Recruitment and Selection

307.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Davis Police Department and that are promulgated and maintained by the Office of the Police Chief.

307.2 POLICY

In accordance with applicable federal, state, and local law, the Davis Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit, hire and retain only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

307.3 RECRUITMENT

The Office of the Police Chief should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- Identification of racially and culturally diverse target markets.
- Use of marketing strategies to target diverse applicant pools.
- Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive department website and the use of Department-managed social networking sites, if resources permit.
- Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.
- Employee referral and recruitment incentive programs, if funding is made available.

The Office of the Police Chief shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

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307.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).
2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).

(b) Driving record

(c) Personal and professional reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state, and federal criminal history record checks (Government Code § 1030; Penal Code § 11105.002; Penal Code § 11105.05)

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).
2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).

(j) Review board or selection committee assessment

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(k) Relevant national and state decertification records, if available, including the National Decertification Index

307.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

307.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify their personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Davis Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

See attachment: POST Background_Investigation Manual.pdf

307.5.1 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Police Chief, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Davis Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

307.5.2 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

307.5.3 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

307.5.4 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

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Due to the potential for accessing unsubstantiated, private, or protected information, the Office of the Police Chief should not require candidates to provide passwords, account information, or access to password-protected social media accounts.

The Office of the Police Chief should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Department fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Office of the Police Chief should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

307.5.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, or advocacy or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

307.5.6 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

(a) Reports and documentation for candidates hired by the Department shall be retained for the entire term of employment and a for a minimum of four years after separation from the Department.

(b) Reports and documentation for candidates not hired by the Department for a minimum of four years.

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307.5.7 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

307.5.8 CONFIDENTIAL POST RECORDS

Records released to the Department from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

307.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

307.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.).

Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation.

307.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

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(a) Free of any felony convictions

(b) Be legally authorized to work in the United States under federal law

(c) At least 21 years of age except as provided by Government Code § 1031.4

(d) Fingerprinted for local, state, and national fingerprint check (Government Code § 1030; Penal Code § 11105.002; Penal Code § 11105.05)

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

(f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution

(g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681)

(i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

1. Reading and writing ability assessment (11 CCR 1951)
2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

(j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

(k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

307.7.2 STANDARDS FOR DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

(a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)

(b) An oral communication assessment (11 CCR 1958)

(c) A medical evaluation (11 CCR 1960)

(d) A psychological evaluation

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307.8 DISCLOSURE PROVISIONS: DIFFERENCES AND SIMILARITIES BETWEEN PEACE OFFICERS AND DISPATCHERS

There are statutory provisions that allow investigators greater access to background information of peace officer candidates, and other statutes that allow special access to information from past and current employers of both peace officers and public safety dispatchers (or other non-sworn personnel). These include:

- Deferred Entry of Judgment – Penal Code § 1000.4(a) allows those who have successfully completed a deferred entry of judgment program to refrain from disclosing any arrest or criminal record associated with that offense. Public safety dispatcher candidates fall under this protection; however, Penal Code § 1000.4(c) specifically exempts peace officers (who must therefore disclose this information).

- Arrests and Detentions – Labor Code § 432.7 prohibits employers from considering an arrest or detention that did not result in a conviction, or a juvenile arrest, detention, processing, diversion, supervision, adjudication, or court disposition. However, a provision in this statute permits employers to consider this information in the case of persons already employed as peace officers or who are seeking employment as peace officers, or for persons seeking employment for positions in the DOJ or other criminal justice agencies as defined in Penal Code §13101.

- Conviction History – Government Code § 12952 prohibits employers from inquiring or considering an applicant's conviction history prior to a conditional offer of employment. This includes arrests not followed by conviction, diversion programs, and convictions that are sealed, dismissed, expunged or otherwise eradicated. However, GC § 12952(d)(2) provides that this provision does not apply in the case of applicants for positions with criminal justice agencies as defined in Penal Code § 13101.

- Compelled Disclosure of Employment Information – Government Code § 1031.1 establishes procedures by which employers are legally obligated to furnish specified information in peace officer and other law enforcement agency applicant (i.e. dispatcher) background investigations. For candidates with previous peace officer experience, Penal Code §832.12 requires peace officer employers to maintain records of investigations of misconduct in a general personnel file or designated separate file; compels candidates to provide written permission to view the files; and requires hiring departments to review the records.

These disclosure provisions should serve to caution investigators against making unnecessarily invasive inquiries, especially of dispatcher candidates. Other statutory protections may bar consideration of specified criminal processes for either peace officer or public safety dispatcher candidates (i.e., those records sealed pursuant to PC §851.7 or expunged pursuant to PC §851.8).

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Attachments

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Background Investigation Manual

Guidelines for the Investigator

2022

POST Background Investigation Manual:
Guidelines for the Investigator 2022

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California Commission on Peace Officer Standards and Training

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POST MISSION STATEMENT

The mission of the California Commission on Peace Officer Standards and Training (POST) is to continually enhance the professionalism of California law enforcement in serving its communities.

PREFACE

Government Code §1031 requires a pre-employment background investigation for peace officers; this requirement is further defined in Commission Regulation *1953*. Similarly, Penal Code §13510 authorizes POST to establish minimum standards for public safety dispatchers; those standards — including a background investigation — are defined in Commission Regulations *1956-1960*.

The POST *Background Investigation Manual: Guidelines for the Investigator* is intended to provide guidance to assist in satisfying these requirements and in otherwise ensuring that the background investigations of California peace officer and public safety dispatcher candidates are thorough, lawful and effective. The manual was developed in conjunction with and in support of Commission regulations, relevant state and federal laws, personal history statements, and evaluation criteria, all of which are described herein.

Although these guidelines are detailed and comprehensive, this manual is intended as a resource rather than a replacement for adequate training and other needed forms of agency support for background investigators. Comments and suggestions concerning these guidelines should be directed to your *Regional Consultant*.

MANUEL ALVAREZ, JR

Executive Director

2022

ACKNOWLEDGEMENT

The Background Investigation Manual: Guidelines for the Investigator provides a comprehensive guide for conducting background investigations of peace officer and public safety dispatcher candidates. The strong foundation set forth by the original authors– ***Shelley Spilberg, Ph.D., Sid Smith*** and ***Greg Murphy*** – has become a model for conducting background investigations in California and nationwide.

Continuing this legacy, this edition provides current, relevant and comprehensive guidance to ensure that background investigators have the tools necessary to facilitate investigations that are complete, thorough and fair as provided for in POST regulation, and state and federal laws.

Revisions to the Manual were guided by the input of ***Gary Barner***, ***Amy Compani***, ***Sid Smith***, ***Maureen Swanson***, and ***Mario Yagoda*** whose practical knowledge and expertise in conducting background investigations have proven invaluable to this effort.

POST Regional Consultants continue to offer their guidance and provide a constant resource of feedback from the field, which helps to shape the guidance in this Manual, and ***William "Toby" Darden*** continues to be instrumental in providing advice and legal counsel with respect to relevant statutes and case law.

Finally, the revisions to and the existence of this Manual would not be possible without the continued support of ***POST Management*** and ***Executive Teams***.

Melani Singley
Project Manager

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Chapter 1

INTRODUCTION

The pre-employment background investigation satisfies two goals: 1) assuring compliance with all applicable minimum standards for appointment and 2) screening out candidates who, based on their past history or other relevant information, are found unsuitable for the positions in question. The express purpose of this manual is to assist background investigators — especially but not exclusively new investigators — in conducting investigations that satisfy both of these goals.

Backgrounds are among the most important investigations that a law enforcement agency will ever conduct. The manner in which a background investigation is conducted can make the difference between hiring an individual who will truly protect and serve versus someone who may cause harm to oneself, the agency, and society.

Background investigations are also among the most challenging investigations to conduct. They must be comprehensive if they are to lead to informed hiring decisions. Past misconduct and other signs of unsuitability must be uncovered so that dangerous or otherwise unfit candidates are screened out. At the same time, inquiries into past performance must stay within the tight parameters of fair employment practices. Furthermore, the areas investigated — and the evaluation of the resulting information — must be treated consistently across all candidates.

Background investigators must therefore be knowledgeable about all applicable local, state, and federal fair employment laws. They must be conversant in the legal requirements for appointment to the positions in question. They must heed all agency policies, practices, and operational limitations. They must base their inquiries and evaluations on candidate behaviors that have a direct relationship to the requirements and demands of the position, and they must do so with consistency and without bias. They must be able to articulate the information gathered from a wide variety of sources and how it is used in determining candidate suitability.

This manual is intended to assist background investigators in accomplishing this challenging task. The procedures and guidance presented here explain what information to gather, and how that information should be considered in determining candidate suitability.

FOCUS OF THE MANUAL

1. "Screen-out" vs. "Select-in" Orientation

POST has the responsibility for developing standards and assuring compliance with those standards for peace officers and public safety dispatchers. POST regulations mandate what must be done in order to satisfy the minimum standards for appointment. Therefore these guidelines are written from a "screen-out" rather than a "select-in" perspective; that is, they are designed to assist in identifying and weeding out the unfit, rather than distinguishing excellent candidates from those who just meet minimum qualifications. Agencies have the right to increase these standards as well as require additional standards.

2. Target Readership: Background Investigators

This manual was written expressly for background investigators. Although it may prove useful to others besides investigators, it is not intended as a comprehensive resource document for administrators, legal counsel, or others who are not directly involved in conducting background investigations.

Note: *In California, third party background investigators (i.e., private contractors) must be Licensed Private Investigators[1] or attorneys. The actions of contract investigators are highly regulated by the Investigative Consumer Reporting Agencies Act (ICRAA), Civil Code §1786. Because of the complexity of this area of law, the special procedures and requirements for non-agency investigators are not the focus of this manual. Contract investigators are strongly advised to seek out competent and professional training on ICRAA*.

3. Target Jobs: Peace Officer and Public Safety Dispatcher

California law requires the completion of pre-employment background investigations for peace officers[2] and public safety dispatchers where the employing agency participates in the POST Public Safety Dispatcher Program.[3] As POST has been charged with the responsibility for developing selection standards for peace officers and public safety dispatchers, the focus of this manual is therefore limited to conducting background investigations on these two classifications. Local agency policy or regulation may require the completion of a pre-employment background on a host of other classifications of employment (e.g., secretarial support staff, records personnel, community service officers). Although some principles discussed here may be relevant regardless of classification, caution must be exercised when applying this guidance to classes of employment outside the mandate given POST. Agencies are urged to work in close consultation with their legal counsel.

4. Supplement to Formal Training

This manual is not intended to serve as a substitute for competent, professional training, rather it provides guidance to supplement formal training. Effective July 1, 2023, investigators will be required to complete POST-certified background investigation training ***prior*** to conducting investigations [Commission Regulations

1 Cal. Bus & Prof Code §7520 et seq.

2 Cal. Bus & Prof Code §7520 et seq.

3 Commission Regulation 1959

1953(a)(1) and 1959(a)(2). Effective training of background investigators greatly improves the quality of backgrounds and candidate selection. In addition to the POST-certified background investigation course, background investigator professional associations — such as the *California Background Investigators Association* (CBIA) and the *California Association of Law Enforcement Background Investigators* (CALEBI) —offer relevant training as well as networking and related benefits.

5. Not Legal Advice

Although the manual contains discussions of the many pertinent employment laws and their impact on background investigations, the information presented here should not be treated as legal research, legal opinion, or legal advice. Background investigators are strongly encouraged to consult, work closely with, and abide by the advice of their agency's legal counsel.

THE ROLE OF POST

POST serves a variety of functions with respect to the background investigation process. These functions include establishing selection standards, certifying training, providing technical assistance, and conducting compliance inspections.

1. Selection Standards

In response to specific mandates from the State Legislature, POST has been charged with the responsibility to develop selection standards for peace officers and public safety dispatchers. California regulatory agencies, such as POST, establish regulations in accordance with the Administrative Procedures Act. Once properly adopted, these regulations appear in the *California Code of Regulations* (Title 11, Division 2, Article 3). As authorized by the State Legislature, these regulations carry the force of law and often seek to clarify or expand upon specific legislative enactments (laws), for example in the Penal or Government Codes.

Commission Regulations *1950-1955* contain the selection standards for peace officers. Commission Regulation 1953 includes the requirements for conducting peace officer background investigations. The peace officer medical and psychological evaluation requirements are outlined in Regulations 1954 and 1955.

Commission Regulations *1956-1960* contain the selection standards for public safety dispatchers. Commission Regulations 1959 and 1960 include the requirements for conducting the public safety dispatcher background investigation and the medical evaluation, respectively.

These standards are discussed in detail in **Chapter 3**, "Legal Qualifications and Statutory Framework." They are also located in the *California Code of Regulations* (Title 11, Division 2, Article 3).

2. Training Course Certification

POST certifies courses specific to background investigations, including:

1) *Background Investigation* – A basic level of instruction designed for persons newly assigned to background investigation (32–40 hours).

2) Background Investigation Update – A more advanced level of instruction designed for experienced investigators who have already undergone core training and require update training (variable length).

3) *Training Seminars/Conferences* – Courses that are periodically certified or presented by POST to deal with unique circumstances or groups (variable length).

Other *POST-certified courses*, such as "Interview and Interrogation" may also prove helpful to background investigators.

3. Technical Assistance

POST professional support to the background investigation process includes:

- *Publications* – In addition to this manual, POST produces manuals on interviewing peace officer candidates, medical screening, and psychological screening. Although these manuals are not specifically written for the background investigator and their primary purpose is to provide technical guidance to others involved in the hiring process, they may include information relevant to the background investigation.
- *Forms and Other Screening Documents* – Such as the Personal History Statements (POST 2-251–Peace Officer and 2-255–Public Safety Dispatcher[4]), Medical History Statements (POST 2-252–Peace Officer and 2 264–Public Safety Dispatcher), and Medical Examination Reports (POST 2 253–Peace Officer and 2 265–Public Safety Dispatcher).
- Consultative Services (through its own professional staff) – Investigators should feel free to contact their *POST Regional Consultants*.

4. Compliance Inspections

The Legislature has charged POST with the responsibility to conduct compliance inspections to verify that persons appointed as peace officers and public safety dispatchers were selected in accordance with the selection standards. POST Regional Consultants make regular visits to the agencies in their jurisdictions to inspect the background investigations completed on those who have been hired since the last site visit. If deficiencies are detected, they work with the agency by suggesting methods for correction and establishing a timetable for correction. A follow-up visit may be scheduled to assure that the deficiencies are corrected. Consequences may be invoked if agencies resist or fail to correct problems within a reasonable period of time. *Chapter 6*, "POST Compliance Inspections," discusses the compliance inspection process.

4 Also refer to *Appendix E*.

POST VS. AGENCY CANDIDATE SCREENING CRITERIA

The selection standards imposed by state statutes and POST regulations are minimum standards. Agencies are free to establish more rigorous selection criteria, as long as they are job-related and legally defensible. For example, agencies may choose to require peace officers to have completed a specified number of college credits, although state law only requires high school graduation.[5]

Verifying most of the statutory and regulatory minimum qualification standards, such as age, citizenship, and absence of felony convictions, is relatively clear-cut. However, California Government Code *§1031(d)* also requires all peace officer candidates to be screened for "good moral character." What prior conduct constitutes good moral character (or, more importantly, the absence thereof)?

The POST background dimensions, presented in the next chapter, are intended to assist agencies and investigators in answering this question by identifying and detailing the attributes underlying moral character and other qualities essential to the jobs of peace officer and public safety dispatcher. Nevertheless, it is ultimately up to each agency to establish its own clearly articulated legally defensible standards of conduct.

ORGANIZATION OF THE MANUAL

The remainder of this manual is divided into five sections. The next chapter, "Background Investigation Dimensions and Bias Assessment Framework," provides a common set of peace officer and dispatcher attributes that must be considered during the background investigation and the Bias Assessment Framework for use in peace officer background investigations. Chapter 3, "Legal Qualifications and Statutory Framework," details the statutory and regulatory requirements surrounding background investigations. The next two chapters approach the background investigation from different perspectives: Chapter 4, "The Background Investigation Process," describes the chronology of the investigation; while Chapter 5, "Areas of Investigation and POST Personal History Statements," presents a topic-by-topic explanation of the process, using the Personal History Statement as its framework. Lastly, Chapter 6, "POST Compliance Inspections," is intended to clarify (as well as demystify) the procedure, expectations, and common problems detected during the annual POST site visit.

5 In the case of public safety dispatchers there is no educational minimum specified in state law for employment.

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Chapter 2

BACKGROUND INVESTIGATION DIMENSIONS AND BIAS ASSESSMENT FRAMEWORK

PEACE OFFICER AND PUBLIC SAFETY DISPATCHER BACKGROUND INVESTIGATION DIMENSIONS

Job-relatedness is the cornerstone of every lawful, effective candidate screening procedure. The demonstrated necessity of every pre-employment inquiry for evaluating the skills, abilities, and attributes required for effective job performance is critical to ensuring that those selected are qualified, and serves as a strong defense against allegations of unfairness or discrimination.

Job-relatedness, or "validity," is characteristic of selection procedures that are derived from an analysis of the job and its requirements and demands. POST has conducted repeated statewide job analyses on both peace officers and public safety dispatchers. In conjunction with the creation of this manual, job analytic data on these two positions were reanalyzed in order to derive a new set of essential attributes of peace officers and public safety dispatchers. Many sources of information were reviewed and reanalyzed, as described in *Appendix A*, "Development of POST Background Investigation Dimensions."

Based on these analyses, one common set of background dimensions was created for peace officers and public safety dispatchers. These ten dimensions are listed in *Table 2.1*. Commission Regulations *1953(b)* and *1959(b)* stipulate that the ten background dimensions shall be considered in the conduct of every peace officer/public safety dispatcher investigation. The dimensions are organized into five major categories (Moral Character, Handling Stress and Adversity, Work Habits, Interactions with Others, and Intellectually-Based Abilities)..

Although these background investigation dimensions were selected based on their specific amenability to assessment during the background investigation, a number of them are also evaluated elsewhere in the selection process. For example, "Integrity" is assessed at several other pre-employment stages, such as during the hiring interview and psychological screening. Figure 2.1 identifies the similarities of the background investigation and psychological screening dimensions for peace officer candidates. The overlap shows the importance of the background investigation to the psychological evaluation. Six of these—Integrity, Impulse Control/ Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Conscientiousness, and Decision-Making/Judgment—are identical. This overlap is also apparent when comparing behavioral indicators included in the background dimensions and the specific counterproductive behaviors contained within the parallel psychological screening dimensions.

Figure 2.1
Comparison of Background Investigation and Psychological Screening Dimensions

Background Investigation Dimensions	Psychological Screening Dimensions
Integrity	Integrity
Impulse control/attention to safety	Impulse control/attention to safety
Substance abuse and other risk-taking behavior	Substance abuse and other risk-taking behavior
Stress tolerance Confronting and overcoming problems, obstacles, and adversity	Emotional regulation/stress tolerance
Conscientiousness	Conscientiousness
Decision-making and judgment	Decision-making and judgment
Interpersonal skills	Social competence Teamwork Assertiveness/persuasiveness
	Adaptability/flexibility
Communication skills Learning ability	
Communication skills Learning ability	

Despite similarities between the background investigation and psychological screening dimensions, there are major differences. The background investigation behavioral indicators consist of past behaviors; as such, they are intended to provide the background investigator with a set of markers to look for in the candidate's personal history. In contrast, the positive and counterproductive behaviors underlying the psychological screening dimensions are manifested by peace officers, thereby requiring inferential expertise on the part of the psychologist to make predictions about the likelihood that the candidate will manifest these behaviors if hired. Therefore, while both the background investigator and the psychologist collect and evaluate similar personal history information, they do so from two different professional perspectives and competencies.[6]

The redundancy of these dimensions is intentional, as it serves to highlight the interdependence of these selection criteria as well as enhance the measurement accuracy of important peace officer and public safety dispatcher character attributes.

Each background investigation dimension includes a behaviorally based definition and description, along with a set of indicators for use by background investigators in evaluating candidates against these attributes. Note, however, that specific

6 POST Peace Officer Psychological Screening Manual, Chapter 7

thresholds of acceptability (e.g., number of allowable moving violations) are not included. The establishment of tolerance levels is an agency's prerogative, and may well vary between peace officers and public safety dispatchers.

Agencies are strongly encouraged to establish standards associated with such issues as criminal convictions, thefts, illegal drug use and other criminal conduct, and driving history. If these issues have not been addressed, background investigators are faced with the need to continuously consult the chain of command every time they encounter negative information. This slows the process and may expose the department to liability in the event that inconsistent and/or inappropriate standards are applied.

Investigators must also exercise caution not to impose their own personal beliefs and/or prejudices as the benchmark against which to measure character, especially if the agency has not defined its own standards. To be defensible, agency standards must be job-related and consistent with business necessity; moreover, overly demanding selection requirements further reduce an already-shrinking applicant pool.

The use of these dimensions in organizing and supporting the investigators' observations and findings is discussed in *Step 9*, Report and Background Packet Preparation in *Chapter 4*, "The Background Investigation."

