

SEPTEMBER ROLL CALL TRAINING

High Risk Critical Task: Off-Duty Actions

Name_____Date_____

The policy of this Agency is to hire only those who are qualified for employment in law enforcement. This Agency seeks the highest level of professionalism and integrity from its members and recognizes that this commitment begins with the selection of candidates for this Agency.

Honesty and integrity are foundational to effective law enforcement. A deputy's credibility is not only a matter of personal character, but it can directly affect criminal prosecutions, civil liability, and the reputation of the entire Agency. Dishonesty in reports, testimony, investigations, internal inquiries, or other official matters can permanently undermine a deputy's credibility and may affect the deputy's ability to serve as a witness in future cases.

Under *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972), prosecutors have constitutional disclosure obligations that can include evidence affecting the credibility of government witnesses. For law enforcement officers, sustained findings or other information involving dishonesty, false statements, evidence fabrication, or similar credibility concerns may therefore need to be disclosed to prosecutors and, when legally required, to the defense. The practical lesson is simple: a deputy's integrity is an operational asset. A moment of dishonesty can jeopardize a prosecution, damage public trust, and follow a deputy throughout their career.

Scenario: A deputy at your Agency has been employed as a sworn law enforcement officer for the last 18 months and was previously employed as a correctional officer in another state. During his initial background investigation, he disclosed that he had received one minor disciplinary action from a previous employer for tardiness, but denied any other workplace issues.

Recently, during a neighboring agency's investigation into an unrelated matter, it was discovered that the deputy had been previously terminated from a private security company for falsifying a timecard, as well as having resigned from his previous correctional institution when confronted with allegations of wrongdoing, prior to any charges having been filed against him. When confronted, the deputy admitted he intentionally omitted this information during the hiring process because he "didn't think it would come up" and "didn't want it to affect his chance of being hired."

The deputy's performance since joining the Sheriff's Office has otherwise been satisfactory, with no sustained complaints or policy violations.

Question: Should the Sheriff's Office have cause for concern regarding the deputy's continued employment based on this newly discovered information?

Answer: Yes. The hiring and retention of deputies who are not qualified, or less than qualified, may lead to liability where the deputy causes injury in an area that can be connected to his or her lack of qualification. This scenario raises issues concerning honesty, integrity, and suitability for continued employment, especially as it relates to truthfulness during the hiring process and maintaining public trust. Agencies should evaluate: (a) whether the omission constitutes intentional deception during the hiring process; (b) the impact on the deputy's credibility in future court testimony or administrative investigations (*Brady/Giglio* concerns); and (c) whether continued employment is compatible with ethical and professional standards required of law enforcement officers.

The content of this Roll Call is derived from the Law Enforcement High-Risk Critical Task Lesson Plans of Legal and Liability Risk Management Institute (LLRMI). It has been edited by NIRMA for Nebraska agencies.