."

Brady In State Legislatures: Florida

Florida's HB 95 (2023):

- Prohibits the discharge of a law enforcement officer solely for placement on a *Brady* list,
- Explicitly does not mandate *Brady* lists.
- Requires notice when IA materials are sent to prosecutor.
- Creates a modest right to appeal a *Brady* determination made by a prosecutor.

Brady In State Legislatures: Iowa

Iowa's House File 2496 (2023). Provides a statutory framework for protecting officers without restricting criminal discovery.

- Prohibits discipline based solely on a prosecutor's Brady/Giglio determination.
- Requires prosecutors maintaining Brady lists to adopt written placement criteria.
- Requires notice and an opportunity for officer input before placement.
- Provides for notice of the decision and a reconsideration process.
- Preserves prosecutors' constitutional disclosure obligations.

Iowa *Expands* Brady/Giglio Protections

House File 2797 (2026):

- Extends statutory protections to officers regardless of when the Brady/Giglio placement occurred.
- Strengthens judicial remedies for officers who successfully challenge placement.
- Authorizes equitable relief and recovery of attorney fees, expenses and court costs.
- Places responsibility for monetary awards on the governmental entity responsible for the prosecuting agency.

The Comprehensive Approach

To protect the rights of officers as well as criminal defendants, police unions and agencies can pursue the following approaches:

- Pursue state legislation to codify and standardize best practices.
- Develop mutually acceptable disclosure policies with local prosecutors, including due process procedures for affected officers.
- Bargain standards governing disclosure triggers, notice and opportunity for officers to challenge disclosures, and standard accommodations for limited officers.
- Ensure ample disciplinary protections for officers negatively impacted by a prosecutor's *Brady* decisions.