Table 2.1
SUMMARY OF POST BACKGROUND INVESTIGATION DIMENSIONS FOR PEACE OFFICERS AND PUBLIC SAFETY DISPATCHERS

MORAL CHARACTER	**1.**	**Integrity** • Honesty • Impartiality • Trustworthiness • Protection of Confidential Information • Moral/Ethical Behavior
	2.	**Impulse Control/Attention to Safety** • Safe Driving Practices • Attention to Safety • Impulse/Anger Control
	3.	**Substance Abuse and Other Risk-Taking Behavior**
HANDLING STRESS AND ADVERSITY	**4.**	**Stress Tolerance** • Positive Attitude and Even Temper • Stress Tolerance and Recovery • Accepting Responsibility for Mistakes
	5.	**Confronting and Overcoming Problems, Obstacles, and Adversity**
WORK HABITS	**6.**	**Conscientiousness** • Dependability/Reliability • Personal Accountability and Responsibility • Safeguarding and Maintaining Property, Equipment, and Belongings • Orderliness, Thoroughness, and Attention to Detail • Initiative and Drive • General Conscientiousness
INTERACTIONS WITH OTHERS	**7.**	**Interpersonal Skills** • Social Sensitivity • Social Interest and Concern • Tolerance • Social Self-Confidence/Persuasiveness • Teamwork
INTELLECTUALLY-BASED ABILITIES	**8.**	**Decision-Making and Judgment** • Situation/Problem Analysis • Adherence to Policies and Regulations • Response Appropriateness • Response Assessment
	9.	**Learning Ability**
	10.	**Communication Skills** • Oral Communication • Written Communication

MORAL CHARACTER

1. **Integrity.** This involves maintaining high standards of personal conduct. It consists of attributes such as honesty, impartiality, trustworthiness, and abiding by laws, regulations, and procedures. It includes:

   - ✓ Not **abusing the system** nor using one's **position for personal gain**; not yielding to temptations of bribes, favors, gratuities, or payoffs
   - ✓ Not bending rules or otherwise trying to beat the system
   - ✓ Not sharing or releasing **confidential information**
   - ✓ Not engaging in **illegal or immoral activities** — either on or off the job
   - ✓ **Honest and impartial** in dealings with others both in and outside the agency
   - ✓ Not condoning or ignoring unethical/illegal conduct in others
   - ✓ **Truthful and honest** sworn testimony, affidavits, and in all dealings with others

   INDICATORS:

   - Dishonesty in the hiring process, including:
     - deliberately misstating or misrepresenting identifying information or qualifications, whether orally or in writing
     - misleading any person involved in the pre-employment screening process by misstating, misrepresenting, or failing to completely answer questions
     - inaccuracies or deliberate omissions in applications, Personal History Statements, or any other documentation required as part of the pre-employment process used to help determine the candidate's suitability for employment
     - any other act of deceit or deception
   - Lying about past mistakes or oversights
   - Fraudulently reporting or other abuses/misuses of employer leave policies (e.g., sick leave, vacation, bereavement leave)
   - Abuses privileges and benefits of the job (e.g., overtime, use of supplies, equipment, internet access)
   - Involved in the sale or distribution of illegal drugs
   - Engages in inappropriate sexual activity (e.g., prostitutes, sex with minors, etc.)
   - Evidence of perjury, signing of false affidavits in any criminal or civil proceeding, falsification of official reports including statements, narratives, property documents, evidentiary documents, giving incomplete or misleading information to supervisors

- Cheating, plagiarism, or other forms of academic dishonesty
- Attempting to induce others to give false information
- Association with those who commit crimes or otherwise demonstrate unethical/ immoral behavior
- Commits illegal or immoral activities that would be offensive to contemporary community standards of propriety
- Commits crimes against employers — arson, burglary, stealing (goods, money, or services) — which would amount to a felony
- Conviction(s) of any criminal offense classified as a misdemeanor under California Law, especially as an adult
- Having an outstanding warrant of arrest at time of application for job or throughout the hiring process
- Admission of having committed any act amounting to a felony under California Law, as an adult
- Admission of any criminal act, whether misdemeanor or felony, committed against children, including, but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, indecent exposure (except acts of consensual unlawful intercourse accomplished between two minors, unless more than four years difference in age existed at the time of the acts)
- Actions resulting in civil lawsuits against the candidate or their employer
- Committing acts that, had they been detected, would have resulted in prosecution and conviction and would have automatically disqualified the candidate.

While Employed in a Position of Public Trust:

- Conviction of any offense classified as a misdemeanor under California Law while employed as a peace officer (including military police)
- Admission of administrative conviction of any act while employed as a peace officer, including military police, involving lying, falsification of any official report or document, or theft
- Admission of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer
- Accepting or soliciting any bribe or gratuity while in a position of public trust
- Embezzlement of money, goods or services while in a position of trust

2. **Impulse Control/Attention to Safety.** Avoiding impulsive and/or unnecessarily risky behavior to ensure the safety of oneself and others. It includes thinking before acting, taking proper precautions, keeping one's impetuous, knee-jerk reactions in check, and behaving in conscious regard for the larger situation at hand.

INDICATORS:

Safe Driving Practices

- Receipt of multiple moving violations (especially for potential life-threatening acts such as reckless driving, speed contest, etc.)
- Driver in multiple chargeable collisions. Numerous moving and non-moving violations, at-fault accidents
- Instances of road rage, driving recklessly and/or at excessive speeds

Attention to Safety

- Fails to take proper precautions to minimize risks associated with hazardous activities
- Takes unnecessary, foolish risks
- Disregards risk to self or others

Impulse/Anger Control

- Overreacts when challenged or criticized
- Unnecessarily confrontational in interactions with others
- Reacts childishly or with anger to criticism or disappointment
- Disciplined by any employer as an adult for fighting in the workplace
- Admission of any act of domestic violence as an adult
- Use of verbal or physical abuse or violence toward others
- Violent assault upon another, including spousal battery, sexual battery, or other acts of violence
- Admission of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state civil rights laws
- Instances of reprimands, counseling, terminations, suspensions for poor behavioral control at work

3. **Substance Abuse and Other Risk-Taking Behavior**. This involves engaging in behavior that is inappropriate, self-damaging, and with potential adverse impact on the agency, and includes alcohol and drug abuse, domestic violence, sale of drugs and gambling.

INDICATORS:

- Illegal use or possession of a controlled substance while employed in any law enforcement capacity, including military police
- Drug test of the candidate, during the course of the hiring process, where illegal controlled substances are detected
- Illegal or unauthorized use of prescription medications

- Illegal use or possession of a controlled substance while a student enrolled in college-accredited courses related to the criminal justice field
- Manufacturing, cultivating, transporting, brokering, or selling any controlled substances
- Record of alcohol or drug-related incidents, including driving under the influence or such charge reduced to reckless driving, violation of open container laws or transporting open containers
- History of other problems associated with drug and/or alcohol use
- Perpetrator of domestic violence incidents
- Missed work due to alcohol use
- Alcohol use while on the job (where prohibited)
- Arriving at work intoxicated/smelling of alcohol or hung-over
- Gambling to the point of causing harm to oneself

HANDLING STRESS AND ADVERSITY

4. **Stress Tolerance.** Maintaining composure, particularly during time-critical emergency events and other stressful situations, weathering negative events and circumstances and maintaining an even temperament and positive attitude. Accepting criticism without becoming overly defensive or allowing it to hamper behavior or job performance.

   INDICATORS:

   Attitude and Temperament

   - Worries excessively; enters into new situations with considerable apprehension
   - Overly suspicious and distrusting in dealing with others
   - Argumentative, antagonistic towards others, bully
   - Commonly behaves with hostility and anger
   - Behavior-impairing mood swings
   - Badmouths employers and others
   - Unnecessarily confrontational and aggressive
   - Disrupts/undermines authority (fails to successfully carry out directives; shows signs of contempt by eye rolling, excessive exhaling, etc.)

   Stress Tolerance and Recovery

   - Comes “unglued,” freezes, or otherwise performs ineffectively when feeling overloaded or stressed
   - Uncontrollable reaction to verbal abuse from others

- Reacts childishly or with anger to criticism or disappointment
- Allows personal problems and stressors to bleed into behavior on the job

Accepting Responsibility for Mistakes

- Does not accept responsibility for actions and mistakes; routinely makes excuses or blames others for own shortcomings
- Becomes excessively defensive or otherwise overreacts when challenged or criticized
- Minimizes the importance of past mistakes or errors
- Refuses to accept responsibility for mistakes or improper actions

5. **Confronting and Overcoming Problems, Obstacles, and Adversity.** This involves willingness and persistence in confronting problems and personal adversity. It includes taking control of situations, as necessary and demonstrating hustle and drive in reaching goals.

   INDICATORS:

   - Displays submissiveness and insecurity when confronted with challenges, threatening situations, or difficult problems
   - Fails to take action or change behavior to resolve problems or mistakes
   - Multiple personal bankruptcies, having current financial obligations for which legal obligations have not been satisfied; or any other flagrant history of financial instability
   - Allows debts to mount; evades creditors, collection agencies, etc.
   - Past due accounts, discharged debts, late payments, collection accounts, civil judgments, and/or bankruptcy
   - Fails to meet obligations (for example, auto insurance, auto registration, selective service registration, IRS requirements, child support obligations)
   - Fails to exercise fiscal responsibility commensurate with income

WORK HABITS

6. **Conscientiousness.** Diligent, reliable, conscientious work patterns; performing in a timely, logical manner in accordance with rules, regulations, and organizational policies.

   INDICATORS:

   Dependability/Reliability

   - Fails to meet commitments to work, school, family, volunteer, or community activities
   - Poor attendance; takes time off from work unnecessarily (e.g., on/near weekends)
   - History of being late to work, meetings, appointments
   - Misses scheduled appointment during the process without prior permission
   - Excessively long breaks, returning from lunch late, leaving work early
   - Fails to comply with instructions or orders
   - Fails to properly prepare for meetings

   Personal Accountability and Responsibility

   - Is not accountable for their performance
   - Blames others for improper actions
   - Fails to analyze prior mistakes or problems to improve performance
   - Disciplined by any employer (including military) for gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
   - History of involuntary dismissal (for any reason other than lay-off)
   - Conducts unauthorized personal business while on duty
   - Failure to exercise fiscal responsibility commensurate with income
   - Past due accounts, discharged debts, late payments, collection accounts, civil judgments, and/or bankruptcy
   - History of flagrant financial instability, such as multiple personal bankruptcies, financial obligations for which legal judgments have not been satisfied, etc.
   - Failure to meet obligations (for example, auto insurance, auto registration, selective service registration, IRS requirements, child support obligations)

   Safeguarding and Maintaining Property, Equipment, and Belongings

   - Fails to safeguard property entrusted to them

- Fails to maintain equipment
- Loses valuable information

Orderliness, Thoroughness, and Attention to Detail

- Pattern of disorganization in work, school, etc.
- Fails to attend to details (e.g., typos, missing/incorrect information)
- Fails to attend to all aspects of projects and activities to be sure they are completed
- Motor vehicle collisions due to inattentiveness
- Overlooks or misinterprets instructions on PHS and other documents
- Fails to properly recall instructions/directions provided previously
- Cannot properly recall pertinent/important details related to personal history
- Problems at school, work, driving due to poor attention/vigilance

Initiative and Drive

- Gives up in the face of long hours or other difficult working conditions
- Fails to keep current on new rules, procedures, etc.
- Does not initiate proper action unless given explicit instructions
- Fails to ensure that the job is performed correctly
- Procrastinates
- Watches the clock rather than attending to task accomplishment
- Gives up or cuts corners when faced with obstacles
- Performs job duties in a perfunctory manner, expending minimum amount of effort

General Conscientiousness

- Resigns without notice (except where the presence of a hostile work environment is alleged)
- Resigns in lieu of termination (except where a hostile work environment is alleged)
- Reprimanded or counseled for poor work performance (including military service)
- Terminated or suspended from work (other than honorable discharge from military)
- Released from probationary employment status except for reduction in force
- Poor record of academic achievement

INTERACTIONS WITH OTHERS

7. **Interpersonal Skills.** This involves interacting with others in a tactful and respectful manner, and showing sensitivity, concern, tolerance, and interpersonal effectiveness in one's daily interactions.

   INDICATORS:

   Social Sensitivity *(the ability to "read" people and awareness of the impact of one's own words and behavior on others)*

   - Provokes others by officious bearing, gratuitous verbal challenge, or through physical contact
   - Antagonizes others
   - Uses profanity and other inappropriate language
   - Incidents of domestic violence, use of verbal or physical abuse, or violence toward others
   - Use of physical force to resolve disputes
   - Demonstrated overreaction to criticism

   Social Interest and Concern *(interest and concern for others)*

   - Baits people; takes personal offense at comments, insults, or criticism
   - Evidence of inability to get along with others in work or personal life
   - Makes rude and/or condescending remarks to or about others
   - Source of customer/citizen complaints
   - Argumentative, loner, bully

   Tolerance *(tact and impartiality in treating all members of society)*

   - Makes hasty, biased judgments based on physical appearance, race, gender, or other group membership characteristics
   - Refuses to listen to explanations of others
   - Inability to recognize how one's own emotions/behavior affect situations and others
   - Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic, or sexual harassment or discrimination
   - During the hiring/background process or having a history of uttering any epithet derogatory of another person's race, religion, gender, national origin, or sexual orientation
   - Makes inappropriate comments to or about others regarding personal characteristics as well as derogatory comments about specific groups (racial, gender, sexual orientation, proficiency with the English language, immigrant status, HIV/AIDS infection, religion, transgender, social status)

- Evidence of the use of derogatory stereotypes in jokes or daily language
- Sexual harassment/hostile work environment incidents

Social Self Confidence/Persuasiveness *(inability and discomfort approaching individuals, and in confronting and reducing interpersonal conflict)*

- Avoids confrontations at all costs
- Intimidated by others
- Minimizes or avoids interactions with others
- Escalates situations by overreacting
- Fails to diplomatically offer ideas or persuade others to adopt desired course of action
- Disruptive/challenging to authority
- Use of harassment, threats, or intimidation to gain an advantage
- Succumbs to peer pressure

Teamwork (inability to work effectively as a member of a team)

- Resents successes and accomplishments of team members
- Does not assist or request assistance from team members
- Alienates colleagues by dominating interactions and activities
- Gossips, criticizes, and backstabs colleagues and coworkers
- Fails to achieve or maintain trust with peers, supervisors, and clients

INTELLECTUALLY-BASED ABILITIES

8. **Decision-Making and Judgment.** The ability to make timely, sound decisions, especially in dangerous, pressure-filled situations, and/or where information is incomplete and/or conflicting. Able to size up situations quickly to determine appropriate action. It also involves the ability to sift through information to glean that which is important and, once identified, to use that information effectively.

   INDICATORS:

   Situation/Problem Analysis

   - Unable to step into a situation and figure out what probably led up to that point in time, as well as what is likely to happen as the situation unfolds
   - Tunnel vision; does not see the big picture when analyzing information
   - Fails to identify patterns and implications when analyzing information
   - Failure to consider available information or appropriate options

- Naive, overly trusting, easily duped
- Spends too much time on minor issues; unable to set priorities

Adherence to Policies and Regulations

- Failure to consider organizational policies and regulations when making decisions
- Fails to use appropriate judgment and discretion in applying regulations and policies; cannot distinguish between the letter and the spirit of rules and laws
- Rigid adherence to rules without consideration of alternative information; needs directives to be in black and white

Response Appropriateness

- Poor judgment in knowing when to confront — and when to back away from —potentially volatile situations
- Overbearing approach to resolving problems
- Escalates problems by under or over-reacting
- Uses force when unnecessary or inappropriate
- Indecision or poor decisions when options are not clear-cut
- Paralyzed by uncertainty or ambiguity; insecure about making a decision

Response Assessment

- Unable or unwilling to make “midcourse corrections” on initial course of action when presented with new information or when circumstances change
- Fails to apply lessons learned from past mistakes

9. **Learning Ability.** Ability to comprehend and retain a good deal of information, to recall factual information, and to apply what is learned.

   INDICATORS:

   - Dismissal or probation from school, or other indication(s) of poor academic performance
   - Dismissal from a POST-certified Basic Academy, and no subsequent effort to improve in the deficient areas
   - Pattern of making repeated mistakes when faced with similar problems and negative situations, in and outside of learning environments

10. **Communication Skills.** Ability to make oneself understood, both orally and in writing.

    INDICATORS:

    Oral Communication

    - Speech is difficult to understand
    - Responses to questions are rambling, confused, and/or disorganized
    - Expresses thoughts and emotions inappropriately through facial gesture and body language
    - Discussions of topics are incomplete, inappropriate, and/or filled with a lot of unnecessary/irrelevant details
    - Fails to understand both explicit and implied messages and responds accordingly
    - Does not listen well, thereby missing the point of what others are saying

    Written Communication

    - Poor grammar, punctuation, and/or spelling
    - Written communications are incomplete, disorganized, unclear, and/or inaccurate
    - Written responses to Personal History Statement items are inappropriate, incomplete, or otherwise difficult to decipher

BIAS ASSESSMENT FRAMEWORK (Peace Officers)

Commission Regulation *1955* requires that an evaluation of a peace officer's emotional and mental condition include *"bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer."* Government Code section *1031.3* required POST to study, review and update regulations and screening materials to identify implicit and explicit bias in peace officer candidates. In 2021, POST commenced a subject matter expert panel to conduct research and develop regulations and guidance to meet this requirement,[7] resulting in a comprehensive literature review[8] and the development of the Bias Assessment Framework (framework).[9] Regulations requiring use of the framework and reporting of bias relevant findings to the hiring department were implemented August 1, 2022.[10]

The framework (Table 2.2) illustrates the important role that background investigation findings play in the psychological evaluation. It requires that "the psychologist's assessment of a peace officer candidate's explicit and implicit bias be informed, in part, by the candidate's background and personal history

7 See POST Bulletin *2021-22*.

8 "The use of measures of explicit and implicit bias for predicting discrimination." *POST Peace Officer Psychological Screening Manual*, Appendix P.

9 *POST Peace Officer Psychological Screening Manual*, Chapter 5, Step 6.

10 See POST Bulletin *2022-34*.

information, including (1) *history of biased behaviors,* (2) *evidence of mitigating or protective factors subsequent to biased behaviors,* and (3) *indicators of traits or attributes that may aggravate/facilitate or mitigate/protect against discriminatory behavior."*[11] As identified in Table 2.2, the psychological evaluator relies on background information to assess the candidate and determine their overall suitability for peace officer employment.

Table 2.2 depicts the areas relevant to the background investigation, specifically biased behaviors and bias-relevant traits and attributes. Tables 2.3a and 2.3b provide examples and serve as guidance in determining investigative areas to assist with identifying behaviors and traits and attributes that can be either aggravating/facilitative or mitigating/protective. Aggravating or facilitative factors (e.g., negative behaviors) are those which have been shown to ***increase*** the potential for biases being expressed in behaviorally discriminatory ways. Mitigating or protective factors (e.g., positive behaviors) are those shown to ***decrease*** the behavioral expression of bias in some contexts. During the background investigation it is important to consider both of these factors, especially when conducting interviews and gathering personal history information. For example, if there is a history of biased behavior (e.g., use of a racial epithet), it is important to provide evidence, if relevant and available, of mitigating factors subsequent to the biased behavior (e.g., evidence that the offense is so minor, or so much time has passed, or it happened under such unique conditions that it is unlikely to reflect a stable bias).

11 *POST Peace Officer Psychological Screening Manual*, p. 132.

Table 2.2

Bias Assessment Framework

Intended uses: (a) to guide background investigators to bias-relevant areas for inclusion in the background investigation report reviewed by the screening psychologist and (b) to guide screening psychologists in the collection and evidence-based use of bias-related information derived from sources of information identified in POST Commission Regulation 1955.

TARGETED CONSTRUCT	DATA SOURCES					
	Background and Personal History		Written Instruments		Psychological Interview	
	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective
Biased Behaviors	History of biased behaviors[1]	Evidence of mitigating or protective factors subsequent to biased behavior	Responses to written self-report questionnaire pertaining to a history of biased behaviors[2]	Not directly assessed	Interview questions pertaining to a history of biased behaviors	Interview questions pertaining to behaviors contrary to bias or that mitigate a history of biased behaviors
Biased Attitudes	Not directly assessed	Not directly assessed	*Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.*	*Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.*	Interview-based assessment of biased attitudes	Interview-based assessment of attitudes in opposition to the targeted bias
Bias-Relevant Traits & Attributes[3]	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes

1 Background investigations should include a broad range of diverse references and developed references including workplace (e.g., supervisors, co-workers), family members, neighbors, close personal relationships, social and family friends, teachers, military colleagues, and other contacts.

2 Psychological evaluators are required to assess each of the targeted constructs, but the data sources used for the assessments are at the discretion of each evaluator. For example, when the background investigation and psychological interview adequately assess biased behaviors and biased attitudes, respectively, written assessments of those constructs may not contribute incrementally to the assessment.

3 When there is clear and direct evidence of unmitigated biased behaviors or attitudes, other factors are not relevant for assessing the bias of a peace officer candidate. However, when direct evidence of explicit or implicit bias is unavailable, ambiguous, or relatively weak, it may be useful to consider related factors such as neutral or favorable intergroup contact, motivations to respond without prejudice, perceptions of social norms about prejudice, and executive function. These factors also generally contribute to more equitable behavior and fair treatment of others, and thus can mitigate tendencies to act in discriminatory ways even when some evidence of bias is detected.

Table 2.3a

Non-exhaustive List of Biased Behaviors

*This table provides a non-exhaustive list of examples of aggravating/facilitating (**negative**) factors and mitigating/ protective (**positive**) factors to guide background investigators in the areas that should be investigated and reported upon in support of the Bias Assessment Framework and the psychological evaluation.*

Examples of Aggravating or Facilitative Factors	Examples of Mitigating or Protective Factors
1. Use of slurs or epithets targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics 2. Acts of violence, harassment or discrimination targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics 3. History of disciplinary actions, reprimands, or other formal consequences (e.g., at school, work, military) for biased behavior against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics 4. Statements, postings on social media sites or in forums, and other behaviors indicating bias, social group dominance/ supremacy, or espousing intolerance of or hostile action against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics 5. Affiliation and engagement with a hate group, participation in hate group activities, or public expressions of hate 6. Voluntary and ongoing association with persons who hold membership in a hate group, participate in hate group activities, or engage in public expressions of hate.[1]	1. Evidence that the candidate made a prompt, good-faith effort to make restitution[2] 2. Evidence that the offense is so minor, or so much time has passed, or it happened under such unique conditions that it is unlikely to reflect a stable bias 3. Evidence that the candidate has matured or rehabilitated 4. The information, evidence or report was from a questionably reliable source 5. In the case of voluntary and ongoing association with persons who openly espouse bias, mitigating evidence may be that the association is warranted by one or more important social, familial or occupational ties and the candidate does not share the bias.

1 "Hate group" means an organization or group that, based upon its statements, principles or activities, supports, advocates for, threatens, or practices the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability. "Participation in hate group activities" means active and direct involvement in, or coordination or facilitation of, acts of violence by hate group members. "Public expression of hate" means any explicit expression in a public forum, on social media including in discussion forums, in writing, or in speech, advocating for, supporting, or threatening the genocide of, or violence toward, any individual or group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability. "Public expression of hate" also includes the public display of any tattoo, uniform, insignia, flag, or logo that indicates support for the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability

2 Items 1-4 are adapted from mitigation criteria published in the National Security Adjudicative Guidelines. (2017). See https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-4-Adjudicative-Guidelines-U.pdf

Table 2.3b
Non-exhaustive List of Bias-Relevant Traits and Attributes

EXAMPLES OF AGGRAVATING OR FACILITATIVE (Negative) FACTORS *(Factors that have been shown to increase the potential for biases being expressed in behaviorally discriminatory ways include the following bias-relevant traits and attributes.)*	EXAMPLES OF MITIGATING OR PROTECTIVE (Positive) FACTORS *(Bias-relevant traits and attributes shown to decrease the behavioral expression of bias in some contexts.)*
• **Trait cynicism** (opinions conveying a highly negative view of human nature) • **Misanthropy** (perceptions of others as hostile and threatening, general suspiciousness, and cynicism regarding the motives of others) • **Disinhibited or antagonizing externalizing tendencies** (Examples: impulsivity, disconstraint, antisocial behavior.) • **Interpersonal intolerance** (Examples: rigidity, closed-mindedness, antipathy, or unreflective responding toward a group or its members.) • **Low empathy** (particularly vis-à-vis persons outside one's own identity group) and **other personality traits and symptoms** shown in the police literature to be associated with post-hire counterproductive behavior involving mistreatment of others	• **High theory of mind** (the ability to recognize and anticipate others' intentions, beliefs and desires) • **High cognitive or executive control** (the capacity to constrain thought processes and behavior to reach goal-relevant ends, resulting from processes including planning and monitoring behavior; coordinating behavior in complex, novel, or ambiguous situations; selectively activating information that facilitates one's goals while actively inhibiting information that interferes; and overriding impulsive or automatic responses when they clash with goals) • **Favorable or neutral experience(s) with members of other groups** (intergroup contact) • **Motivations to respond without prejudice** • **Perspective taking** (actively contemplating others' psychological experiences, particularly among persons outside one's own identity group) • **Accountability to social norms** (the implicit or explicit expectation that one may be called on to justify one's beliefs, feelings, and actions to others)

The role of the background investigator is not to conduct medical or psychological evaluations or assessments of the candidate, rather it is to gather facts, supported by evidence, to assist with verifying good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer [Commission Regulation 1953(a)] or public safety dispatcher [Commission Regulation 1959(a)] and to provide relevant background and personal history information to the hiring authority. For peace officer candidates, the information must also be provided to the screening psychologist, including

documentation of potential biases (Commission Regulation 1955). A vital source of information about a candidate can be gathered from third-party sources (e.g., personal references).

