Pa. has a new hiring database to weed out bad cops

Stephen Caruso, Jul 20, 2020



Cuffs on police officer's uniform (Stock)

Top of Form

Bottom of Form

Police reformers won their first Harrisburg victory in decades this week, when Gov. Tom Wolf signed a bill creating a confidential database of police personnel and discipline records.

The database will include any criminal charges filed against an officer, any civil or ethical complaints, all disciplinary actions, as well as a record of the reason and circumstance an officer left a police force.

Even as they laid out the long road ahead to fight over policing and institutional racism, elected officials celebrated the new law, [Act 57](https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2020&sessInd=0&act=57). Considering current state law, the bill is a “big improvement,” said University of Pittsburgh law professor David Harris.

“In the event of a bad outcome by an officer who should not have been hired, [Act 57] means that those who did the hiring are more likely than now to be held accountable,” Harris, who studies policing, said in an email. “Either they didn’t know but should have, or they knew and [hired the officer] anyway.”

But Harris and others pushing for police reform also cited the limited access to the records, and limited accountability measures, to caution that even this new change had holes.

Under the law, police departments must release all internal records to the Municipal Police Officers’ Education and Training Commission, the state agency that manages training and discipline for officers statewide.

Then, departments hiring a new employee must check the database and run a background check before making an offer.

But there are no penalties for a department that doesn’t run a background check. Nor are there penalties for a law enforcement agency that does not release every record — though a hiring agency can bring a lawsuit to release any missing information.

A department can also still hire an officer with a spotty record — including sexual assault, domestic violence, excessive force or discrimination — as long as it files a written reason for the hire with the commission.

But the law’s worst oversight, said Nan Feyler, of the [Pennsylvania Innocence Project](https://www.innocenceprojectpa.org/), is the lack of transparency.

As written, Act 57 only allows someone hiring a police officer to review the personnel files. The law also grants an individual the right to sue if any of their personnel files are leaked.

The public has one, limited view into the records. Once an officer has been hired, one could file an open records request for a copy of the background check. That list would note if an officer’s record includes a “final determination” that they used excessive force, coerced false testimony, and other violations.

But Feyler noted that many times, officers don’t face a final determination even when they’ve done something wrong.

For example, Feyler and the Innocence Project work to exonerate wrongfully accused people stuck behind bars. But as the law is written, if a civilian accuses an officer of fabricating evidence, and the charge vanishes during internal arbitration, the public would not know.

This isn’t just hypothetical. A 2019 investigation by [The Philadelphia Inquirer](https://www.inquirer.com/news/a/philadelphia-police-problem-union-misconduct-secret-20190912.html) found that the city’s police union managed to overturn or reduce about 70% of disciplinary action, even in cases of sexual assault and domestic violence.

“Final determinations are very rare, and are often overturned through arbitration,” Feyler told the Capital-Star.

In its current form, she said the law would be “really ineffective in meeting the needs of the public, and the deterrent effect we want.”

She and Harris argued for the entire database to be public. If every personnel and hiring record was an open record, Harris said, “the public could immediately call out a bad hire, even if the hiring agency was determined to make it.”

Ben Grunwald is an associate law professor at Duke University who has studied police discipline and hiring. He said that such a database is only as good as the information it’ll hold.

He, like Feyler, noted that an effective database would need to track how arbitration impacts discipline.

“We need accountability mechanisms to ensure that agencies report accurate information. States might implement periodic audits or penalize agencies that do not follow database protocol. They might also condition funding on robust participation,” Grunwald said in an email.

An additional problem, he said, was making sure departments don’t knowingly hire officers with a bad record. Some departments, he said, “might not give sufficient weight to those risks if they’re largely insulated from legal liability.”

Grunwald and a partner’s research found that officers with a record are often more likely to end up in small departments in poorer, often Black and brown communities.

Speaking at the Tuesday bill signing, Attorney General Josh Shapiro said he would support making the database public.

As for enforcing the law, Shapiro said in a statement that if “departments chose not to report misconducts, this should affect their accreditation, as a police department not reporting this behavior makes our communities less safe — a contradiction of our role in law enforcement.”

Just 130 of Pennsylvania’s more than 1,100 police departments are accredited, according to the Pennsylvania Chiefs of Police Association, though those 130 departments cover 60% of the state’s population.

The association is in charge of accrediting departments, according to former chief and PCPA executive director Scott Bohn. Departments that are accredited have better relationships with communities, he argued, and lower liability expenditures.

Under the new law, the police training commission will design regulations for the database within six months.

Rep. Chris Rabb, D-Philadelphia, who wrote the original proposal, already has that next step in mind.

“One of the things I’m focused on is what these regulations look like, and how much stronger we can make this law through the regulations,” Rabb told the Capital-Star.

He also said the bill allows for local governments to fill in gaps in the law. A city council, Rabb said, could require public disclosure of hiring reports on an easy to use website, or create stricter hiring standards then the commission.

Stephen Caruso is a reporter for the Pennsylvania Capital-Star, [where this article first appeared.](https://www.penncapital-star.com/criminal-justice/pa-has-a-new-hiring-database-to-weed-out-bad-cops-will-it-do-what-it-needs-to-do)