> *…The reliability of third-party sources (friends, family, work references, neighbors) may be subject to great variation as a function of differences in frequency and duration of exposure to the candidate, the context of that exposure, and motivation to aid or harm the candidate. When evaluating the reliability and quality of information provided by third parties, it is important to consider the impartiality of the source and their familiarity with the subject. This does not mean, however, that a collateral informant needs substantial or prolonged exposure to the individual before reporting credibly. Third-party sources with very limited familiarity with the candidate may have accurate and relevant information if their exposure was sufficient to provide a reliable and accurate account or impression. Particularly when investigating a history of biased behavior, it is important that background investigators query "a broad range of diverse references and developed references, including workplace (e.g., supervisors, co-workers), family members, neighbors, close personal relationships, social and family friends, teachers, military colleagues, and other contacts" (Bias Assessment Framework, footnote 1). It is especially important to include, whenever available, third-party sources who differ from the candidate in terms of the characteristics listed in GC § 1031(f) (i.e., race or ethnicity, gender, nationality, religion, disability, or sexual orientation). Interviewing collateral sources from within the candidate's same identity groups may yield little information about biased behaviors even when they exist. This also points to the importance of obtaining information from secondary references (i.e., references offered by a candidate's initial references). These developed references may yield more information about the candidate than the primary references initially provided by the candidate… (Source: Peace Officer Psychological Screening Manual, Chapter 9.)*

The Background Investigation Dimensions also provide a resource for identifying behaviors directly relevant to the Bias Assessment Framework. For example, Interpersonal Skills (Dimension 7) identifies relevant mitigating or protective factors (i.e., positive behaviors) such as social concern, social sensitivity and tolerance, which include awareness of the impact of one's own words and behavior on others, the ability to interact with others in a tactful and respectful manner, and showing sensitivity, concern, tolerance, and interpersonal effectiveness in one's daily interactions. This dimension also identifies several factors that would indicate aggravating (i.e., negative) behaviors, including lack of tact and impartiality in treating all members of society; making hasty, biased judgments based on physical appearance, race, gender and other group member characteristics; uttering epithets derogatory of another person's race, religion, gender, national origin, or sexual orientation; and making inappropriate comments regarding personal characteristics about specific groups.

THE BACKGROUND INVESTIGATION REPORT

The Background Investigation Dimensions and the Bias Assessment Framework (for peace officer candidates) serve as points of focus for the background investigation itself, as well as issues to be considered when preparing the final report. The background investigation behavioral indicators consist of past behaviors; as such, they are intended to provide the background investigator with a set of markers to look for in the candidate's personal history. Although it is not necessary to include a separate evaluation of the candidate on each of the ten dimensions, the report must include those that are relevant based on the candidate's personal history and, in the case of peace officer candidates, must also include any findings of biases and evidence of positive behaviors, if relevant, that may mitigate potential biases. Not only is it required, but it is imperative that all relevant findings and supporting documentation be included in the background investigation report [Commission Regulation 1953(g)]. Without findings from a comprehensive background investigation, the hiring authority and those conducting peace officer screening evaluations would necessarily be forced to rely solely on the candidate's self-reported history, which the candidate may willfully conceal or naively deny.[12]

HIRING CONSIDERATIONS

No amount of standard-setting, however, will eliminate the need to make case-by-case judgments based on specific facts presented by each candidate's background. Rarely is one fact a sufficient basis for disqualifying an individual; rather, it is generally necessary to investigate the circumstances surrounding each fact in order to make an educated determination of the candidate's suitability, taking into consideration such factors as:

- The patterns of past behavior and specific combinations of fact and circumstances,
- The consequences if past undesirable behavior occurs again or becomes generally known,
- The likelihood of recurrence of the undesirable behavior,
- The relevance of the past behavior to the job demands and requirements,
- The length of time between the particular undesirable act and the application for employment, with consideration given to the intervening behavior of the candidate,
- Positive attributes and/or behaviors that may mitigate past behaviors, and
- The legal rights of the candidate.

For peace officers, screening psychologists take into consideration similar factors when reviewing candidate personal history, including:

1. The nature, extent, and seriousness of the conduct;
2. The circumstances surrounding the conduct;

12 *POST Peace Officer Psychological Screening Manual*, p.132.

3. The frequency and recency of the conduct;
4. The individual's age and maturity at the time of the conduct;
5. The extent to which participation was voluntary;
6. The presence or absence of permanent behavioral changes;
7. The motivation for the conduct;
8. The degree to which the behavior violates societal and cultural norms;
9. The likelihood of continuation or recurrence; and
10. The relevance of the behavior to one or more of the POST Psychological Screening Dimensions.

These factors are considered in evaluating the relevance of any given behavioral act or admission.[13] Thus, it is important for investigators to be aware of these factors when conducting the background investigation to ensure that screening psychologists have appropriate personal history information. These factors and other information relevant to background investigations can be found in Chapter 7: Personal History Information of the *Peace Officer Psychological Screening Manual*. Background investigators and other pertinent department personnel are highly encouraged to review the information presented in the chapter.

13 *POST Peace Officer Psychological Screening Manual*, p.142.

Chapter 3

LEGAL QUALIFICATIONS AND STATUTORY FRAMEWORK

The background investigation of peace officers and public safety dispatchers is one part of a larger pre-employment screening process dictated by California law and POST regulations. In addition to the background investigation, the process must include a written examination, hiring interview, medical evaluation, and (for peace officers) a psychological evaluation. The statutory and regulatory requirements — particularly those that have an impact on background investigations — for screening peace officers and public safety dispatchers are reviewed here.

OVERVIEW OF PRE-EMPLOYMENT SCREENING REQUIREMENTS

The selection standards for peace officers and public safety dispatchers are summarized below. The codes and regulations discussed here are included in *Table 3.1* (located at the end of this chapter).

Peace Officers

STATUTORY REQUIREMENTS

Government Code *§1031* establishes minimum selection standards for peace officers. It includes minimum criteria on citizenship, age (see additional age requirements in GC §1031.4, below), and education. It also requires that applicants be fingerprinted as part of the search of local, state, and national files to disclose any criminal record, and be found to be of good moral character as determined by a thorough background investigation. These requirements, which form the basis for the background investigation, are discussed in detail in *Chapter 5*, "Areas of Investigation and Personal History Statements."

Government Code *§1031.4*, implemented in January 2022 by Assembly Bill (AB) 89, establishes minimum age criteria, including requiring specified peace officers to be 21 years of age at the time of appointment. This includes peace officers appointed to 830.1, 830.2, 830.3, 830.32 or 830.33 of the Penal Code or peace officers employed by agencies participating in the POST program. Exceptions include jail deputies appointed under 830.1(c) of the Penal Code and any person who, as of December 31, 2021, is currently enrolled in a basic academy, who must continue to meet the minimum age requirements of GC §1031 (i.e., minimally 18 years of age at time of appointment).

Government Code §1031(f) also provides that peace officers must be found free of any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

Government Code §1029, provides that individuals who have been convicted of a felony or other specific crimes, are prohibited from becoming peace officers, except as provided in Gov't Code §1029(b)-(e). Senate Bill (SB) 2 (2021)[14] added and amended substantial provisions to GC §1029, including disqualification from peace officer employment as a result of specified crimes against public justice, military offenses amounting to felony convictions, revocation of certification, inclusion in the National Decertification Index (NDI), and other provisions. Juvenile convictions, even those that would amount to a felony as an adult, may not be covered under Gov't Code §1029, depending upon the circumstances, and therefore may not be an automatic bar to appointment as a peace officer. Due to the increased complexity of GC §1029, close consultation with legal counsel is advised.

In their fingerprint returns, the California DOJ and the FBI should state whether the candidate is eligible to become a peace officer based on GC §1029. Further, the firearms eligibility clearances by the DOJ and FBI should document eligibility to possess or purchase firearms; DOJ submits a firearms clearance separately from the general fingerprint return. Government Code section 1029(f), implemented by SB-2, requires that the California DOJ also report any disqualifying information to POST to determine peace officer certification status.

Penal Code §1107.18, §29805 and U.S. Code Title 18 §922(d)(9) and (g) impose bans on possession of a firearm. For example, PC §1107.18 specifies that individuals who have had felony convictions reduced to misdemeanors are prohibited from possessing or owning firearms and PC §29805 specifies that the enumerated persons may not own or possess a firearm from ten years following any specified conviction. U.S. Code Title 18 §922(d)(9) bans the sale or transfer of a firearm to individuals who have been convicted of misdemeanor crimes of domestic violence, and forms the basis for the firearms clearance issued by the FBI. Further, U.S. Code Title 18 §922(g) outlines additional offenses that would prohibit firearms possession.

GC §1031.1 establishes procedures obligating employers to furnish specified information for the purposes of performing thorough background investigations for peace officer and other law enforcement agency applicants (e.g., public safety dispatchers). GC 1031.1 is discussed in Chapter 5, "PHS Section 5: Experience and Employment."

For candidates with prior peace officer experience, PC §832.12 imposes additional requirements that hiring departments review the officer's general personnel file, or a separate file designated by the department or agency, for records of any investigations of misconduct involving the peace officer.

GC §1031.2 allows the post-offer collection of certain non-medical and non-psychological information during the peace officer background investigation if it was not reasonable to collect the information prior to the conditional offer of employment. The implications of this statute are discussed later in this chapter and in Chapter 4, "The Background Investigation Process."

14 Senate Bill (SB) 2: Peace Officer Certification added several sections to 1029 of the Government Code; requires POST to establish a peace officer certification/decertification program; and implements other provisions. Changes are effective as of January 1, 2022, unless stated otherwise. POST has developed a specific webpage to address these new and impending requirements: https://post.ca.gov/SB-2..

GC §1031.5 serves as an amendment to the citizenship requirements of GC 1031, stipulating that a permanent resident may be disqualified from holding a peace officer position if their citizenship status is denied, or, if, within three years of filing an application for citizenship, the person has not obtained citizenship due to failure to cooperate in the processing of the application. Citizenship requirements are discussed in Chapter 5, "PHS Section 1: Personal."

REGULATORY REQUIREMENTS

The POST peace officer selection requirements consist of:

- Regulation 1950: General Requirements
- Regulation 1951: Reading and Writing Ability Assessment
- Regulation 1952: Oral Interview
- Regulation 1953: Background Investigation
- Regulation 1954: Medical Evaluation
- Regulation 1955: Psychological Evaluation

Regulation 1950: Selection Requirements specify who is covered by (and who is exempted from) Regulations 1951-1955. As indicated in 1950, all peace officer candidates are covered by these regulations, regardless of prior law enforcement experience either at the same department or at a different department within the same city, county, state, or district. However, the following candidates are *exempt from these requirements:*

1) Peace officers who change penal code classifications (e.g., from reserve to regular officer), assuming documentation exists showing that all current requirements were met, and the officer has worked continuously in the department since the time of initial appointment;

2) Peace officers whose department is merged with another department in the same city, county, state, or district, assuming documentation exists showing that all current requirements were met, and the officer has worked continuously in the department since the time of initial appointment.

3) Peace officers who are reappointed to the same department within 180 days of voluntary separation.[15]

For peace officers who are mandatorily reinstated (as a result of a personnel hearing, arbitration, court decision, etc.), POST requires that the department: (A) resubmit fingerprints to DOJ and FBI (unless agency was never informed of the officer's separation from the department), (B) perform a new DMV check,[16] and (C) verify qualification for appointment.[17]

15 Departments have sole responsibility for determining the assessments necessary and qualifications required to ensure that these reappointed officers meet the requirements of Government Code §1029 and §1031.

16 If the reinstated officer was not a citizen at time of initial appointment, and three or more years have elapsed, the department must also obtain verification that the officer has since been granted citizenship (per GC §1031.5).

17 SB-2 (2021) added several subsections to Government Code §1029: peace officer disqualification.

POST selection requirements must be satisfied prior to the date of appointment as a peace officer. Other specifics, including time limit and transferability of results, are discussed in each regulation.

Regulation *1951*: Reading and Writing Ability Assessment specifies the options available for demonstrating that peace officer (including reserve officer) candidates possess adequate written communication skills.

Regulation *1952*: Oral Interview specifies the requirements of the oral interview, including the six POST Interview Factors that must be addressed.

Regulation *1953:* Background Investigation specifies the requirements for the background investigation, including mandatory background investigation training,[18] evaluation criteria, required forms, areas of investigation, background investigation updates, and documentation and reporting. These regulations are detailed later in this chapter.

Regulation *1954*: Medical Evaluation Reporting Requirements provides that a medical suitability declaration is to be maintained in the candidate's background investigation file and must include: (A) the physician's contact information and medical license number; (B) the candidate's name; (C) the date the evaluation was completed; and (D) a signed statement affirming that the evaluation was conducted in accordance with POST regulations, and a determination that the candidate was found medically suitable prior to appointment.

Regulation 1954(e): Medical Evaluation Reporting Requirements provides that a medical suitability declaration is to be maintained in the candidate's background investigation file and must include: (A) the physician's contact information and medical license number; (B) the candidate's name; (C) the date the evaluation was completed; and (D) a signed statement affirming that the evaluation was conducted in accordance with POST regulations, and a determination that the candidate was found medically suitable prior to appointment.

The information required in the medical suitability declaration is not medical; therefore, it is lawful to include it in the background file. However, any additional information provided by the physician that is medical must be kept separate and confidential. Information from the physician - medical and otherwise - may be communicated to the background investigator and others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.

Regulation *1955*: Psychological Evaluation requirements mirror the requirements in Regulation 1954 (Medical Evaluation), including specifying psychological evaluator qualifications, timing of the evaluation, psychological screening procedures and evaluation criteria, required sources of information, and the second opinion rights of psychologically disqualified candidates.

The psychological evaluation reporting requirements [Regulation 1955(e)] include findings from the bias assessment and information identical to that discussed above for Regulation 1954(e): Medical Evaluation Reporting Requirements.

18 Effective July 1, 2023, all background investigators must complete POST-certified background investigation training, prior to conducting investigations [Regulation *1953(a)(1)*].

Public Safety Dispatchers

STATUTORY REQUIREMENTS

Penal Code *§13510(c)* authorizes POST to establish minimum standards for recruiting and training public safety dispatchers working in agencies that participate in the POST program. In contrast to peace officer standards, there are no statutory minimum age, education, or citizenship requirements specific to public safety dispatchers, no statutory requirements related to felony or misdemeanor conviction, and no requirement for psychological screening.

REGULATORY REQUIREMENTS

The POST public safety dispatcher selection requirements consist of:

- Regulation 1956: General Requirements
- Regulation 1957: Verbal, Reasoning, Memory, and Perceptual Abilities Assessment
- Regulation 1958: Oral Communication Assessment
- Regulation 1959: Background Investigation
- Regulation 1960: Medical Evaluation

Regulation *1956*: General Requirements specifies who is covered by (and who is exempted from) these standards. All public safety dispatcher "candidates" are subject to Regulations 1957-1960, regardless of prior public safety dispatcher experience either at the same department or at a different department within the same city, county, state, or district, or whether they are applying for a full-time or part-time position. However, dispatchers who are employed by a department that is merged with another department in the same city, county, state, or district are not subject to these requirements, as long as documentation exists showing that all current requirements were met, and the dispatcher has worked continuously in the department since the time of hire.

For public safety dispatchers who are mandatorily reinstated (as a result of a personnel hearing, arbitration, court decision, etc.), the department must resubmit fingerprints to DOJ and FBI, unless these agencies were never informed of the dispatcher's separation from the department.

Peace officers who are assigned to dispatcher duties are not subject to POST Regulations 1957-1960. Additionally, dispatchers who return to the same department after a voluntary separation of no more than 180 days are exempt from these requirements.

POST selection requirements must be satisfied prior to the date of appointment as a public safety dispatcher. Other specifics, including time limits and transferability of results, are discussed in each regulation.

Regulation *1957*: Verbal, Reasoning, Memory, and Perceptual Abilities Assessment specifies the options available for demonstrating that dispatcher candidates have adequate verbal, reasoning, memory, and perceptual abilities.

Regulation *1958*: Oral Communication Assessment provides that the oral communication abilities of public safety dispatcher candidates must be assessed prior to a conditional offer of employment.

Regulation *1959*: Background Investigation specifies the requirements for the background investigation, including mandatory background investigation training,[19] evaluation criteria, required forms, areas of investigation, background investigation updates, and documentation and reporting. These regulations are detailed later in this chapter.

Regulation *1960*: Medical Evaluation specifies medical evaluator qualifications, timing of the medical evaluation, medical screening procedures and evaluation criteria, required sources of information, and the second opinion rights of medically disqualified candidates.

Regulation 1960(e): Medical Evaluation Reporting Requirements provides that a medical suitability declaration is to be maintained in the candidate's background investigation file and must include: (A) the physician's contact information and medical license number; (B) the candidate's name; (C) the date the evaluation was completed; and (D) a signed statement affirming that the evaluation was conducted in accordance with POST regulations, and that the candidate was determined to be medically suitable.

The information required in the medical suitability declaration is not medical; therefore, it is lawful to include it in the background file. However, any additional information provided by the physician that is medical must be kept separate and confidential. Information from the physician - medical and otherwise - may be communicated to the background investigator and others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.

Although POST does not require a psychological evaluation for public safety dispatcher candidates, many departments include the evaluation as an additional selection standard.[20]

POST BACKGROUND INVESTIGATION REGULATIONS: PEACE OFFICERS (1953) AND PUBLIC SAFETY DISPATCHERS (1959)

Peace officer background investigation requirements are contained in Commission Regulation 1953; public safety dispatcher requirements are included in Commission Regulation 1959. There is close alignment between the requirements for peace officers and public safety dispatchers. Differences in the background investigation requirements are the result of statutory differences between the two classifications (for example, GC *§1029* prohibits convicted felons from becoming peace officers, but there is no equivalent statutory prohibition for dispatchers).

19 Effective July 1, 2023, all background investigators must complete POST-certified background investigation training, prior to conducting investigations [Regulation *1959(a)(1)*].

20 Cal. Pen Code *§13510(d)*; Commission Regulation *1956(d)*

The background investigation regulations are summarized below. The descriptions note the similarities or differences between peace officers and public safety dispatcher regulations and the location of where the regulation is discussed in more detail elsewhere in the Manual.

Background Investigation Evaluation Criteria

Commission Regulations 1953(b) and 1959(b)

The **POST Background Investigation Dimensions** described and discussed in *Chapter 2:* "Peace Officer and Public Safety Dispatcher Background Investigation Dimensions" must be considered during every peace officer and public safety dispatcher background investigation. For peace officer backgrounds, biased behaviors and bias-relevant traits and attributes must also be investigated and findings must be reported to the hiring department and screening psychologist.

Personal History Statements

Commission Regulations 1953(c) and 1959(c)

Applicants must complete a **Personal History Statement** - POST *2-251* for Peace Officers; POST *2-255* for Public Safety Dispatchers, or an alternative questionnaire covering the same areas of investigation. See *Chapter 5:* "Areas of Investigation and the POST Personal History Statement."

Collection of Background Information – Pre- and Post-Conditional Offer of Employment

Commission Regulations 1953(d) and 1959(d)

In accordance with the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA), no medical or other disability-related inquiries may be made during a background investigation that is conducted prior to a conditional offer of employment (pre-offer).

Background investigators may, under certain circumstances, make non-medical and non-psychological inquiries after a conditional offer of employment has been extended. Guidance on sequencing the background investigation in compliance with the ADA and FEHA is provided later in this chapter and in Chapter 4, "The Background Investigation Process."

At the post-offer stage, background investigators must interact with screening psychologists, physicians, and others, as necessary, to ensure that everyone involved in the hiring process has the information necessary to conduct their respective assessments of the candidate.

Areas of Investigation

Commission Regulations 1953(e) and 1959(e)

The required areas of investigation for peace officer candidates and public safety dispatchers are quite similar. In addition, the regulations provide detailed specifics on the documentation necessary for each area of investigation for both types of candidates.

The required areas of investigation are summarized below. More detailed information is provided in *Chapter 5:* "Areas of Investigation and the POST Personal History Statement."

- **Citizenship Verification (Peace Officers)** – Peace officers must be citizens or have applied for citizenship within three years of appointment. (California Highway Patrol officers must be citizens at time of appointment.) Accepted proof includes government-issued birth certificate, naturalization documentation, or valid U.S. passport.[21]
- **Age (Peace Officers)** – Peace officers must be at least 21 years old. Exceptions are those appointed as 830.1(c) peace officers (i.e. jail deputies) who must be at least 18 years of age.
- **Employment Eligibility (Public Safety Dispatchers)** – There are no specific citizenship or age requirements for public safety dispatchers; however, proof of eligibility to work in the United States (*USCIS Form I-9* – Employment Eligibility Verification) is required.
- **Criminal Record and Other Qualification Checks – Local, State, and National (Peace Officers and Public Safety Dispatchers)** – Criminal and other records searches at the local, state, and national levels are required. Fingerprint clearances are required from the DOJ and FBI. Firearms clearances are required for peace officer candidates. A peace officer candidate's qualification for appointment must also be verified (GC *§1029*).
- **Driving Record Check (Peace Officers and Public Safety Dispatchers)** – DMV reports or other official driving records are required for both peace officers and public safety dispatchers.
- **Education Verification (Peace Officers and Public Safety Dispatchers)** – Minimum peace officer educational requirements are detailed in GC *§1031(e)*. Although there are no minimum educational requirements for public safety dispatchers, verification of educational history must be collected as a measure of conscientiousness, learning ability, and related attributes. Official transcripts are acceptable proof; diplomas are not.
- **Employment History Checks (Peace Officers and Public Safety Dispatchers)** – Employment checks are required for a period of at least 10 years for peace officers; employment checks of employers within the last ten years are required for public safety dispatchers. For peace officer candidates with prior experience, hiring departments are required to check their personnel, or other separate file designated by the employing department, for records of investigations of misconduct (PC *§832.12*).
- **Relatives/Personal References Checks (Peace Officers and Public Safety Dispatchers)** – Contacts and interviews with relatives, including former spouses/registered domestic partners and personal references listed on the candidate's Personal History Statement are required for both peace officers and public safety dispatchers. Secondary references must also be contacted.

21 U.S. passports issued to U.S. nationals from American Samoa, Swains Islands and Commonwealth of the Northern Marianas Islands are not acceptable proof of U.S. citizenship. Candidates from these areas must provide other verification of U.S. citizenship.

- **Dissolution of Marriage Check (Peace Officers and Public Safety Dispatchers)** – Proof of marriage dissolution/separation is explicitly stipulated in the requirements for both peace officers and public safety dispatchers.
- **Neighborhood Checks (Peace Officers and Public Safety Dispatchers)** – Contacts and interviews with neighbors are required for both peace officers and public safety dispatchers, regardless of length of time at residence.
- **Military History Check (Peace Officers and Public Safety Dispatchers)** – Proof of Selective Service registration (where applicable) and military service records are required for both peace officers and public safety dispatchers.
- **Credit Records Check (Peace Officers and Public Safety Dispatchers)** – Credit records checks are required for peace officers and public safety dispatchers.
- **Social Media Check (Peace Officers)** – Social media checks are required to ensure that peace officer candidates are suitable for employment.

Background Investigation Updates

Commission Regulations 1953(f) and 1959(f)

Background investigation updates are explicitly sanctioned for peace officers and public safety dispatchers who are either reappointed to the same department, or who transfer (with no break in service) to a different department within the same city, county, state, or district that maintains a centralized personnel and background investigation support division. Under certain circumstances, updated background investigations may also be conducted for interim chiefs of police.

For reappointments[22], the background investigation update must address the period of time since the individual separated from the department. For inter-departmental transfers and interim chiefs of police, the period since the last background investigation must be covered. All update investigations, at a minimum, must include a new local criminal record check, state and national criminal record checks (unless the individual was not removed from the department's DOJ or FBI files), DMV check, credit check, and verification of qualification for appointment per GC §1029.

Documentation and Reporting

Commission Regulations 1953(g) and 1959(g)

The documentation and reporting requirements provide detailed specifications on information to be maintained in the background investigation file. It specifies that there must be sufficient information for the reviewing authority to make a conditional offer of employment, that supporting documents must be originals or true, current and accurate copies, and that these documents must be available during POST compliance inspections. Referencing related statutes and case

22 Peace officers and public safety dispatchers reappointed to the same department within 180 days of a voluntary separation are exempt from POST requirements [Commission Regulations 1950(c)(1)(C) and 1959(c)(1)(B)].

law, this regulation also addresses retention requirements and access by others involved in the hiring process, and by those conducting background investigations on behalf of other law enforcement/public safety dispatcher agencies. More detailed information is provided in *Chapter 4:* "The Background Investigation Process."

Disclosure Provisions: Differences and Similarities between Peace Officers and Public Safety Dispatchers

There are statutory provisions that allow investigators greater access to background information of peace officer candidates, and other statutes that allow special access to information from past and current employers of both peace officers and public safety dispatchers. These include:

- **Deferred Entry of Judgment** – Penal Code *§1000.4(a)* allows those who have successfully completed a deferred entry of judgment program to refrain from disclosing any arrest or criminal record associated with that offense. Public safety dispatcher candidates fall under this protection; however, PC *§1000.4(c)* specifically exempts peace officers (who must therefore disclose this information).
- **Arrests and Detentions** – Labor Code *§432.7* prohibits employers from considering an arrest or detention that did not result in a conviction, or a juvenile arrest, detention, processing, diversion, supervision, adjudication, or court disposition. However, a provision in this statute permits employers to consider this information in the case of persons already employed as peace officers or who are seeking employment as peace officers, or for persons seeking employment for positions in the DOJ or other criminal justice agencies as defined in Penal Code *§13101*.
- **Conviction History** – Government Code *§12952* prohibits employers from inquiring or considering an applicant's conviction history prior to a conditional offer of employment. This includes arrests not followed by conviction, diversion programs, and convictions that are sealed, dismissed, expunged or otherwise eradicated. However, GC §12952(d)(2) provides that this provision does not apply in the case of applicants for positions with criminal justice agencies as defined in Penal Code *§13101*.
- **Compelled Disclosure of Employment Information** – Government Code *§1031.1* establishes procedures by which employers are legally obligated to furnish specified information in peace officer and other law enforcement agency applicant (i.e. dispatcher) background investigations. For candidates with previous peace officer experience, Penal Code *§832.12* requires peace officer employers to maintain records of investigations of misconduct in a general personnel file or designated separate file; compels candidates to provide written permission to view the files; and requires hiring departments to review the records.

These disclosure provisions should serve to caution investigators against making unnecessarily invasive inquiries, especially of dispatcher candidates. Other statutory protections may bar consideration of specified criminal processes for either peace officer or public safety dispatcher candidates (i.e., those records

sealed pursuant to PC §851.7 or expunged pursuant to PC §851.8). Close consultation with the agency's legal counsel is critical.

The California courts have also shown a certain amount of inconsistency when addressing a given candidate's rights to inspection of information contained in their pre-employment background investigation file. This is another area where close consultation with the agency's legal counsel is critical.

PRIVACY AND CONFIDENTIALITY LAWS

Article 1 of the California Constitution grants the citizens of the state the right of privacy. As a result, prospective employers are specifically prohibited from asking for unnecessarily intimate or personal information; they are also required to use the least invasive means necessary to gather any intrusive information that can be justified as necessary. Generally, the more intimate or personal the information, the more justified is the expectation that it will not be subject to public scrutiny.[23]

Despite privacy protections, courts have paid great deference to the need for intrusive questioning of law enforcement applicants — and peace officer applicants in particular — in light of the serious and often dangerous nature of the job and the inherent responsibility for carrying a firearm and protecting the public. However, this deference has been shown to have limits. For example, in *Thorne v. City of El Segundo*,[24] the court sided with a rejected peace officer applicant who was asked questions about her extra-marital affairs, abortions, and other "private, non-job-related considerations."

In addition to limiting information to only that which is necessary, agencies must also establish procedures and precautions to prevent unwarranted disclosure of private and otherwise sensitive information. All information provided by the applicant in the Personal History Statement and throughout the background investigation is **private** and should be treated as **confidential**. No portion of the investigation should be revealed to persons other than those who are specifically authorized to receive and evaluate the results.

California law also protects the privacy rights of those who provide confidential information for investigative or employment purpose. These rights are described in detail in connection with contacting references in Chapter 5: "Areas of Investigation and the POST Personal History Statements."

Procedures that treat questionnaires in a confidential fashion are necessary to ensure that privacy interests of applicants and employees are maintained.[25] All confidential information should be maintained in a secure filing cabinet, with access limited to those involved in the employment decision.

23 *Loder v. City of Glendale,* 14 Cal. 4th 846, 882-883 (1997) (strength of governmental interest will be weighed against the intrusion on reasonable expectations of privacy of job applicants).

24 *Thorne v. City of El Segundo*, 726 F.2d 459, 471 (9th Cir. 1983).

25 Andrew J. Ruzicho and Louis A. Jacobs, Chapter 4. Selecting New Hires and Promotees, Employment Practices Manual, March 2005

CONFIDENTIALITY VS. LEGAL PRIVILEGE

By California law, certain communications made, without malice, in the course of a legally mandated background investigation may enjoy an "absolute" or "qualified privilege."[26] This does not mean that someone cannot be sued over a privileged communication; it means that they are unlikely to be successfully sued.

Privilege should not be confused with confidentiality. While certain statutes, such as the *California Information Practices Act*[27] and even the *Investigative Consumer Reporting Agencies Act*[28] restrict disclosure of personal information of individuals contacted during the course of a background (except as specified in those acts), not all information is legally protectable in subsequent civil or criminal proceedings.

It is therefore unwise to promise confidentiality that does not exist in the law. However, strong arguments exist that background investigators' sources of information should be protected, as well as any information that could identify those sources.[29]

EMPLOYMENT DISCRIMINATION LAWS AND REGULATIONS

There are ever-increasing numbers of laws and regulations – both federal and state - that govern the personnel practices of all employers, including *Title VII of the Civil Rights Act (CRA) of 1964* (as amended), the *Age Discrimination in Employment Act (ADEA) of 1967*, the *Americans with Disabilities Act (ADA) of 1990*, and the *California Fair Employment and Housing Act (FEHA)*. They all share a common purpose: to prohibit *unfair discrimination* in employment and provide equal opportunity for all. Unfair discrimination occurs when employment decisions are based on any protected class, including race; sex; gender; religion; ethnicity; national origin or ancestry; age; disability; pregnancy; genetic information; political affiliation; (and in California), medical condition, marital status, sexual orientation, gender identity, gender expression, or military and veteran status, rather than on job-relevant knowledge, skills, abilities, and other characteristics.

Unfair discrimination can take two forms: *Disparate Treatment* or *Disparate Impact*. **Disparate treatment** occurs when an applicant from a protected class is treated differently than other applicants during the hiring process. Employers are vulnerable to allegations of disparate treatment when their selection inquiries and practices are inconsistent.

Background investigators should carefully evaluate the relevance of their inquiries to the ability of the applicant to perform the functions of the position. Although

26 A communication protected as "privileged publication or broadcast" is defined in Civil Code *§47(c)* and includes communications "concerning the job performance or qualifications of an applicant for employment, based upon credible evidence, made without malice, by a current or former employer of the applicant to, and upon request of, one whom the employer reasonably believes is a prospective employer of the applicant."

27 Civil Code *§1798* et seq.; Johnson v. Winter 127 Cal App. 3d 435 (1982) (confidentiality of applicant files)

28 Civil Code *§1786* et seq.

29 See, e.g., *McQuirk v. Donnelly*, 189 F.3d 793 (9th Cir., 1999), which discusses privileged communications and immunities involving statements made by a police chief regarding a former officer who had applied to a new agency.

there are certain allowances for screening peace officer and other public safety applicants, certain questions are ill-advised unless they are sufficiently related to the applicant's ability to perform the functions of the position.

Certain questions should be avoided altogether. For example, asking applicants questions such as *"What is your religion?" "What church do you attend?" "What is your political affiliation?" "Are you a homosexual?" "What is your race?" "Are you pregnant?" "Do you plan to have children? If so, when?"* invite charges of discrimination and intentional, disparate treatment.

Disparate impact occurs when a seemingly neutral standard or practice results in a substantially different rate of selection that works to the disadvantage of members of a protected class.[30] For example, a height standard can disqualify a disproportionate percentage of women and certain minorities; standards related to credit history or arrest records tend to target certain minorities in disproportion to their percentage of the population. Any selection procedure that causes disparate impact may only be used if it can be demonstrated that it is **job-related and consistent with business necessity** (i.e., essential to the safe and efficient operation of the agency).

Although these laws impose restrictions on the types of information that can be collected, the timing of investigations, and the manner in which decisions can be made and justified, it is important to remember that no federal or state statute, court decision, or binding public policy requires an employer to hire unqualified persons or to lower job relevant, legitimate employment standards. The most important way to ensure that the background investigation process is legally acceptable is to focus only on that which is necessary for determining if a candidate meets lawful position requirements and standards. Background investigators must therefore be fully familiar with and able to articulate all aspects of the job in question and the relationship to their inquiries. Agency policy should ensure consistency in the manner in which background information is collected and evaluated, yet allow flexibility to handling each applicant individually, as necessary.

DISABILITY DISCRIMINATION LAWS AND REGULATIONS

The Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA)

Confidentiality is never more important than when dealing with medical and disability-related information. In fact, the manner in which disability-related information is acquired, evaluated, and treated is the focus of the federal *Americans with Disabilities Act (ADA) of 1990* and the *California Fair Employment and Housing Act (FEHA)*. The purpose of both of these statutes is to prohibit discrimination against qualified individuals with disabilities in hiring and any other aspect of employment.

While a full explanation of these laws and their implications for employment procedures in general is far beyond the scope of this manual, a brief description

30 A rule of thumb is that disparate impact is normally indicated when the selection rate for one group is less than 80% (4/5) that of another.

of ADA/FEHA and how it may affect background investigations is provided below. In addition, background investigators are urged to consult with their legal counsel and/or ADA coordinator whenever disability-related issues arise.

The ADA and FEHA are NOT identical. Federal and state disability laws differ in terms of who is considered "disabled" (and therefore protected), what can be asked after a conditional job offer is extended, and in other ways. In general, the California FEHA affords more protection to the disabled than does the ADA, although the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) brought many of its provisions closer to those specified in California law. Where there are differences between the two laws, the one that provides the most protection to the disabled prevails, and it will be those provisions that are discussed below with respect to their impact on background investigations.

Who Is Protected

To be protected by ADA/FEHA, individuals must be: 1) disabled **and** 2) "otherwise qualified" to perform the essential functions of the job (with reasonable accommodation, if necessary). Individuals are "disabled" if they have a physical or mental impairment that limits one or more major life activities, a record of such impairment, or are regarded as having an impairment. Current illegal drug use (either use of illegal drugs or unlawful use of legal drugs) is not covered by these laws. However, individuals who have a history of drug addiction/dependence are. Both current and past alcoholism are protected conditions.

Who Is Not Protected

The following conditions are not considered disabilities under the ADA (*42 U.S.C. §12211*):

- Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders
- Compulsive gambling, kleptomania, or pyromania
- Psychoactive substance use disorders resulting from current illegal use of drugs..

Similarly, the FEHA exempts sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs from its definition of "disability." See Cal. Gov't Code *§12926(j), (m)*.

Normal-range characteristics and attributes are not limitations and therefore are also not included in the ADA/FEHA definition of "disability." These include homosexuality; bisexuality; physical characteristics such as eye color, hair color, left-handedness, or height, weight, or muscle tone that are within normal range and are not the result of a physiological disorder; and common personality traits, such as poor judgment, a quick temper, or general stress due to job pressure. The FEHA explicitly protects a person's gender identity and gender expression: "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. See Cal. Gov't Code *§12926(r)*.

No matter how disabled, applicants must also be *otherwise qualified* in order to be protected by these statutes. To be otherwise qualified, applicants must first meet all statutory and other minimum qualifications. Prior to any adverse determination, law enforcement agencies should perform an individualized assessment of the applicant's prior conduct (e.g., deception, history of criminality) to determine if the applicant is otherwise qualified.[31]

Individuals must also be able to do the job, with or without reasonable accommodation. They must be able to do the job without posing a *direct threat*, which is defined as a significant risk of substantial harm to themselves or especially to others (and the threat cannot be reduced by reasonable accommodation). The determination as to whether someone poses a direct threat must be based on medical facts of the situation, rather than merely fear or speculation.

Essential Job Functions

Doing the job is defined as being able to perform the *essential functions.* Essential functions are those duties that are considered fundamental (as opposed to marginal) to the position. Employers have the right and the responsibility for identifying the essential functions of the position to serve as the basis for determining applicants' suitability for employment. It is therefore imperative that agencies create and maintain accurate job descriptions, and that background investigators become familiar with these descriptions so that there is a shared, explicit understanding of what it takes to be able to do the job.

In addition to agency job descriptions, POST has conducted analyses of both the peace officer and public safety dispatcher jobs. The resulting descriptions of the duties, tasks, and demands of these jobs are discussed in POST publications such as the Peace Officer Job Analysis, the Patrol Officer Job Demands section of the Medical Screening Manual for California Law Enforcement, and the Public Safety Dispatcher Job Analysis.[32]

Based in part on these analyses, POST identified attributes and characteristics critical to the safe, effective job performance of both peace officers and public safety dispatchers, and amenable to assessment in the background investigation. The resulting POST background dimensions are fully described in *Chapter 2*, "Peace Officer and Public Safety Dispatcher Background Investigation Dimensions."

Reasonable Accommodation

A reasonable accommodation is defined as "any change or adjustment to a job or work environment that permits an otherwise qualified, disabled applicant to compete for and perform the essential functions of the job." Reasonable accommodation can take many forms, ranging from allowing extra time on a written test, providing regular breaks to allow an employee to take medications, to allowing a student to use a light or smaller handgun.

Reasonable accommodation is one of the cornerstones of ADA/FEHA, but it is a legally complicated concept and one unlikely to emerge during most of

31 *Hartman v. City of Petaluma,* 841 F. Supp. 946 (1994)

32 These and other POST documents can be downloaded from the POST website at https://www.post.ca.gov/publication-list.

the background investigation process. However, should an applicant request reasonable accommodation, a background investigator is well-advised to contact the agency's ADA coordinator or other appropriate personnel. It is sufficient here to emphasize that: 1) providing reasonable accommodation is a statutory obligation of employers, unless the accommodation would cause an undue hardship to the operation; and 2) decisions surrounding the choice and implementation of any accommodation should be based on individualized assessment, resulting from a constructive discussion with the disabled individual and, when necessary, an appropriate healthcare professional.

THE CONDITIONAL OFFER OF EMPLOYMENT: PRE- AND POST-OFFER INQUIRIES

Another cornerstone of the ADA and FEHA is the separation of the pre-employment process into two stages, punctuated by a conditional offer of employment (COE). For the COE to be considered "bona fide" (i.e., real), employers must evaluate all relevant non-medical information that they reasonably can obtain and analyze prior to extending the offer.[33]

An example of such a conditional offer is included in Appendix B – *Sample B.1*. As reflected in this example, the COE itself should state that the applicant has *provisionally* passed the background investigation, and that additional background information may be investigated at the post-offer stage which could, if warranted, result in the withdrawal of the job offer.

The Pre-Conditional Offer Stage

Prior to extending the applicant a COE, no disability-related inquiries can be asked on forms or in interviews, nor can such information be sought from third parties (e.g., past employers, references). Disability-related questions include asking applicants if they have had a particular disability or suffered from a mental condition. Questions about a history of worker's compensation claims or job-related injuries are also forbidden pre-offer, since these types of questions may elicit disability-related information. General questions that are likely to elicit disability-related information are also prohibited pre-offer, such as, *"What impairments do you have?" "Have you ever been hospitalized?"* or *"What medications do you take?"*

At the pre-offer stage, it is acceptable at any time to ask applicants about ***employment history***, including questions about the circumstances of any gaps or sudden departures from employment. This is permitted even if the applicant was unemployed or terminated because of disability-related reasons. It is also permissible to ask pre-offer questions about previous attendance records (e.g., *"How many days were you absent from your last job?"*). Although it is not permissible to ask pre-offer questions about the number of days an applicant missed work in a previous job due to illness, it is legal to ask questions involving abuse of leave (e.g., *"How many Mondays and Fridays were you absent last year other than approved time off?"*).

33 *ADA Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examination, U.S. EEOC, October 1995.*

A history of ***drug addiction or dependence*** is considered a disability; therefore, questions that could reasonably be expected to elicit this information are prohibited, such as *"Have you ever been addicted to drugs?"* or *"Have you ever been treated for drug addiction?"* Questions that address extent of past drug use are also prohibited, such as *"How many times have you used illegal drugs in your life?"* or, *"How often did you use illegal drugs in the past?"*

Current illegal use of drugs does not fall under the protection of the ADA/FEHA; however, there is no clear-cut definition of "current;" rather, the Equal Employment Opportunity Commission (EEOC) merely states that "current" is to be considered "…recently enough to justify an employer's reasonable belief that involvement with drugs is ongoing."[34] The POST Personal History Statement uses six months as a benchmark for questions on current illegal drug use;[35] however, this time frame is intended as a rule of thumb rather than a legally sanctioned standard.

Individuals with a past history of recreational or casual drug use also fall outside the protection of the law. Therefore, narrowly-defined questions about past drug use that do not address frequency or extent of use are permissible pre-offer. The POST Personal History Statements include examples of such questions. Any additional pre-offer questions on this topic should not be considered without the input of legal counsel.

Unlike illegal drug use, current and past alcoholism are protected. Therefore, alcohol tests are prohibited prior to the COE. No pre-offer questions may be asked regarding the extent of the applicant's use of alcohol or other aspects of alcoholism. For example, applicants may not be asked pre-offer how much they drink. However, questions about social use of alcohol are permissible, as are inquiries about their (job-relevant) behavior, even if that behavior was a result of drunkenness. For example, it is legal to ask about DUIs pre-COE, as well as whether they have been late to or absent from work because of alcohol (or drug) use.

The Post-Conditional Offer Stage

After a COE has been extended, medical and disability related inquiries and examinations are permissible. However, all such questions must be job-related and consistent with business necessity, and all applicants must be subjected to the same basic inquiries. Note that a job offer revoked at this stage may be assumed to be due to disability-related reasons; therefore, an employer may be required to show that the applicant is unqualified or poses a direct threat.

Medical and other disability-related information must be treated with extreme confidentiality.[36] Screening physicians, psychologists, and even background

34 *EEOC Technical Assistance Manual on the Employment Provisions (Title I) of the ADA, 1992, EEOC-M-1A*.

35 Proposition 64: Adult Use of Marijuana Act (AUMA) (2016) permits persons age 21 and older to possess, transport, purchase, etc., not more than 28.6 grams of marijuana or 8 grams of concentrated cannabis. (See Health and Safety Code *§11362.1*). However, it does not prevent employers from complying with state or federal law, nor does it prevent employers from establishing policies prohibiting the use of cannabis by employees or prospective employees. [See Health and Safety Code *§11362.45(f)*]. The federal government has yet to sanction the legality of such use and marijuana therefore continues to be an illegal drug for purposes of federal law (See *Proposition 64 – Adult Use of Marijuana Act and California POST Selection Standards*).

36 The Confidentiality of Medical Information Act, Cal. Civ Code *§56* et seq., applicable federal law, including but not limited to *29 C.F.R. 1630* et seq.; Cal. Civ Code *§1798* et seq.

investigators should only disclose such information to others involved in the hiring process (including each other) on a need-to-know basis. This information must be kept confidential and stored in a separate, secure medical file — not with the employee's regular personnel file. Access by others should be strictly limited. The law allows access to this type of information by only a few selected individuals, including: 1) supervisors or managers, who may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations; 2) first-aid and safety personnel, who may be informed if a disability will require emergency treatment; 3) government officials investigating compliance with ADA/FEHA; and 4) state workers' compensation fund employees or representatives of insurance companies.[37]

BACKGROUND INVESTIGATION INQUIRIES: PRE- OR POST-OFFER?

The sequencing of most phases of the hiring process is clear-cut: Written tests and oral interviews must be conducted pre-offer, since they do not address medical or other disability issues. On the other hand, medical and psychological evaluations must be deferred until the post-offer phase.

Situating the background investigation is another matter. On one hand, the determination of good moral character would not appear on its surface to require inquiries into medical, psychological, or other disability-related areas. As such, the background investigation should be conducted prior to the COE.

In reality, however, the background investigation can and does include inquiries prohibited at the pre-offer phase. Prohibited topics include histories of legal and illegal substance abuse (both drugs and alcohol), behaviors resulting from problems with stress tolerance and other psychological stability concerns, and learning disabilities as they relate to educational and employment history, to name a few. Disability-related information may be divulged by the candidates themselves, as well as by the numerous references contacted during the investigation, including past and current employers, family members, friends, roommates, neighbors, etc. But, at the pre-offer stage, background investigators are legally barred from pursuing this line of questioning, regardless of job-relevance or business necessity.

The regulations associated with both the ADA and FEHA include a provision allowing for the deferral of certain non-medical or non-psychological inquiries until the post-offer stage *if it can be demonstrated that the information could not have reasonably been collected prior to the COE*. POST submitted a written request to the EEOC for guidance on the proper interpretation of this provision with respect to the sequencing of peace officer background investigations. Specifically, POST asked about the permissibility under the ADA of deferring to the post-offer phase those parts of the peace officer background investigation that do not involve medical or other disability-related inquiries.

In their response, the EEOC stipulated that, at a minimum, official documents such as DMV records, birth certificates, and credit reports must be requested

37 Note that access to this information does **not** include candidates themselves.

at the pre-offer stage, since the information in these documents do not touch on medical or other prohibited topics and they are readily obtainable. However, the EEOC agreed with POST that other aspects of the peace officer background investigation could lawfully be deferred until the post-offer phase, including (1) the receipt and evaluation of official documents that cannot be obtained in a timely manner, and (2) contacts and interviews with references, if this information could not have reasonably been collected prior to the COE. The exchange between POST and the EEOC is available at *http://www.post.ca.gov/Data/Sites/1/post_docs/bulletin/2008-22.pdf*.

To ensure that the guidance offered by the EEOC was consistent with the treatment of peace officer background investigations under the California Fair Employment and Housing Act, POST initiated a legislative change that resulted in the January, 2009 addition of Government Code *§1031.2*:

> *"Consistent with the [ADA] and [FEHA], the collection of non-medical or non-psychological information of peace officers, in accordance with a thorough background investigation, as required by subdivision (d) of §1031, may be deferred until after a conditional offer of employment is issued if the employer can demonstrate that the information could not have reasonably been collected prior to the offer."*

Although GC §1031.2 only applies to peace officer candidates, state disability discrimination laws otherwise indicate that in order for "a job offer to be bona fide, an employer must have either completed all non-medical components of its application process or be able to demonstrate that it could not reasonably have done so before issuing the offer…" (*2 CCR §11071*).

Frequently Asked Questions

Q: We have reviewed the candidate's application and Personal History Statement form, is that sufficient to be able to offer them a COE?

A: For the COE to be considered "bona fide" (i.e., real), employers must evaluate all relevant nonmedical information that they can reasonably obtain and analyze prior to extending the offer.[38]

Q: What if the applicant or other individual volunteers disability-related information at the pre-offer stage?

A: The background investigator may discover protected information pre-offer, either because an applicant or others volunteer disability-related information, or in the course of record reviews. If disability-related information is discovered pre-offer, background investigators may document the information and follow-up and/or disclose it to the appropriate person after a COE is extended. It is unlawful to use that information as a reason for not hiring the person unless the employer can provide a legal defense.

38 *ADA Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examination, U.S. EEOC, October 1995 and 2 CCR §11071*.

Q: How long must an agency wait for documents to be received before being able to extend a conditional offer of employment and continue with the background investigation?

A: There's no exact answer to this question, but in their letter to POST, the EEOC stated, "An unreasonable delay may exist where a responding agency routinely takes several weeks or months to provide documents and waiting for these official documents will significantly increase the length of the entire hiring process." Therefore, it would be lawful to extend a conditional offer of employment if documents such as a DD-214, official transcripts, or returns from DOJ or FBI fingerprint checks take in excess of a few weeks to receive.

Q: What are the advantages of conducting parts of the background investigation post-offer rather than pre-offer?

A: First and foremost, when interviewing people post-offer, the background investigator is free to ask any questions — or follow-up on any volunteered information — as necessary, even if the topics turn to medical, psychological, or other disability-related issues (as long as the questions are job-related and consistent with business necessity). On the other hand, if the interview is being conducted pre-offer, the background investigator cannot continue or pursue this line of questioning. While this questioning can be resumed when/if the candidate reaches the post-offer stage, splitting the background investigation in this way can prove to be burdensome and inefficient.

For example, during the background interview, a candidate could reveal that he has a medical condition and could ask the investigator about his chances of passing the medical examination. If the interview is being conducted pre-offer, the investigator must defer any further discussion about the topic until the post-offer stage, no matter how relevant to the candidate's suitability for the job.

However, if this same conversation occurred at the post-offer stage, the investigator could pursue this line of questioning. Furthermore, the investigator could decide to answer the candidate's question by contacting the doctor directly, or even arranging for the candidate's medical evaluation ahead of schedule – and before the continuation of the background investigation.

Q: Are there any risks or disadvantages of conducting parts of the background investigation post-offer?

A: Deferring too much of the background investigation to the post-offer stage, especially public safety dispatcher background investigations, could trigger allegations of violation of the ADA and FEHA.

In addition, since medical and other related topics cannot be addressed until after a conditional offer is extended, it would be difficult for a candidate to argue that they were discriminated against on the basis of their disability when the majority of the background investigation is conducted pre-offer. If the candidate is disqualified on the basis of a background investigation that was conducted post-offer, the agency should be prepared to defend the decision against assertions of disability discrimination.

***Q:* Must part of the background investigation now be conducted post-offer?**

A: No, the new law is permissive; agencies are free to revise or retain their current background investigation process. As this is an emerging area of law, it is imperative that agencies consult with their legal counsel before revising their background investigation process.

***Q:* Does GC §1031.2 permit the medical and psychological evaluation to be conducted pre-offer?**

A: No. The medical and psychological evaluations, in compliance with the ADA, FEHA, GC *§1031(f)*, and POST regulations, must be conducted post-offer.

Table 3.1
BACKGROUND INVESTIGATION CODES AND REGULATIONS

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Peace Officers Relevant State and Federal Laws	
Government Code *§1029* *GC 1029 identifies disqualification provisions for peace officers.*	*SB-2 (2021) added and amended several provisions in GC §1029.*
Government Code *§1031* *GC 1031 includes statutory minimum selection standards for peace officers. They include:* ***Citizenship** – VC 2267 imposes additional citizenship requirements for CHP.* *See **Chapter 5**, subsection Citizenship.* ***Age** – See GC 1031.4 (eff. Jan 2022) and **Chapter 5**, subsection Birth Place and Birth Date.* ***Fingerprints** – To assess legal history and moral character. See **Chapter 4**, Step 5: Collect & Submit Candidate Fingerprints and **Chapter 5**, subsection PHS Section 8: Legal.* ***Education** – See **Chapter 5**, subsection PHS Section 3: Education.* ***Background Investigation** – See **Chapters 4** and **5*** ***Medical and Psychological Evaluation** requirements are contained in Commission Regulations 1954 and 1955, respectively*	
Government Code *§1031.2* Consistent with the *Americans with Disabilities Act of 1990 Public Law 101-336* and paragraph (3) of subdivision (e) of §12940, the collection of nonmedical or non-psychological information of peace officers, in accordance with a thorough background investigation, as required by subdivision (d) of §1031, may be deferred until after a conditional offer of employment is issued if the employer can demonstrate that the information could not reasonably have been collected prior to the offer.	*GC 1031.2 became effective on **January 1, 2009**. A detailed explanation of the implications of GC 1031.2 is provided in Chapter 3: "Legal Qualifications and Statutory Framework."*

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Government Code *§1031.4* **(a)** In addition to the standards in Section 1031, each state officer and employee designated as peace officers as described in Section 830.1, with the exception of those described in subdivision (c) of that section, 830.2, with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33 of the Penal Code, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program shall be at least 21 years of age at the time of appointment. **(b)** This section shall not apply to any person who, as of December 31, 2021, is currently enrolled in a basic academy or is employed as a peace officer by a public entity in California.	*GC 1031.4 became effective **January 1, 2022**.*
Penal Code *§1170.18* **[Proposition 47: The Safe Neighborhoods and Schools Act – reduces certain felonies to misdemeanors]**	*PC §1170.18(k) prohibits those who have had felony convictions reduced to misdemeanors from possessing or owning firearms.*
Penal Code *§13670* **(c)** Except as specifically prohibited by law, a law enforcement agency shall disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that former peace officer.	
Penal Code *§29805* **[Specified convictions; narcotic addiction; condition of probation; restrictions on firearms possession; punishment; employment needs; relief from prohibition; justifiable violations]**	*PC §29805 prohibits those who have committed specific misdemeanors from possessing a firearm for 10 years, which may preclude candidates from peace officer status. DOJ and FBI will indicate candidate eligibility in their returns of fingerprint records.*

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U.S. Code Title *18 §§922(d)(9) & (g)(9)* **(d)** It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person… has been convicted in any court of a misdemeanor crime of domestic violence. **(g)** It shall be unlawful for any person… who has been convicted in any court of a misdemeanor crime of domestic violence… to possess any firearm or ammunition.	*Individuals convicted of misdemeanor offenses containing the elements of domestic violence cannot possess a firearm, which may preclude candidates from peace officer status.* *Other prohibitions include individuals who are convicted of crimes resulting in prison terms of more than a year; unlawful users of or addicted to controlled substances; dishonorably discharged from military service.*
Minimum Selection Standards for Peace Officers *Commission Regulations 1950-1955*	*These POST regulations serve to implement Government Code §1031.*
Regulation *1950:* **Peace Officer Selection Requirements** **(a)** The purpose of these regulations is to implement the minimum peace officer selection standards set forth in California Government Code §1031 and as authorized by California Penal Code §13510. Peace officer training requirements are addressed separately in Commission Regulations *1005* and *1007*. All POST documents and forms mentioned in these regulations are available on the POST website (*www.post.ca.gov*). (1) Every POST-participating department and/or agency (hereinafter referred to as "department") shall ensure that every "peace officer candidate," as defined in subsection 1950(b), satisfies all minimum selection requirements specified in the following regulations unless waived by the Commission on a case by case basis. Statutory requirements in these regulations cannot be waived by the Commission. • Reading and Writing Ability Assessment (Commission Regulation *1951*) • Oral Interview (Commission Regulation *1952*) • Background Investigation (Commission Regulation *1953)* • Medical Evaluation (Commission Regulation *1954*)	

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• Psychological Evaluation (Commission Regulation *1955*) (2) All requirements specified in these regulations shall be satisfied prior to the date of employment. For purposes of these regulations, "date of employment" is defined as date of appointment as a peace officer or, at the department's discretion, the date the candidate is hired as a peace officer trainee and enrolled in a POST-certified Basic Course. **(b) Peace Officer Candidate Definition** For purposes of these regulations, a "peace officer candidate" is any individual, regardless of rank or Penal Code classification, who applies for a peace officer position with a POST-participating department, regardless of the individual's prior law enforcement experience either at that department or at a different department within the same city, county, state, or district. **(c) Exceptions** For purposes of these regulations, peace officers described in this section are not considered "candidates" and are therefore exempted from Commission Regulations 1951-1955. (1) The department has sole responsibility for determining what, if any, assessments are necessary for a peace officer who: (A) Changes peace officer classifications, such as from reserve officer to regular officer, within the same POST-participating department if documentation is available for inspection verifying that all current minimum selection requirements were previously met, and the peace officer has worked continuously for the department since the time of initial appointment. (B) Is employed by a department that, through reorganization, is merged with another department within the same city, county, state, or district, if documentation is available for inspection verifying that the officer Is employed by a department that, through reorganization, is merged with another department within the same city, county, state, or district, if documentation is available for inspection	*By specifying that the selection standards must be completed either before appointment as a peace officer or the date the candidate is hired as a peace officer trainee, agencies who use the peace officer trainee classification will not have to rescreen these individuals if more than one year elapses between the date of evaluation and date of peace officer appointment.* *POST selection standards apply to all peace officers in POST-participating agencies: new hires, certain rehires/ reappointments, laterals, seasonal, temporary, full-time, and part-time.* *Updated background investigations, medical and psychological evaluations are not required for reserve peace officers who are upgraded to regular officer status, provided current requirements were met at the time of hire and there has been no break in service.* *The regulations now clarify that officers who are inherited from another agency within the same city, county, state, or district are not subject to Commission Regulations 1951-1955.*

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verifying that the officer was hired in accordance with the POST requirements in effect at the time of hire. (C) Is reappointed to the same POST-participating department within 180 days of voluntary separation. (2) For a peace officer who has been mandatorily reinstated, the department shall: (A) Report the reinstatement to POST through the submittal of a Notice of Appointment/ Termination, POST *2-114*, indicating a correction to record, together with a copy of the official reinstatement documentation [Commission Regulation *1003(b)(2)*]; (B) Resubmit the officer's fingerprints to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to verify legal eligibility for a peace officer position (GC *§1029* and *§1030*) and to determine eligibility to possess a firearm [Penal Code *§29805* and U.S. Code Title *18 § 922(d)(9)*]. Fingerprints do not need to be resubmitted if the officer was never removed from the department's peace officer files of the DOJ or FBI; (C) Obtain evidence of U.S. citizenship if the officer was not a United States citizen at the date of initial appointment and three or more years has elapsed since that date of appointment (*GC §1031.5*); (D) Perform a records check of the California Department of Motor Vehicles (Vehicle Code *§12500*); (E) Verify qualification for appointment as a peace officer (Government Code section 1029). (3) Publicly elected peace officers are exempted from Commission Regulations *1951-1955*.	*Departments have sole responsibility for ensuring the 180 day re-hires meet the Government Code and/or other statutory requirements.* *Reinstated officers are largely exempted from POST selection standards; only updated fingerprints and DMV checks (and citizenship check if appropriate) are required.* *The document mandating the reinstatement must be submitted with the NOAT.* *Besides sheriffs, there are very few elected peace officers.*
(d) Adoption of Additional Requirements and/or Higher Standards The requirements described herein serve as minimum selection requirements. Per Government Code *§1031(g)* and Penal Code *§13510(d)*, the adoption of more rigorous	*Additional screening requirements (e.g., physical ability testing, detection of deception examinations) are the responsibility of the department, based on their peace officers' job functions, responsibilities, and demands.*

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requirements, higher standards, additional assessments and/or more in-depth evaluations than those stated in these regulations is at the discretion of the employing department.	
Regulation *1951*: **Peace Officer Reading and Writing Ability** **(a)** Every peace officer candidate shall be able to read and write at the levels necessary to perform the job of a peace officer. Satisfactory completion of this requirement may occur at any time prior to date of employment. Reading and writing ability shall be demonstrated by one of the following: (1) Achievement of a score deemed acceptable by the hiring department on the POST Entry-Level Law Enforcement Test Battery or other professionally developed and validated test of reading and writing ability. The test can be administered by either the department or another entity, or (2) Proof of successful completion of the Regular Basic Course or the Specialized Investigators' Basic Course, or (3) Proof of possession of a Basic Course Waiver. **(b)** A department that uses the *POST Entry-Level Law Enforcement Test Battery* must have a current Test Use and Security Agreement, herein incorporated by reference, on file with POST.	*For the purposes of satisfying Commission Regulation 1951, reading and writing test scores:* • *Are transportable* • *Have no shelf life* • *Have no POST-mandated cut score* *Successful completion of the RBC, SIBC or Waiver process will satisfy this requirement.*
Regulation *1952*: **Peace Officer Oral Interview** **(a)** Every peace officer candidate shall participate in an oral interview to determine suitability to perform the duties of a peace officer. The interview shall take place prior to making a conditional offer of employment. **(b)** The interview shall be conducted by the department head, one or more representatives of the department, the appointing authority or designee, and/or an oral panel consisting of at least one department employee. **(c)** The POST *Interviewing Peace Officer Candidates: Hiring Interview Guidelines* provides assistance in conducting the oral interview. The use of the manual is discretionary; except that oral interviews shall address, at a minimum,	*Oral interview must take place prior to the COE.* *The POST interview guide can be downloaded at https://post.ca.gov/interviewing-peace-officer-candidates-hiring-interview-guidelines*

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the six POST Interview Factors herein incorporated by reference described in the manual: Experience, Problem Solving Ability, Communication Skills, Interest/Motivation, Interpersonal Skills, and Community Involvement/ Awareness.	*Departments can request access to the on-line secure oral interview question bank: https://post.ca.gov/about-the-oral-interview-question-bank*
Regulation *1953*: **Peace Officer Background Investigation**	
(a) Government Code Mandate Every peace officer candidate shall be the subject of a thorough background investigation to verify good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer [Government Code *§1031(d)*].	
(1) Effective July 1, 2023, every background investigator shall satisfactorily complete POST-certified background investigation training prior to conducting investigations.	*Bulletin 2022-34 provides FAQs on the background investigation training requirement.*
(b) Background Investigation Evaluation Criteria The background and personal history sections of the Bias Assessment Framework [Commission Regulation 1955(d)(3)] and the entire set of POST Background Investigation Dimensions herein incorporated by reference described in the POST Background Investigation Manual – Guidelines for the Investigator (2022) — Integrity, Impulse Control/ Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Confronting and Overcoming Problems, Obstacles, and Adversity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability, and Communication Skills — shall be considered in the conduct of every peace officer background investigation. The manual provides guidance in conducting background investigations. The use of the manual is discretionary, with the exception of the Dimensions and the relevant sections of the Bias Assessment Framework.	*This manual provides guidance and therefore is not intended to add other requirements over and above those specified by the statutes and regulations described here. However, the POST Background Dimensions and the background/personal history sections of the Bias Assessment Framework (Chapter 2) must be considered during the investigation.*
(c) Personal History Statements Every peace officer candidate shall complete, sign, and date a personal history statement at the onset of the background investigation. A personal history statement can be either the Personal History Statement – Peace Officer, POST *2-251* or an alternative personal history statement.	*The POST PHS can be downloaded from the background/hiring section of the forms page at http://post.ca.gov/forms.*

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An alternative personal history statement shall include inquiries related to the following areas of investigation: personal identifying information, relatives and references contact information, education history, residence history, experience and employment history, military history, financial history, legal history, driving history, and other topics related to moral character.	*Departments who wish to modify the POST PHS for their use can request an unprotected version of the form by emailing POST at webrequest@post.ca.gov.*
(d) Collection of Background Information: Pre and Post Conditional Offer of Employment	
(1) Nonmedical or non-psychological background information may be collected after a conditional offer of employment (COE) is issued if it could not have reasonably been collected prior to the COE (GC §1031.2). This may include:	*Information on the sequencing of background investigations in light of GC 1031.2 is provided in this chapter under "Conditional Offer of Employment: Pre- and Post- Offer Inquiries" and in Chapter 4.*
(A) Official documents that cannot be obtained and evaluated in a timely manner during the pre-offer period, and	
(B) Information derived from contacts and interviews with references.	
(2) At the post-offer stage, background investigators, examining physicians, examining psychologists, and others involved in the hiring decision shall work cooperatively to ensure that each has the information necessary to conduct their respective investigations and/or assessments of the candidate.	
(e)Areas of Investigation	
(1) **Citizenship Verification**	
(A) Every peace officer candidate, except those applying to the California Highway Patrol, shall be either a United States citizen or a permanent resident who is eligible for and has applied for citizenship on or within three years before the date of appointment as a peace officer (GC §1031(a) and §1031.5).	
(B) Every peace officer candidate for the California Highway Patrol shall be a United States citizen at time of appointment as a peace officer (VC §2267).	
(C) Proof of U.S. citizenship shall consist of an official government-issued birth certificate, naturalization documentation, or other	*POST accepts valid U.S. passports/ passport cards for meeting this requirement, except those issued to U.S. Nationals from American Samoa, Swains Islands and Commonwealth of the Northern Marianas Islands.*

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citizenship documentation deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed. (2) **Age Verification** (A) Every peace officer candidate shall be minimally 21 years of age on or before the date of appointment as a peace officer. Peace officers appointed under section 830.1(c) of the Penal Code must be a minimum of 18 years of age on or before the date of appointment (Government Code section *1031.4*).	*Abstracts of birth, hospital birth records and baptismal records are not acceptable as proof.*
(B) Proof of age shall be satisfied by any document accepted for proof of citizenship. (3) **Criminal and Other Qualification Records Checks - Local, State, and National** Every peace officer candidate shall be the subject of criminal and other records searches at the local, state, and national levels to determine legal eligibility for peace officer employment [GC *§1029*, *1030* and *§1031(c)*], eligibility to carry a firearm [PC *§29805*; U.S. Code Title *18 § 922(d)(9)*], and to assess moral character [GC *§1031(d)*]. (A) **Local searches** shall include inquiries with local law enforcement departments where the candidate has lived, worked, attended school, or frequently visited. Proof of local searches shall be documented by a letter or other written documentation from each department contacted. If a contacted department does not provide written documentation, the request for information sh**all be noted.**	
(B) **A state search** shall include forwarding the candidate's fingerprints to the California Department of Justice (DOJ) to establish the candidate's legal eligibility for employment (GC *§1029*) and eligibility to possess a firearm [PC *§29805*; U.S. Code Title *18 §922(d)(9)*]. Proof of a state search shall be documentation issued by the DOJ consisting of an official	*Two DOJ fingerprint returns are required: an eligibility for employment as a peace officer, and a separate firearms clearance.*

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clearance return and an authorization to possess and carry firearms. The authorization shall be relevant to the peace officer position and shall have been generated no more than one year prior to the date of employment. (C) A **national search** shall include forwarding the candidate's fingerprints to the Federal Bureau of Investigation (FBI). Proof of a national search shall consist of an official clearance from the FBI. The clearance shall be relevant to the peace officer position and shall have been generated no more than one year prior to the date of employment. (D) Verification of qualification for appointment as a peace officer, pursuant to Government Code section 1029. (4) **Driving Record Check** (A) Every peace officer candidate's driving history, if any, shall be checked to assess behaviors consistent with the safe and appropriate operation of a motor vehicle and adherence to the law. (B) Proof of the driving history check shall consist of a written driving record history from the Department of Motor Vehicles or other official driving record. The record shall be dated no more than one year prior to the date of employment. (5) **Education Verification** (A) Every peace officer candidate shall meet one of the following minimum education requirements pursuant to GC *§1031(e)*: 1. Be a high school graduate of one of the following: a. A U.S. public school, or b. An accredited U.S. Department of Defense high school, or c. An accredited or approved public or nonpublic high school. 2. Pass the General Education Development (GED) test or other high school equivalency	*In addition to the two DOJ returns, there shall also be a third (separate) return from the FBI.*

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test approved by the State Department of Education that indicates high school graduation level. 3. Pass the California High School Proficiency Examination, or 4. Have attained a two-year, four-year, or advanced degree from an accredited college or university. Any accreditation or approval shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in the AdvancED or Cognia, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA). (B) Proof shall consist of an official transcript or other means of verifying satisfactory completion of educational requirements deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed. (6) **Employment History Checks** (A) Every peace officer candidate shall be the subject of employment history checks through contacts with all past and current employers over a period of at least ten years, as listed on the candidate's personal history statement. (B) Every peace officer candidate, with prior peace officer experience, shall be subject of a search of their general personnel file and/or a separate	*Equivalency exams other than the GED are acceptable as proof of meeting the high school graduation requirement. The California Department of Education website provides a list of alternative equivalency tests.* *A candidate who provides official transcripts verifying completion of a two-year, four-year or advanced degree from an accredited institution does not need to provide a copy of their high school transcripts.*

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(C) file designated by the department or agency, pursuant to Penal Code section 832.12(b). (D) Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted. All information requests shall be documented. (7) **Relatives/Personal References Checks** (A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references (e.g., secondary references), provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability. (B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate and additional references provided by the initial contacts (e.g., secondary references) were interviewed. Documentation shall include the identity of each individual contacted, if the contact is an initial or secondary reference, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented. (8) **Dissolution of Marriage Check** (A) Every peace officer candidate who indicates one or more marriage dissolutions on the personal history statement shall have his/her court issued dissolution documents and legal separation decrees reviewed as an indication of personal integrity, financial responsibility, and other relevant aspects of candidate suitability. (B) Proof of the dissolution/separation of marriage check shall be documented by a copy of all final	*Documentation is required on all individuals who have experienced a marriage dissolution/ separation, even for those who have not subsequently remarried.*

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court-issued dissolution documents and legal separation decrees. (9) **Neighborhood Checks** (A) Every peace officer candidate shall be the subject of contacts and interviews with current and, where practicable, previous neighbors to determine whether the candidate has exhibited behavior incompatible with the position sought. (B) Proof of neighborhood checks shall be documented by written information showing the identity of each neighbor contacted, the neighbor's relationship to the candidate, and an account of the information provided by the individual. All requests for information shall be documented. (10) **Military History Check** (A) When applicable, a candidate shall be required to present proof of Selective Service registration or military service records. (B) Proof of a military history check shall consist of written verification of Selective Service registration, except for women or any man born prior to January 1, 1960. For any candidate who indicates military history on the personal history statement, proof shall consist of an official copy of their DD-214 long form or equivalent documentation of foreign military service, if available. (11) **Credit Records Check** (A) Every peace officer candidate shall be the subject of a credit record search with a bona fide credit reporting agency (i.e., Experian, TransUnion, Equifax) to determine the candidate's credit standing with lenders, as an indication of the candidate's dependability and integrity. (B) Proof of a credit record check shall be documented by an official credit report returned by one of the bona fide credit reporting agencies. The report shall have been created no more than one year prior to the date of employment.	*Neighborhood checks must be conducted regardless of how long the candidate has been a resident.*

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(12) **Social Media Check** (A) Every peace officer candidate shall be the subject of a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of Commission Regulation 1955(d)(3). Social media may include, but not be limited to, social networking sites, online forums, blogs, and video sharing platforms. Searches must be conducted in compliance with state and federal laws. (B) Proof shall consist of documentation verifying a social media search was conducted which, at a minimum, shall include written documentation of websites searched and/or services used, including webpage URLs and findings. When there is evidence of activity relevant to peace officer suitability, documentation shall consist of screenshots, printouts, website links, and/or other documentation verifying the information and shall be limited to that which is relevant to suitability for peace officer employment. **(f) Background Investigation Updates** (1) Eligibility (A) If a peace officer candidate was initially investigated in accordance with all current requirements and the results are available for review, a background investigation update, as opposed to a complete new background investigation, may be conducted for either of the following circumstances: 1. The peace officer candidate is being reappointed to the same POST-participating department. Per Commission Regulation 1950(c)(1)(C) a background investigation update on a peace officer who is reappointed within 180 days of voluntary separation is at the discretion of the hiring authority. 2. The peace officer candidate is transferring, without a separation, to a different department; however, the new department is within the same city, county, state, or district	*Social media checks are required, effective August 1, 2022. The check is to ensure that a candidate statements, postings, and/or endorsements are consistent with suitability for peace officer employment. This does not provide the department permission to violate privacy or other provisions of the law. The social media check must adhere to all state and federal laws.* *Documentation of the social media check must be included in the background file, including printouts, screenshots, links, etc. Bias-relevant findings must be included in the background narrative report.* *Bulletin 2022-34 provides FAQs and guidelines on conducting social media searches.*

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that maintains a centralized personnel and background investigation support division. (B) At the discretion of the hiring authority, if an interim police chief was initially investigated by a California POST participating department in accordance with all current requirements and the background file has been determined compliant by POST, an updated background investigation, as opposed to a complete new background investigation, may be conducted provided the following three conditions are met: 1. The results of the initial background investigation are available and have been reviewed by the hiring authority, 2. The initial background investigation was conducted within the past five years, and 3. The individual has served as an interim police chief within the last 24 months. The retention of all background investigation records, including the initial and updated background investigations, shall be the responsibility of the hiring authority. (2) **Update Requirements** (A) A new personal history statement [subsection 1953(c)] with updated information covering the period from the last personal history statement to the current date shall be completed by the peace officer candidate. (B) The department shall conduct investigations of all new information reported by the candidate on the new personal history statement. 1. For candidates reappointed to the same department per subsection 1953(f)(1)(A)(1), the new background investigation shall cover the period since the candidate separated from the department. 2. For candidates transferring, without a separation, to a different department within the same city, county, state, or district per subsection 1953(f)(1)(A)(2), or interim chiefs who meet the requirements of subsection 1953(f)(1)(B), the new background	

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investigation shall cover the period since the date the previous background investigation was completed. (C) Any area of investigation for which there is updated information shall be addressed in the updated background investigation. This shall minimally include a new: 1) Local Criminal Record Check, 2) State and National Criminal Check, unless there is written attestation that the candidate was never removed from the department's peace officer files of the DOJ or FBI, 3) Driving Record Check, and 4) Credit Record Check. (D) Verification of qualification for appointment as a peace officer, pursuant to Government Code section 1029. (E) Updated background investigation documentation shall be maintained with the initial background investigation documents. (F) If the original background investigation was conducted within one year from the date of reappointment, it is not necessary to update criminal record checks, driving record check, or credit check.	
(g) Documentation and Reporting (1) **Background Narrative Report.** The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of behaviors, traits and/or attributes that may be relevant to bias per the Bias Assessment Framework [subsection 1953(b)]. The report shall identify the data sources reviewed for the findings, regardless of the weight given, and include relevant supporting documentation, including documentation obtained through the social media search [subsection 1953(e)(12)]. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file.	*Background investigators are required to provide the screening psychologist with the background narrative report and any other relevant background information, which would include findings of biased behaviors and relevant bias-related traits and attributes in support of the psychological evaluation (Commission Regulation 1955).*

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The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections. (2) **Retention.** The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code *§12946*. (3) **Information Access.** The narrative report and any other relevant background information [subsection 1953(g)(1)] shall be shared with psychological evaluator [Commission Regulation 1955(e)(3)]. This information shall also be shared with others involved in the hiring process, such as screening physicians, if it is relevant to their respective evaluation. This information must be furnished to those conducting background investigations of peace officer candidates on behalf of other law enforcement departments except as specifically provided by statute (GC *§1031.1*, GC *§6250* et seq, Labor Code, *§1050*, LC *§1054*, O'Shea v. General Telephone Co. (1987) 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the prospective department to determine the suitability of the peace officer candidate.	*The psychological evaluator is required to review the candidate's background history, thus the narrative report and any other relevant information (e.g., PHS) must be shared with the screening psychologist.* *In general, access to background investigation files is a complex legal area impacted by both state and federal law. The department's legal counsel should be consulted for specific guidance.*

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Regulation *1954*: **Peace Officer Medical Evaluation** **(a) Government Code Mandate/Evaluator Requirements** Every peace officer candidate shall be evaluated by a licensed physician and surgeon (hereinafter referred to as "physician") to determine if the candidate is free from any physical (i.e., medical) condition that might adversely affect the ability to exercise peace officer powers [GC *§1031(f)*]. The physician shall conduct the evaluation on behalf of and for the benefit of the employing department. **(b) Timing of the Medical Evaluation** The medical evaluation shall commence only after the department has extended a conditional offer of employment to the peace officer candidate [*Americans with Disabilities Act (42 USC §12101* et seq); California Fair Employment and Housing Act (GC *§12940* et seq)]. The medical evaluation must be completed within one year prior to date of employment. A new medical evaluation shall be conducted on peace officer candidates reappointed to the same department unless the prior evaluation occurred within one year of the date of reappointment. **(c) Medical Screening Procedures and Evaluation Criteria** The medical screening procedures and evaluation criteria used in the conduct of the medical evaluation shall be based on the peace officer duties, powers, demands, and working conditions as defined by the department. This information shall be provided to the physician, along with any other information (e.g., risk management considerations) that will allow the physician to make a medical suitability determination. The *POST Medical Screening Manual for California Law Enforcement* provides medical examination and evaluation protocols that are based on patrol officer job demands and working conditions. These protocols may be adopted or adapted for use by the department, if and as appropriate. However, the use of the manual is discretionary. **(d) Required Sources of Information for the Medical Evaluation** The medical evaluation shall include a review by the screening physician of the following sources of information prior to making a determination about the candidate's medical suitability.	*The physician must be provided with a medically-relevant description of the hiring department's peace officer position.* *The department is responsible for establishing medical screening standards. The examination and evaluation protocols contained in the POST Medical Screening Manual is intended to assist agencies in that regard, but its use is discretionary.*

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(1) **Job Information.** Job information shall consist of the peace officer duties, powers, demands, and working conditions provided by the department per subsection 1954(c).	*The job information provided by the department must be reviewed by the physician before conducting evaluations.*
(2) **Medical History Statement.** Prior to the medical evaluation, every peace officer candidate shall complete, sign and date a medical history statement. The POST Medical History Statement – Peace Officer, POST *2-252* can be used for this purpose, or an alternative form that includes inquiries about past and current medical conditions and procedures, physical symptoms, limitations, restrictions, and the use of medications and drugs.	*POST 2-252 can be downloaded at https://post.ca.gov/portals/0/post_docs/publications/2-252MedicalHistoryStatement.pdf*
(3) **Medical Records.** Medical records shall be obtained from the candidate's treating physician or other relevant health professional, if warranted and obtainable. This information may be provided by the candidate or, with written authorization from the candidate (Civil Code § 56.11), may be obtained directly from the health professional.	
(d) Medical Evaluation Reporting Requirements	
(1) The evaluating physician shall provide the department with a medical suitability declaration that shall include the following information:	
(A) The physician's printed name, contact information and medical license number,	
(B) The candidate's name,	
(C) The date the evaluation was completed, and	
(D) A statement, signed by the physician, affirming that the candidate was evaluated in accordance with Commission Regulation 1954. The statement shall include a determination of the candidate's medical suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be medically suitable.	*The candidate must be found medically suitable **prior** to appointment.*
(2) The department shall maintain the medical suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections.	*Section 2 of the POST Medical Examination Report (POST 2-253) provides a sample medical suitability declaration. It can be downloaded at http://lib.post.ca.gov/Publications/2-253MedicalExamReport.doc*
(3) The physician shall provide any additional information to the department that is necessary and appropriate	

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for the hiring department, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and potential risks posed by detected medical conditions. All information deemed medical in nature shall be maintained as a confidential medical record, separate from the background investigation file. (4) The POST Medical Examination Report – Peace Officer, POST *2-253* is available for use in reporting this information; however, its use is discretionary. (5) Information from the medical evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability. **(f) Second Opinions** (1) A candidate who is found medically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [*2 CCR §11071(b)(2)*]. (2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the medical screening requirements specified in subsection 1954. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.	

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Regulation *1955*: Peace Officer Psychological Evaluation **(a) Government Code Mandate/Evaluator Requirements** Every peace officer candidate shall be evaluated to determine if the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer [Government Code section *1031(f)*], and to otherwise ensure that the candidate is capable of withstanding the psychological demands of the position. (1) The psychological evaluation shall be conducted by either of the following: (A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program. (B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued post-doctorate. (2) The psychological evaluator (hereinafter referred to as "evaluator") shall be competent in the conduct of preemployment psychological screening of peace officers. The required areas of competence are defined in the *POST Peace Officer Psychological Evaluator Competencies* (Competencies): Assessment, Clinical, Communication, Jurisprudence, Multicultural, Occupational, Procedural, Psychometric, and Standards, herein incorporated by reference. The Competencies are contained and defined in Chapter 3 of the *POST Peace Officer Psychological Screening Manua*l.	

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(3) The evaluator must complete a minimum of 12 hours biennially of POST-approved continuing professional education per Commission Regulation 1955(b). (4) The evaluator shall conduct the examination on behalf of and for the benefit of the employing department. **(b) Continuing Professional Education (CPE)** (1) CPE Course Requirement POST approval will be granted to courses that meet the following requirements for both course quality and relevance: (A) Course Quality Course quality is satisfied by any course recognized and accepted by the California Board of Psychology for continuing education credit [16 CCR section 1397.61(c)(1)] including: 1. Courses provided by American Psychological Association (APA), or its approved sponsors; or 2. Continuing medical education (CME) courses specifically applicable and pertinent to the practice of psychology and that are accredited by the California Medical Association (CMA) or the Accreditation Council for Continuing Medical Education (ACCME); or 3. Courses provided by the California Psychological Association, or its approved sponsors; or 4. Courses approved by an accrediting agency for continuing education courses taken prior to January 1, 2013, pursuant to 16 Cal. Code Regs. section 1397.61 as it existed prior to January 1, 2013. The quality of courses recognized and accepted by other accrediting bodies, associations, or organizations will be considered on a case by case basis (B) Course Relevance As determined by POST, courses must have direct relevance and applicability to	

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preemployment psychological assessment by providing instruction and training in one or more of the Competencies [subsection 1955(a)(2)]. (2) CPE Course Approval POST approval shall be granted to courses that meet the requirements outlined in 1955(b)(1). To be considered for POST approval, a course approval request must be submitted to POST via the electronic CPE Tracking System. The request may be submitted by a course instructor, provider, sponsor, law enforcement agency, or an individual who has taken or is considering taking a course. Requests for POST approval must include the following information: (A) Course provider (B) Course instructor (C) Course title and description (D) Approving association (E) Course topics and hourly distribution (F) Learning objectives (G) Method(s) of instruction (e.g., workshop, webinar, independent learning) A list of *POST-approved CPE courses* are maintained on the *POST Website*. (3) Evaluator CPE Requirement (A) Effective July 1, 2019, evaluators must complete the POST-developed Peace Officer Psychological Screening Manual on-line exam prior to conducting preemployment psychological screening. (B) Effective September 1, 2014, evaluators must complete 12 hours of POST-approved CPE every license renewal cycle. For partial cycles, CPE hours are prorated at .5 hours per month, based on the evaluator's license renewal date. The POST CPE requirement must be met no later than the evaluator's license renewal date. Additional CPE hours above the 12 hour minimum do not count toward the next two-year cycle.	

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(C) The evaluator may satisfy no more than 75% [up to nine (9) hours] of the POST CPE requirement through independent learning that meets subsection 1955(b)(1). Independent learning includes, but is not limited to, courses delivered via the Internet, including asynchronous training, correspondence, and home study. (4) Verification of Course Completion To verify compliance with subsection 1955(a)(3), the evaluator must submit a psychological evaluator profile request to POST via the electronic CPE Tracking System and provide verification of course completion. (A) Evaluator Information The profile request must include the evaluator's name and contact information; license # and renewal date; and additional information (curriculum vitae, professional website URL), if available]. (B) Course Information Once the profile is approved, the evaluator can request approval of CPE course completion through the online CPE Tracking System. The request must be accompanied by official documentation of course completion, such as completion certificate, roster, and/or other official education or training records. A list of evaluators and their contact information is available on the POST website (www.post.ca.gov). **(c) Timing of the Psychological Evaluation** The psychological evaluation shall commence only after a conditional offer of employment has been extended to the peace officer candidate [Americans with Disabilities Act (*42 U. S. Code section 12101 et seq*); California Fair Employment and Housing Act (Government Code section *12940 et seq*)]. The psychological evaluation must be completed within one year prior to date of employment. A new psychological evaluation shall be conducted on peace officer candidates reappointed to the same department, unless the prior evaluation occurred within one year of the date of reappointment.	

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(d) Psychological Screening Procedures and Evaluation Criteria (1) The psychological screening procedures and evaluation criteria used in the conduct of the psychological evaluation shall be based on the peace officer duties, powers, demands, and working conditions as defined by the department. This information shall be provided to the evaluator, along with any other information (e.g., risk management considerations) that will allow the evaluator to make a psychological suitability determination. (2) Every peace officer candidate shall be evaluated, at a minimum, against job-related psychological constructs herein incorporated by reference in the *POST Peace Officer Psychological Screening Dimensions* (Dimensions): Social Competence, Teamwork, Adaptability/Flexibility, Conscientiousness/ Dependability, Impulse Control, Integrity/Ethics, Emotional Regulation/ Stress Tolerance, Decision Making/Judgment, Assertiveness/ Persuasiveness, and Avoiding Substance Abuse and Other Risk-Taking Behavior. The Dimensions are contained and defined in Chapter 4 of the *POST Peace Officer Psychological Screening Manual*. (3) When evaluating a peace officer candidate for explicit and implicit bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer, psychological evaluators shall use the Bias Assessment Framework, herein incorporated by reference. The evaluator shall assess the candidate on each of the three Targeted Constructs identified in the Bias Assessment Framework (Biased Behaviors, Biased Attitudes, and Bias-Relevant Traits and Attributes). (4) The POST Peace Officer Psychological Screening Manual provides guidance in the evaluation of peace officer candidates. The use of this manual is discretionary with the exception of the required Psychological Evaluator Competencies, the Psychological Screening Dimensions, and the Bias Assessment Framework outlined in subsections 1955(a)(2), 1955(d)(2), and 1955(d)(3), respectively.	*The psychologist must be provided with a psychologically-relevant description of the peace officer position in that department.* *The job information provided by the department must be reviewed by the psychologist before conducting evaluations.*

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(e) Required Sources of Information for the Psychological Evaluation The psychological evaluation shall include a review by the evaluator of the following sources of information prior to making a determination about the candidate's psychological suitability. (1) **Job Information.** Job information shall consist of the peace officer duties, powers, demands, and working conditions provided by the department per subsection 1955(d)(1). (2) **Written Assessments.** Written assessments shall consist of a minimum of two written psychological instruments. One of these instruments shall be designed and validated to identify patterns of abnormal behavior; the other instrument shall be designed and validated to assess normal behavior. Both instruments shall have documented evidence of their relevance for evaluating peace officer suitability. Together, the instruments shall provide information about each candidate related to: 1) freedom from emotional and/or mental conditions that might adversely affect the exercise of the powers of a peace officer, and 2) psychological suitability per the POST Psychological Screening Dimensions [subsection 1955(d)(2)]. The psychological assessments shall be interpreted using appropriate, authorized test publisher scoring keys. If mail-order, internet-based, or computerized test interpretations are used, the evaluator shall verify and interpret the individual results. (3) **Personal History Information.** Personal history information includes the candidate's relevant work, life and developmental history based on information collected during the background investigation [Commission Regulation 1953(g)(3)]. This includes the background narrative report and any other relevant background information including, but not limited to, documentation obtained through the social media search [Commission Regulation 1953(e)(12)]. This information may be augmented by responses on a personal history questionnaire collected as part of the psychological evaluation. (4) **Psychological Interview.** A psychological interview shall be administered to each peace officer	*Background information must be shared with the psychological evaluator.* *Personal history information must include the background narrative any other relevant personal history, including the results of the social media check.*

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candidate subsequent to a review and evaluation of the results of the written assessments [subsection 1955(e)(2)] and the candidate's personal history information [subsection 1955(e)(3)]. Sufficient interview time shall be allotted to address all issues arising from the reviewed information and other issues that may arise during the interview. (5) **Psychological Records.** Psychological records and relevant medical records shall be obtained from the candidate's treating health professional, if warranted and obtainable. This information may be provided by the candidate, or, with written authorization from the candidate (Civil Code §56.11), may be obtained directly from the health professional. **(f) Psychological Evaluation Reporting Requirements** (1) Data from all sources of information shall be considered; the evaluator's determination shall not be based on one single data source unless clinically justified (2) The evaluator shall provide the department with their findings from the bias assessment [subsection 1955(d)(3)] and identify the data sources relied upon for their findings, including information obtained through the background investigation [Commission Regulation 1953(g)(3)]. (3) The evaluator shall provide the department with a psychological suitability declaration that shall include the following information: (A) The evaluator's printed name, contact information and professional license number, (B) The name of the candidate, (C) The date the evaluation was completed, and (D) A statement, signed by the evaluator, affirming that the candidate was evaluated in accordance with Commission Regulation 1955. The statement shall include a determination of the candidate's psychological suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be psychologically suitable. (4) The department shall maintain the psychological	*The candidate must be found psychologically suitable **prior** to appointment.*

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suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections. (5) Any additional information reported by the evaluator to the department shall be limited to that which is necessary and appropriate, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and the nature and seriousness of the potential risks posed by the candidate. All information deemed medical in nature shall be maintained as a confidential record, separate from the background investigation file. (6) Information from the psychological evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability. **(g) Second Opinions** (1) A candidate who is found psychologically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [*2 CCR §11071(b)(2)*]. Consideration should include determining whether the second opinion evaluator meets the requirements set forth in Government Code section 1031(f) and subsection 1955(b). (2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the requirements specified in subsection 1955. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.	*Second opinion evaluators should meet the same requirements and be provided the same information as the initial screening psychologist.*

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PUBLIC SAFETY DISPATCHERS *Penal Code §13510*	
(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies …which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid … These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency … when providing dispatch services to the law enforcement personnel…"primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period. **(d)** Nothing in this section shall prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.	*PC 13510 authorizes POST to establish minimum standards for public safety dispatchers whose employers participate in the POST public safety dispatcher program.*
Minimum Selection Standards for Public Safety Dispatchers *Commission Regulations 1956–1960*	
Regulation *1956*: Public Safety Dispatcher Selection Requirements **(a)** The purpose of these regulations is to set forth the minimum public safety dispatcher selection standards as authorized by PC §13510(c). Public safety dispatcher training requirements are addressed separately in Commission Regulation 1018(c). All POST documents and forms mentioned in these regulations are available on the POST website (*www.post.ca.gov*). (1) Every department and/or independent communications agency (hereinafter referred to as "department") that participates in the POST Public	

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Safety Dispatcher Program shall ensure that every *"public safety dispatcher candidate"* as defined in subsection 1956(b) satisfies all minimum selection requirements specified in the following regulations: • Verbal, Reasoning, Memory, and Perceptual Abilities Assessment (Commission Regulation 1957) • Oral Communication Assessment (Commission Regulation 1958) • Background Investigation (Commission Regulation 1959) • Medical Evaluation (Commission Regulation 1960) (2) All requirements specified in these regulations shall be satisfied ***prior to the date of appointment*** as a public safety dispatcher. **(b) Public Safety Dispatcher Candidate Definition.** For purposes of these regulations, a "public safety dispatcher candidate" is any individual who applies for a full-time or part-time position that involves receiving emergency calls for law enforcement service and/or dispatching law enforcement personnel. This includes any individual who applies for a public safety dispatcher position with a POST-participating department regardless of the individual's prior public safety dispatcher experience either at that department or a different department within the same city, county, state, or district. **(c) Exceptions.** For purposes of these regulations, individuals described in this section are not considered "public safety dispatcher candidates" and are therefore exempted from Commission Regulations 1957-1960. (1) The department has sole responsibility for determining what, if any, assessments are necessary for a public safety dispatcher who: (A) Is employed by a department that, through reorganization, is merged with another department within the same city, county, state or district, if documentation is available for inspection verifying that the dispatcher was hired in accordance with the POST requirements in effect at the time of hire.	

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(B) Is reappointed to the same POST-participating department within 180 days of voluntary separation. (2) For a public safety dispatcher who has been mandatorily reinstated to the department, the department shall: (A) Report the reinstatement to POST through the submittal of a Notice of Appointment/ Termination, POST 2-114, indicating a correction to record, together with a copy of the official reinstatement documentation [Commission Regulation 1003(b)(2)]; (B) Resubmit the dispatcher's fingerprints to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to obtain criminal record results. Fingerprints do not need to be resubmitted if the dispatcher was never removed from the department's personnel files of the DOJ or FBI. (3) A peace officer who is assigned to dispatcher duties.	*Official documentation of the reinstatement must be submitted with the NOAT.*
(d) Adoption of Additional Requirements and/or Higher Standards. The requirements described herein serve as minimum selection requirements. Per Penal Code §13510(d), the adoption of more rigorous requirements, higher standards, additional assessments, and/or more in-depth evaluations than those stated in these regulations is at the discretion of the employing department. Additional screening requirements (e.g., detection of deception examinations, psychological evaluation) are the responsibility of the department, based on their dispatchers' job functions, responsibilities, and demands.	*Additional screening requirements (e.g., detection of deception examinations, psychological evaluation) are the responsibility of the department, based on their dispatchers' job functions, responsibilities, and demands.*

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Regulation *1957*: **Public Safety Dispatcher Verbal, Reasoning, Memory, and Perceptual Abilities Assessment** **(a)** Every public safety dispatcher candidate shall demonstrate verbal, reasoning, memory, and perceptual abilities at levels necessary to perform the job. Satisfactory completion of this requirement may occur at any time prior to appointment, and shall be demonstrated by one of the following: (1) Completion of the *POST Entry-Level Dispatcher Selection Test Battery* or alternative job-related tests of these abilities, administered by either the hiring department or another entity, with a score deemed acceptable by the hiring department. All tests must include assessments of the following: (A) **Verbal.** This ability includes written and oral comprehension (the ability to read passages and listen to orally-imparted information and retrieve facts, draw conclusions, and derive meaning); and written expression (the ability to use language to convey information clearly in writing). (B) **Reasoning.** This ability includes at least one of the following: 1. Deductive reasoning - the ability to apply general rules to specific problems to attain logical answers, or 2. Information ordering - the ability to correctly follow a given rule or set of rules to arrange things or actions in a certain order. (C) **Memory.** This ability includes the capacity to store and retrieve facts, details, and other information. (D) **Perceptual.** This ability includes speed and accuracy (the ability to quickly and accurately compare letters and numbers presented orally and in written form); and time sharing (the ability to shift back and forth between two or more sources of information, both written and orally-imparted, in performing a task or set of tasks).	*For the purposes of satisfying Commission Regulation 1957, verbal, reasoning, memory, and perceptual abilities, test scores:* • Are transportable • Have no shelf life • Have no POST-mandated cut score *Possession of a POST-issued Public Safety Dispatcher Basic Certificate will meet this requirement.*

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(2) Proof of possession of a valid California *POST Public Safety Dispatcher Basic Certificate*. (3) Proof of successful completion of the *POST-certified Public Safety Dispatcher Basic Course* (80 hours minimum) and completion of probation as a public safety dispatcher during previous employment. **(b)** A department that uses the *POST Entry-Level Dispatcher Selection Test Battery* must have a current Test Use and Security Agreement, herein incorporated by reference, on file with POST.	
Regulation *1959*: Public Safety Dispatcher Oral Communication Assessment Every public safety dispatcher candidate shall participate in an oral interview or other measure of oral communication abilities to determine suitability for public safety dispatcher service. The oral communication assessment shall be conducted prior to a conditional offer of employment (COE).	
Regulation *1959*: Public Safety Dispatcher Background Investigation **(a) Requirement** Every public safety dispatcher candidate shall be the subject of a thorough background investigation in order to verify the absence of past behavior indicative of unsuitability to perform public safety dispatcher duties. **(b) Background Investigation Evaluation Criteria** The POST *Background Investigation Manual: Guidelines for the Investigator* provides assistance in conducting background investigations. The use of the manual is discretionary; except for the POST Background Investigation Dimensions described in the manual which are herein incorporated by reference - Integrity, Impulse Control/Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Confronting and Overcoming Problems, Obstacles, and Adversity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability, and Communication Skills - shall be considered in the conduct of every public safety dispatcher background investigation.	*This manual provides guidance and therefore is not intended to add other requirements over and above those specified by the regulations described here. However, the POST Background Dimensions (Chapter 2) must be assessed during the investigation.*

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(c) Personal History Statements Every public safety dispatcher candidate shall complete, sign, and date a personal history statement at the onset of the background investigation. A personal history statement can be either the POST Personal History Statement – Public Safety Dispatcher, POST 2-255 or an alternative personal history statement. An alternative personal history statement shall include: personal identifying information, relatives and references contact information, education history, residence history, experience and employment history, military history, financial history, legal history, driving history, and other topics related to moral character.	*The POST PHS can be downloaded at http://post.ca.gov/forms. Departments who wish to modify the POST PHS for their use can request an unprotected version of the form by e-mailing POST at webrequest@post.ca.gov.*
(d) Collection of Background Information: Pre- and Post -Conditional Offer of Employment (1) **Pre-Offer.** Prior to the extension of a conditional offer of employment ("pre-offer"), no part of the background investigation shall be conducted that is deemed medical or otherwise subject to state or federal pre-offer inquiry prohibitions [EEOC's ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations, (1995)]. Non-medical inquiries and other parts of the background investigation that are not subject to these prohibitions shall be conducted pre-offer, except as noted in 1959(d)(2) below. (2) **Post-Offer.** Background information that cannot be legally or practicably obtained prior to a conditional offer of employment may be acquired and evaluated after the offer has been extended ("post-offer"). At the post-offer stage, background investigators, examining physicians, and others involved in the hiring decision shall work cooperatively to ensure that each has the information necessary to conduct their respective investigations and/or assessments of the candidate.	*Information on the sequencing of public safety dispatcher background investigations is provided in Chapter 4: "The Background Investigation Process."*
(e) Areas of Investigation (1) **Employment Eligibility** (A) Every public safety dispatcher candidate shall be legally eligible for employment in the United States. (B) Proof of employment eligibility shall consist of an official government-issued U.S. birth certificate, naturalization documentation, U.S. passport, current permanent resident card, or	

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other documentation deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed. (2) **Criminal Record Checks - Local, State, and National** Every public safety dispatcher candidate shall be the subject of a criminal record search at local, state, and national levels. (A) **Local searches** shall include inquiries with local law enforcement agencies where the individual has lived, worked, attended school, or frequently visited. Proof of **local searches** shall be documented by a letter or other written documentation from each agency contacted. If a contacted agency does not provide written documentation, the request for information shall be noted. (B) A **state search** shall include forwarding the candidate's fingerprints to the California Department of Justice (DOJ) to obtain criminal record results. Proof of a state search shall be documentation issued by the DOJ consisting of an official clearance return. The authorization shall be relevant to the public safety dispatcher position and shall have been generated no more than one year prior to the date of appointment. (C) A **national search** shall include forwarding the candidate's fingerprints to the Federal Bureau of Investigation (FBI). Proof of a national search shall consist of an official clearance from the FBI. The clearance shall be relevant to the public safety dispatcher position and shall have been generated no more than one year prior to the date of appointment. (3) **Driving Record Check** (A) Every public safety dispatcher candidate's driving history, if any, shall be checked to determine the candidate's driving record and adherence to the law.	

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(B) Proof of the driving history check shall consist of a written driving record history from the Department of Motor Vehicles or other official driving record. The record shall be dated no more than one year prior to the date of appointment. (4) **Education Verification** (A) Every public safety dispatcher candidate's educational history shall be investigated to verify the information provided on the personal history statement and as a measure of conscientiousness, learning ability, and other aspects of character. (B) Proof shall consist of an official transcript or other means of verifying educational history deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed. (5) **Employment History Checks** (A) Every public safety dispatcher candidate shall be the subject of employment history checks through contact with all past and current employers over the period of the past ten years, as listed on the personal history statement. (B) Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted. All information requests shall be documented. (6) **Relatives/Personal References Checks** (A) Every public safety dispatcher candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references, provided by the initial contacts, shall also be contacted and interviewed to determine whether the applicant has exhibited behavior incompatible with the position sought. Agencies shall collect	

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and review sufficient information to determine candidate suitability. (B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented. (7) **Dissolution of Marriage Check** (A) Every public safety dispatcher candidate who indicates one or more marriage dissolutions on the personal history statement shall have his/her court issued dissolution documents and legal separation decrees reviewed as an indication of personal integrity, financial responsibility, and other relevant aspects of candidate suitability. (B) Proof of the dissolution/separation of marriage check shall be documented by a copy of all final court-issued dissolution documents and legal separation decrees. (8) **Neighborhood Checks** (A) Every public safety dispatcher candidate shall be the subject of contacts and interviews with current and, where practicable, previous neighbors to determine whether the candidate has exhibited behavior incompatible with the position sought. (B) Proof of neighborhood checks shall be documented by written information showing the identity of each neighbor contacted, the neighbor's relationship to the candidate, and an account of the information provided by the individual. All requests for information shall be documented. (9) **Military History Check** (A) When applicable, a candidate shall be required to present proof of Selective Service registration or military service records.	*Documentation is required on all individuals who have experienced a marriage dissolution/ separation, even for those who have not subsequently remarried.*

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(B) Proof of a military history check shall consist of written verification of Selective Service registration, except for women or any man born prior to January 1, 1960. For any candidate who indicates military history on the personal history statement, proof shall consist of an official copy of their DD-214 long form or equivalent documentation of foreign military service, if available. (10) **Credit Records Check.** (A) Every public safety dispatcher candidate shall be the subject of a credit record search with a bona fide credit reporting agency (i.e., Experian, TransUnion, Equifax) to determine the candidate's credit standing with lenders, as an indication of the candidate's dependability and integrity. (B) Proof of a credit record check shall be documented by an official credit report returned by one of the bona fide credit reporting agencies. The report shall have been created no more than one year prior to the date of appointment. **(f) Background Investigation Updates** (1) **Eligibility** (A) If a public safety dispatcher was initially investigated in accordance with all current requirements and the results are available for review, a background investigation update, as opposed to a complete new background investigation, may be conducted for either of the following circumstances: 1. The public safety dispatcher candidate is being reappointed to the same POST-participating department, or 2. The public safety dispatcher candidate is transferring, without a separation, to a different department; however, the new department is within the same city, county, state, or district that maintains a centralized personnel and background investigation support division.	

LAW / REGULATION	NOTES / COMMENTS
(2) **Update Requirements** (A) A new personal history statement [subsection 1959(c)] with updated information covering the period from the last personal history statement to the current date shall be completed by the public safety dispatcher candidate. (B) The department shall conduct investigations of all new information reported by the candidate on the new personal history statement. 1. For candidates who are being reappointed to the same department per subsection 1959(f)(1)(A)(1), the new background investigation shall cover the period since the candidate separated from the department. 2. 2. For candidates who are transferring, without a separation, to a different department within the same city, county, state, or district per subsection 1959(f)(1)(A)(2), the new background investigation shall cover the period since the date the previous background investigation was completed. (C) Any area of investigation for which there is updated information shall be addressed in the updated background investigation. This shall minimally include a new: 1) Local Criminal Record Check, 2) State and National Criminal Check, unless there is written attestation that the candidate was never removed from the department's personnel files of the DOJ or FBI, 3) Driving Record Check, and 4) Credit Record Check. (D) Updated background investigation documentation shall be maintained with the initial background investigation documents. (E) If the original background investigation was conducted within one year from the date of reappointment, it is not necessary to update criminal record checks, driving record check, or credit check. **(g) Documentation and Reporting** (1) **Background Narrative Report.** The background investigator shall summarize the background	

LAW / REGULATION	NOTES / COMMENTS
investigation results in a background narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections. (2) **Retention.** The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code §12946. (3) **Information Access.** The information shall be shared with others involved in the hiring process, such as the screening physicians and psychologists, if it is relevant to their respective evaluations. There is a duty and/or legal obligation to furnish this information to those conducting mandated background investigations of public safety dispatcher candidates on behalf of other public safety dispatcher agencies, except as specifically provided by statute (GC §6250 et seq., Labor Code §1050, LC §1054, O'Shea v. General Telephone Co. (1987) 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the acquiring department to determine the suitability of the public safety dispatcher candidate.	*Access to background investigation files is a complex legal area impacted by both state and federal law. The department's legal counsel should be consulted for specific guidance.*
Regulation 1960: Public Safety Dispatcher Medical Evaluation **(a)** Evaluator Requirements Every public safety dispatcher candidate shall be evaluated to determine if the candidate is free from any physical (i.e., medical) condition that might adversely affect the ability to perform the duties of a public safety dispatcher. The evaluation shall be conducted on behalf of and for	

LAW / REGULATION	NOTES / COMMENTS
the benefit of the employing department by a licensed physician or a licensed health care professional under the supervision of a licensed physician. **(b) Timing of the Medical Evaluation** The medical evaluation shall commence only after the department has extended a conditional offer of employment to the public safety dispatcher candidate. The medical evaluation must be completed within one year prior to date of appointment. A new medical evaluation shall be conducted on public safety dispatcher candidates who are reappointed to the same department, unless the prior evaluation occurred within one year of the date of reappointment. **(c) Medical Screening Procedures and Evaluation Criteria** The medical screening procedures and evaluation criteria used in the conduct of the medical evaluation shall be based on the public safety dispatcher duties, demands, and working conditions as defined by the department. This information shall be provided to the physician, along with any other information (e.g., risk management considerations) that will allow the physician to make a medical suitability determination. **(d) Required Sources of Information for the Medical Evaluation** The medical evaluation shall include a review of the following sources of information prior to making a determination about the candidate's medical suitability. (1) **Job Information.** Job information shall consist of the public safety dispatcher duties, demands, and working conditions provided by the department per subsection 1960(c). (2) **Medical History Statement.** Prior to the medical evaluation, every public safety dispatcher candidate shall complete, sign, and date a medical history statement. The POST Medical History Statement – Public Safety Dispatcher, POST *2-264* can be used for this purpose, or an alternative form that includes inquiries about past and current medical conditions and procedures, physical symptoms, limitations, restrictions, and the use of medications and drugs. (3) **Medical Records.** Medical records shall be obtained from the candidate's treating physician or	*The physician must be provided with a medically-relevant description of the hiring department's public safety dispatcher position.* *The department is responsible for establishing medical screening standards.* *POST 2-264 can be downloaded at http://post.ca.gov/forms*

LAW / REGULATION	NOTES / COMMENTS
other relevant health professional, if warranted and obtainable. This information may be provided by the candidate, or, with written authorization from the candidate (Civil Code §56.11), may be obtained directly from the health professional.	
(e) Medical Evaluation Reporting Requirements	
(1) A medical suitability declaration shall be submitted to the department that includes the following information:	*Section 2 of the POST Medical Examination Report (2-265) provides a sample medical suitability declaration.*
(A) The physician's printed name, contact information and medical license number,	
(B) The candidate's name,	
(C) The date the evaluation was completed, and	
(D) A statement, signed by the physician, affirming that the candidate was evaluated in accordance with Commission Regulation 1960. The statement shall include a determination of the candidate's medical suitability for performing as a public safety dispatcher.	
(2) The department shall maintain the medical suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections.	
(3) The physician shall provide any additional information to the department that is necessary and appropriate for the hiring department, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and potential risks posed by detected medical conditions. All information deemed medical in nature shall be maintained as a confidential medical record, separate from the background investigation file.	
(4) The POST Medical Examination Report – Public Safety Dispatcher, POST 2-265 is available for use in reporting this information; however, its use is discretionary.	*The Medical Examination Report (POST 2-265) can be downloaded at https://post.ca.gov/portals/0/post_docs/publications/2-265MedicalExamReport.doc* *265MedicalExamReport.doc*
(5) Information from the medical evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.	

LAW / REGULATION	NOTES / COMMENTS
(f) Second Opinions A candidate who is found medically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [*2 CCR §11071(b)(2)*]. When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the public safety dispatcher duties, demands, and working conditions and the medical screening requirements specified in subsection 1960. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.	

Table 3.2
SUMMARY OF POST PEACE OFFICER SELECTION STANDARDS: REGULATIONS *1950–1955*

1950: General Requirements

- All selection requirements must be satisfied prior to appointment.
- The same requirements apply to all officers, regardless of rank, including reading and writing assessment for reserve officers.
- The department has sole responsibility for determining what if any assessments are necessary for officers who:
  - change peace officer classifications, including from reserve to regular officer.
  - are inherited from another agency within the same city, county, state, or district, as a result of a merger.
  - return to the same department within 180 days of a voluntary separation.
- Reinstated officers are exempt from POST selection requirements; however, the department must submit a Notice of Appointment/Termination and the documentation mandating the reinstatement to POST, submit fingerprints to DOJ and FBI, obtain evidence of citizenship, if appropriate, and perform DMV check, and verify qualification for peace officer appointment.
- Publicly elected peace officers are exempt from POST selection requirements.
- Local agencies have the right to implement more rigorous requirements, additional standards, and assessments as they see fit.

1951: Reading and Writing Ability

- Reading and writing test scores are transportable across agencies and have no shelf life.
- The POST Entry-Level Law Enforcement Test Battery or other professionally developed and validated test of reading and writing ability can satisfy this requirement.
- The agency establishes own cut score or other acceptable demonstration of reading and writing ability.
- Reading and writing ability assessment required for reserve officers.
- Agencies using POST Entry-Level Law Enforcement Test Battery must have security agreement on file.
- Completion of the RBC, SIBC or Basic Course Waiver will satisfy this requirement.

1952: Oral Interview

- Use of POST Interview Guide is discretionary; however, the POST interview factors must be assessed.
- The interview must take place pre-offer.

1953: Background Investigation

- Use of POST background investigation manual is discretionary; however, the POST background dimensions and relevant sections of the Bias Assessment Framework are required.
- Per GC *§1031.2* nonmedical or non-psychological background information may be collected after a COE, including
  - official documents that cannot be obtained and evaluated in a timely manner during the pre-offer period

Table 3.2 *continued*
SUMMARY OF POST PEACE OFFICER SELECTION STANDARDS: REGULATIONS *1950–1955*

1953: Background Investigation *continued*

- Background investigators, screening physicians, and psychologists must work together, as necessary, for each to make their respective assessments of the candidate's suitability.
- Specific, detailed documentation criteria (including shelf life) provided for each area of investigation.
- GC *§1031(e)* specifies the criteria for satisfying the educational requirement.
- Investigation of marriage dissolution/separation includes those individuals who have not remarried.
- Allows abbreviated background updates (consisting of only areas where information might have changed) for officers who:
  - — are reappointed to the same agency, or
  - — transfer to a different agency within the same city, county, state, or district, or
  - — are interim chiefs of police moving between departments (specific provisions apply)
- Background report must be sufficient to support a hiring decision.
- Background reports must be retained throughout the officer's tenure at that agency, and in compliance with other record retention statutes.
- Requires access to background reports by POST and other law enforcement agencies who are conducting background investigations of the candidate.
- Requires sharing of information with screening psychologists and others involved in the hiring process, as necessary.

1954: Medical Evaluation

- Physicians conduct evaluations on behalf of the hiring agency (vs. the candidate).
- Local agencies are responsible for developing medical screening procedures and criteria based on their peace officers' powers, duties, demands, and working conditions.
- Use of the *POST Medical Screening Manual* is discretionary.
- Agencies must communicate the powers, duties, demands, and working conditions to the physician.
- Results of medical examination are valid for one year.
- Physicians must request information from treating physicians or other relevant health professionals, if warranted and obtainable.
- The determination of the candidate's medical suitability must be made by the physician.
- The medical suitability declaration must be in the background investigation file.
- The physician may report additional information beyond the suitability determination as necessary and appropriate.
- Medical information must be kept in a separate, confidential medical file.
- Second-opinion rights of medically-rejected candidates per *CCR 11071(b)(2)*. POST requirement that agencies provide relevant job information to candidates' second opinion evaluators, upon request. Ultimate manner of resolving differences rests with the hiring agency.

Table 3.2 *continued*

SUMMARY OF POST PEACE OFFICER SELECTION STANDARDS: REGULATIONS *1950–1955*

1955: Psychological Evaluation

- The purpose of the psychological examination is to determine whether the candidate is "psychologically capable of exercising the powers of a peace officer and withstanding the psychological demands of the position."
- Screening psychologists must meet POST Continuing Professional Education (CPE) requirements, and be familiar with relevant research literature and state and federal law.
- Psychologists conduct evaluations on behalf of the hiring agency (vs. the candidate).
- Local agencies are responsible for developing psychological screening procedures and criteria based on the peace officer powers, duties, demands, and working conditions.
- Agencies must communicate the powers, duties, demands, and working conditions to the psychologists.
- Candidates must be assessed against the POST Peace Officer Psychological Screening Dimensions and the Bias Assessment Framework, as found in Chapters 4 and 5, respectively, of the *POST Peace Officer Psychological Screening Manual*.
- Results of psychological examination are valid for one year.
- Psychologist must review relevant work, life and developmental history, including social media findings, based on information collected during the background investigation.
- Psychological interview must cover issues arising from review of written assessments, background issues, treatment records (if available), and other relevant information.
- Psychologists must request information from treating health professionals, if warranted and obtainable.
- Information from all sources must be considered in the determination of psychological suitability.
- The determination of the candidate's psychological suitability must be made by the psychologist.
- The psychological suitability declaration must be in the background investigation file.
- The psychologist must report their bias assessment findings to the hiring authority, and may report additional information beyond the suitability determination, as necessary and appropriate.
- Any medical information must be kept in a separate, confidential medical file.
- Second-opinion rights of psychologically-rejected candidates per *CCR 11071(b)(2)*. Second opinion psychologist should meet POST CPE requirements. Agencies must provide relevant job and background information to candidates' second opinion evaluator, upon request. Ultimate manner of resolving differences rests with the hiring agency.

Table 3.3
SUMMARY OF POST PUBLIC SAFETY DISPATCHER SELECTION STANDARDS: REGULATIONS *1956–1960*

1956: General Requirements

- The general requirements for dispatcher selection mirror those for peace officers.

1956(c): Exceptions

- Reinstated dispatchers are exempt from POST selection requirements; however, the department must submit a Notice of Appointment/Termination to POST with official reinstatement documentation, and fingerprints to DOJ and FBI.
- Dispatchers returning to the same department within 180 days of a voluntary separation are exempt.

1957: Verbal, Reasoning, Memory, and Perceptual Abilities

- Verbal, reasoning, memory and perceptual ability test scores are transportable across agencies and have no shelf life.
- The agency establishes own cut score or other acceptable demonstration of verbal, reasoning, memory, and perceptual ability.

1959: Background Investigation

Required areas of investigation include:

- *Employment Eligibility:* Citizenship, permanent resident or other employment authorization (as required by USCIS Form I-9)
- *Education Verification:* No minimum requirement (can be used to verify the accuracy of what is reported on the PHS and as a measure of several POST background dimensions – e.g., learning ability)
- *Employment History Checks:* Self-explanatory
- *Relatives/Personal References Checks:* Self-explanatory
- *Dissolution of Marriage Check:* For the same reasons as peace officer requirement
- *Military History:* For the same reasons as peace officer requirement
- *Credit Records Check:* As important for dispatchers as peace officers, since they have access to CLETS

1960: Medical Evaluation

- The evaluation must be conducted by a licensed physician or a licensed health care professional under supervision of a licensed physician.
- The evaluation must be conducted on behalf of the department.
- Local agencies are responsible for developing medical screening procedures and criteria based on their dispatchers' duties, demands, and working conditions.
- Agencies must communicate the duties, demands, and working conditions to the physician.
- Results of medical evaluation are valid for one year.
- Physicians must request information from treating physicians or other relevant health professionals, if warranted and obtainable.

Table 3.3 *continued*

SUMMARY OF POST PUBLIC SAFETY DISPATCHER SELECTION STANDARDS: REGULATIONS *1956–1960*

1960: Medical Evaluation *continued*

- Medical history information must be collected from the candidate using the POST Medical History Statement (*2-264*) or alternative form.
- The determination of the candidate's medical suitability must be made by the physician and reported to the department using the POST Medical Examination Report (*2-265*) or alternative form.
- The medical suitability declaration must be in the background investigation file.
- The physician may report additional information beyond the suitability determination as necessary and appropriate.
- Any medical information must be kept in a separate confidential medical file.
- Second-opinion rights of medically-rejected candidates per *CCR 11071(b)(2)*. POST requirement that agencies provide relevant job information to candidates' second opinion evaluators, upon request. Ultimate manner of resolving differences rests with the hiring agency.

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Chapter 4

THE BACKGROUND INVESTIGATION PROCESS

PRIOR TO INITIATING THE INVESTIGATION

Before beginning the investigation, the investigator should be fully familiar with the laws and regulations associated with the conduct of backgrounds. Investigators are strongly advised to complete POST-certified background investigation courses as described in Chapter 1.

Investigators also need to understand local policies and ordinances, agency standards, and their agency's needs and philosophy regarding the background investigation process. They need the ground rules regarding the resources (both human and other) committed to this process, and a full understanding of what is expected of background investigators.

Agency procedures, resources, and priorities will have a significant impact on the manner in which background investigations can be conducted, including:

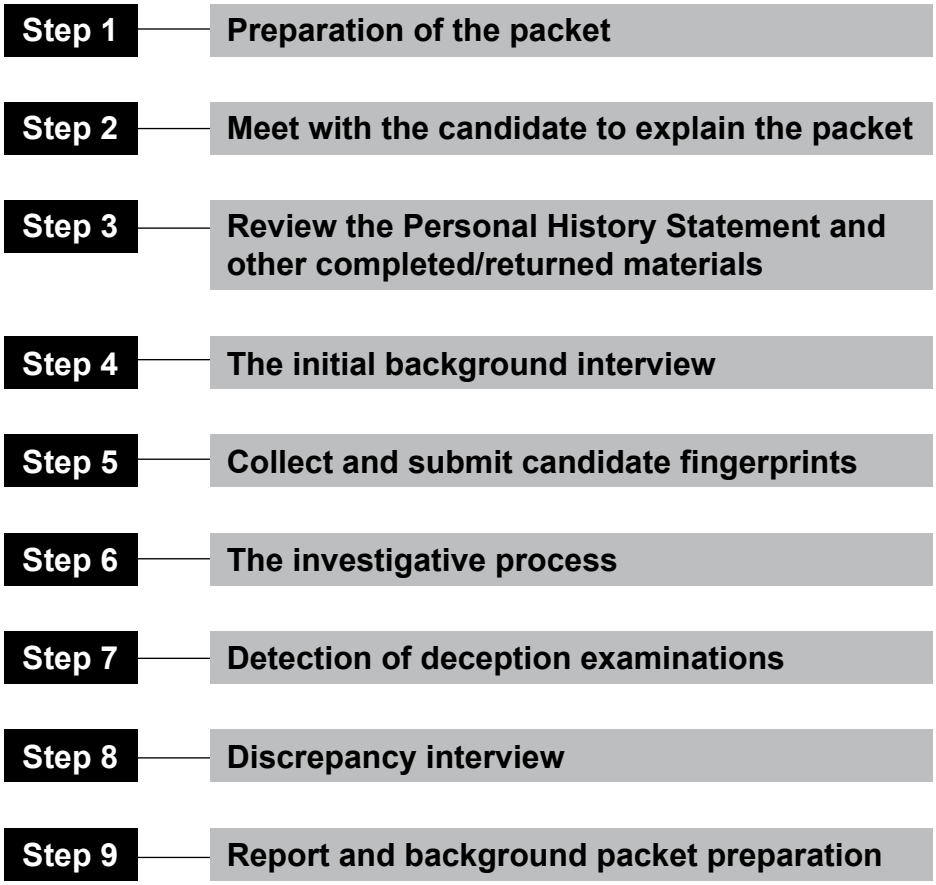
1) The amount of time available to complete the investigation,
2) The resources available for conducting background investigations,
3) Whether background investigations are a full-time assignment or an ancillary duty,
4) The extent to which the agency has clearly defined background and hiring policies,
5) Availability of clerical support,
6) The agency's policy regarding interactions between the background investigator and others involved in the hiring process (i.e., the truth detection examiner, psychologist, or medical doctor), and
7) The background investigator's role in the hiring decision.

Investigators must also balance agency resources against the value of the background information to be gained. Geography, logistics, staffing, funding, and urgency all have an impact on available resources. The fewer resources available, the more important it is to choose wisely when investing time and effort in a specific situation. Careful planning is critical; investigators must learn to maximize the available time and personnel resources. For example, driving halfway across the state to speak with a manager at the local fast food restaurant where a candidate worked eight or nine years ago may not be a very productive use of time.

THE BACKGROUND STEPS

The background investigation phases or "steps" are graphically represented in **Figure 4.1** below. These steps pertain to the investigations of both peace officers and public safety dispatchers; however, the scope, depth, and necessity of a particular step may vary between these two classifications.

Figure 4.1
THE BACKGROUND INVESTIGATION PROCESS



Agencies have considerable latitude in how these steps are ordered and implemented, and even whether certain steps (e.g., discrepancy interviews) are performed at all. However, federal and state laws do restrict when certain phases of the hiring process can or must be conducted. As discussed in the previous chapter, medical and psychological examinations must be conducted post-offer. The sequencing of the background investigation with respect to the conditional offer of employment was discussed in the previous chapter and will be revisited later in this chapter.

Step 1

Preparation of the Packet

The precise composition of a background packet will vary from agency to agency, based on department policies, guidance from the agency's legal counsel, and consultation with the agency's human resources or personnel department. At a minimum, the packet should include:

- Agency-specific information - hiring requirements and policies, detailed instructions, etc.
- A personal history statement[39] (e.g., POST Forms *2-251/2-255* or local agency alternative) that the candidate must complete and return
- A list of documents (birth certificates, high school transcripts, etc.,) that the candidate is expected to furnish (and how and when they are to be furnished)
- Multiple waivers and authorization forms, such as:
  - advisements regarding false statements (sample *B.2* in **Appendix B**),
  - lateral advisements (samples *B.3* and *B.4* in **Appendix B**), and
  - authorization forms for release of information (samples provided in **Appendix B**).

NOTE: Actual agency advisements and forms should be on current department letterhead, reviewed by legal counsel, and notarized as necessary.

- Credit Advisement forms [to comply with the Fair Credit Reporting Act (*15 USC §1681)*] and the California Consumer Credit Reporting Agencies Act (Civil Code *§1785.20* and *§1785.20.5*).
- Investigative Consumers Reporting Agencies Act (ICRAA) (Civil Code *§1786* et seq.). (Note: This is a legally complex subject. Investigators should never attempt to devise the forms for this specific use without very careful guidance from their agency's legal counsel.)
- Additional forms (e.g., blank supplementary questionnaires, child abuse and adult abuse reporting statements, drug policies, etc.).

Labor Code *§432* specifies that applicants are entitled, upon request, to copies of all application documents that they sign.

Investigators are unlikely to be charged with the responsibility for developing a background packet. Departmental forms, including blank waivers, are important documents which require the review and concurrence of the chain of command and the agency's legal counsel. Even the format/layout of official correspondence is commonly specified by the department head. However, investigators must bear responsibility for ensuring that departmental information is current and contains up-to-date contact information.

It may be useful to maintain complete electronic background packets for potential

39 The POST Personal History Statement is referenced throughout this chapter; however, other alternative personal history statements are acceptable.

candidates. These packets can be placed on-line or on a flash drive. There are many advantages to electronic packets. First, needed changes can be made quickly and the warehousing of blank hard-copy packets can be minimized or eliminated. (Note that the POST PHS forms are on-line.) Second, maintaining electronic packets allows the investigator to personalize each packet. By simply "searching and replacing," proper dates, names, and other needed identifying data can be inserted. Third, keeping an electronic master packet minimizes the likelihood that a needed form will be overlooked or misplaced from a hard-copy file. Fourth, if changes occur in the law, it is simple to update the file, rather than engage in the tedious process of replacing outdated items in an already-printed inventory.

Step 2

Meet with Candidate to Explain the Packet

It is a good idea to meet with the candidate to present the background packet personally. By explaining each item in the packet, communication between the candidate and the investigator is fostered and confusion can be avoided. Investigators who question the need for this step do well to remember their own surprise when, as a candidate, they were first handed a background packet. Candidates for employment as a peace officer or public safety dispatcher may never have been confronted with such a comprehensive application document.

At this initial meeting, agency-specific requirements or policies can be discussed and each section of the Personal History Statement can be reviewed, emphasizing the need to be honest, thorough, and complete. The list of required documents should be reviewed as well. An agreed-upon time can be established for the candidate to return the completed documents. The investigator and candidate should exchange contact information, including cell phone numbers and e-mail addresses.

Note that, although LC *§450* prohibits employers from charging applicants for submitting job applications and related expenses, this statute may not pertain to costs borne by candidates for obtaining their own personal, official documents (e.g., transcripts, birth certificate). Therefore, it may be permissible to require candidates to pay and be responsible for acquiring these documents.

Step 3

Review the Personal History Statement and Other Completed/Returned Materials

Once the candidate has completed a background packet, the investigator should review the submitted materials. The completed Personal History Statement should be reviewed to establish that there are no immediately disqualifying factors (e.g., felony conviction for peace officer candidates, lack of position-appropriate citizenship, admitted current illegal drug use, etc.). Notes should be made of responses and issues that require attention in the earliest steps of the investigation, including during an initial background interview.

It is permissible to make copies of passports, Certificates of Naturalization, and other official documents to include in the background investigation file (Note: Only copies made with the intent to defraud are prohibited by law). Copies should include a notation that the original or certified copy was inspected, the date of inspection, and the signature of the investigator.

DOCUMENT ANALYSIS

A typical background investigation may include 50 or more pages of documents, ranging from the Personal History Statement to copies of various releases to vital statistics documents, transcripts, credit reports, criminal histories, etc. The verification of all these documents can be challenging at best.

The analysis of original documents is far preferable to facsimile reproductions. The candidate should be required to bring original documents (or, in some cases, certified copies) to the investigator. If necessary, duplicates can be made and the originals returned to the individual. If copies are made, the investigator must make a note that the originals were reviewed.

In general, there are three issues that must be addressed when analyzing a document:

1) Is it authentic? Does it look real?

2) Is the information consistent with other claims made by the candidate, and the information already submitted or uncovered in the background?

3) Is it sufficient, that is, does it provide legally acceptable proof?

If in doubt about a given document, the best advice is to check with the originating source. Virtually any official document can be verified by the agency or institution of issuance. However, this can be a very time-consuming process; therefore, there are a few checks that investigators can initially do themselves, for example:

1) the social security number provided can be matched against the number on the college transcripts, credit report, and fingerprints,

2) the information on the driver license can be checked against the information on the official driving record, and

3) the Selective Service registration number can be matched against the number obtained on-line.

Most documents submitted by candidates are what they say they are. The most common types of deficiencies involve documents that, although genuine, are not legally sufficient. Examples include:

- Ceremonial birth certificates from hospitals that, although real, are not legal birth certificates.
- School transcripts, although genuine, from unaccredited educational institutions.
- Credit reports that are real, but over one year old.
- Automobile liability insurance cards that are real but expired, or that do not name the candidate as an insured.

Step 4

The Initial Background Interview

It is advisable to meet with the candidate to review the information. This interview may take place either during or after the review of the information by the investigator. This initial background interview allows the investigator to:

- affirm with the candidate that documents are true, correct, and up-to-date,
- explore reasons or explanations for curious, suspicious, or incomplete responses,
- correct truly inadvertent errors or oversights and,
- get an overall feel for the candidate.

If corrections are necessary, they can be made in one of several ways: 1) on a separate working copy, thereby preserving the original; 2) on the original document, but only in a different color of ink, or 3) by having the candidate submit supplementary sheets explaining each correction. Available time and investigator's/department's preference dictate which of these options is best.

Agency policy will dictate the treatment and disposition of inaccurate or incomplete information. Some agencies have a zero tolerance for such error, insisting upon a correct and complete document the first time; others are more lenient.

Candidate responses that are vague, suspicious, or incomplete should be the focus of further questioning. This process will provide valuable insight into where the likely problems are to be found, thus allowing the investigator to begin prioritizing the focal points of the investigation.

It is recommended that this interview and all others be electronically recorded. Electronic recordings can be a valuable back-up to the investigator's memory, especially in the event that a single investigator is handling multiple backgrounds. It also provides solid proof of what was asked and the content and manner of the answers. Candidates must be informed that interviews are being recorded.[40]

The initial background interview is also an ideal time to have candidates execute all the necessary release and authorization forms. California law mandates that candidates be given, upon request, a copy of any document that they sign.[41] A signed, notarized, comprehensive, and valid authorization for the release of information can offset the reluctance of contacts and references to answer questions about others. Sample releases are provided in *Appendix B*; however, it is critical that the agency's legal counsel play an active role in the design, approval, and/or use of these forms. Unless otherwise specified, authorizations for release of information may only be valid for 30 days.[42]

There may be circumstances where time or distance simply will not permit a face-to-face meeting between the investigator and the candidate. In this case, a telephone follow-up with the candidate and/or an interview utilizing Skype, Facetime, Zoom or other video calling service may be the only means available.

40 Cal. Pen Code *§632*, et seq

41 Cal. Lab Code *§432*

42 Cal. Civ Code *§1798.24(b)* (specifying conditions of disclosure of information subject to the Information Practices Act). Note that the Information Practices Act applies primarily to state agencies. Local agencies should check with their own legal counsel to ensure compliance with other state and local laws.

INTERVIEWING

A very substantial part of the background investigation process consists of making contact with a wide variety of individuals, including the candidates and their relatives, references, acquaintances, neighbors, employers, military acquaintances and others. All these individuals need to be interviewed, whether in writing, by telephone interview, or as a result of a face-to-face meeting.

The background process can be intimidating and intrusive to these interviewees, especially to the many candidates who have never experienced this depth of questioning. Although candidates must cooperate fully and openly with a lawful background investigation, investigators are wise to remember that the best candidates are likely to have many choices — law enforcement and otherwise. The interview should be seen as an opportunity to represent the agency favorably in addition to uncovering job-relevant information.

With certain narrow exceptions, others who are contacted during the process are under no obligation to cooperate; investigators must rely upon their good will to gather the needed information. Unlike a criminal investigation, many people contacted in the course of a background have no idea that they were going to be interviewed, nor do they have expectations regarding the nature of the investigation. Many will be reluctant to answer questions about others. The investigator's skill in gaining the cooperation of others is critical. The style and manner in which these individuals are approached and interviewed will very often make the difference between success and failure.

There are many useful publications and resources dealing with the subject of interviewing, as well as a POST-certified course on Interviewing and Interrogation. It is beyond the scope of this manual to provide an in-depth discussion of effective interviewing. Presented below is a brief overview of some of the more important aspects of interviews that have the most direct bearing on the conduct of background investigation. Much of the information presented here was adapted from POST's *"Interviewing Peace Officer Candidates: Hiring Interview Guidelines."*

PREPLANNING

By taking the time to prepare and ask job-related questions and focus the interview on candidate qualifications, investigators maximize the use of the time spent in the interview and send a powerful message to interviewees that they are serious about evaluating candidates carefully and selecting the best person for the job. This positive message reflects well upon the agency, and can prove to be an effective recruitment device, as candidates appreciate employment practices that are thorough, job-related, and even-handed.

BEGINNING THE INTERVIEW

Establishing Rapport

Creating an accepting, open environment helps relieve the interviewees' anxiety, which in turn allows them to feel comfortable giving honest, candid answers. Therefore, building rapport can enhance the effectiveness of the interview by yielding more complete and accurate candidate information.

continued

Open the interview session by greeting the individual with a sincere smile, lots of eye contact, and a firm handshake. Providing information about the background investigation can both serve as an icebreaker as well as ensure that interviewees understand the process and what is expected of them. If the interview is being electronically recorded, interviewees must be informed of and consent to the recording (PC §632 et seq.). They should be encouraged to respond candidly and completely to all questions, to provide specific examples of past behavior, when appropriate, and to ask for clarification if a question is unclear.

POSING QUESTIONS

Open Versus Closed Questions

Questions can vary by the type of response required of the candidate, ranging from a simple "yes" or "no" (closed questions) to an in-depth answer. In general, answers to ***closed questions*** (e.g., *"Have you ever worked the night shift?"*) are often so short that they do not provide interviewers with sufficient, useful information. The result is that interviewers end up doing more talking in the interview than the candidate does. A "yes or no" question, for example, may require 15–20 words to ask, but only elicit a 1–3 word response. Therefore, questions that are open-ended are generally preferable.

Although they should be used sparingly, closed-ended questions do have their place in the background investigation. During the interview, they are useful for verifying facts, eliciting specific details, addressing questions arising from the candidate's written responses, or for checking minimum qualifications.

Open questions require candidates to provide specifics, details, and other information. These questions are useful in finding how well the candidates organize their thoughts and sometimes they can reveal attitudes and feelings critical to effective job performance. They are generally more effective than closed-ended questions at developing insight into a candidate's experience and abilities.

QUESTION PHRASING

Regardless of format, all questions must be worded ***clearly, simply, and concisely***. The candidate must understand what is being asked without having to second-guess or read between the lines.

Interviewers can have a significant influence over the responses of candidates based on the specific wording chosen to communicate the question. ***Leading questions*** indicate to the candidate the response that the interviewer wants. Leading questions include those in which the correct answer is fairly obvious (e.g., *"How important is it for a peace officer to have integrity?"*) or implied by the way the question is phrased or delivered (e.g., *"Would you be willing to use deadly force, if necessary?"*)

continued

FOLLOW-UP/PROBING

Follow-up questions can serve three important functions: clarification, elaboration, and verification.**1) Clarification** – Follow-up questioning may be necessary if the interviewee's response was vague or confusing, or indicates that he did not understand the question. Investigators should ask clarifying questions if they find themselves needing to make inferences or assumptions to fill in the gaps in the information provided. Sometimes clarifying questions may be as simple as repeating the initial question. Otherwise, clarifying follow-up questions typically begin with phrases such as *"Could you explain again…," "Help me understand,*" or *"What do you mean …"* It may also be appropriate to paraphrase what the individual said: *"If I heard you correctly, here is what you said…"*

2) Elaboration – An individual may provide a brief answer that needs to be expanded. In these situations, follow-up questions can be used to obtain more details. Sometimes a simple pause – saying nothing – will elicit a further response. Otherwise, probes such as *"Tell me more about..," "Walk me through…," "Could you expand on…,"* or *"Please provide an example"* can prompt additional, necessary information. Even if the response was complete, at times it may be useful to request another example or other additional information to ensure a complete picture of the individual.

3) Verification – In an effort to present themselves in the best possible light, candidates may provide impressive but not necessarily complete and accurate responses. Asking follow-up questions to obtain details about how, who, when, and where will help interviewers separate what is being said from how it is being said, to ensure that they are not unduly influenced by candidate presentation skills alone. Pressing candidates and others for specifics allows the investigator to retain control of the interview by ensuring that the answers provided are complete, accurate and in line with information the investigator sought.

INTERVIEWERS' NONVERBAL BEHAVIOR

Nonverbal behavior (eye movements, changes in posture, facial expressions) can communicate as much information to the individual as the questions themselves. An investigator's body language can either encourage or discourage information. There are several steps investigators can take to ensure that their nonverbal behavior creates an atmosphere in which the candidate will relax and talk more freely:

- Keep your eyes opened and focused on the individual, especially when asking questions or when a candidate seeks clarification.
- Maintain an open, interested posture: face the person, do not cross your arms; lean forward when listening to candidate responses.
- Keep a cheerful expression: smile, never frown, grimace or show confusion, disapproval, boredom, or impatience.
- Nodding your head indicates that you find the information useful and encourages the individual to continue, as does giving short verbal approval, such as "mm-hmm."
- Speak at a reasonable, steady pace, using variation in voice loudness and tone to emphasize important points or requests and to keep communications sounding fresh and genuine.

DECEPTION IN THE INTERVIEW

Avoidance of eye contact, rapid blinking, and nervous body movements are commonly interpreted — particularly by experienced law enforcement officers — as signs of deception. However, research has demonstrated that nonverbal behaviors are unreliable indicators of lying. For example, while some individuals do look away while lying, others increase their degree of eye contact. Fidgeting and other nervous body movements can be natural behavior for some and a natural reaction to the stress of the interview for others. Therefore, investigators should avoid drawing conclusions about an individual's deceptiveness or other motives based on nonverbal behavior alone.

Step 5

Collect and Submit Candidate Fingerprints[43]

Agencies differ as to when fingerprints are obtained and submitted to the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ). Although Live Scan responses may return in 24 hours or less, problem records can take upwards of 30 days. Firearms clearance letters are mailed separately and may take several weeks to process.

For peace officer candidates, there will be three documents returned to the agency: 1) the criminal record return from the DOJ's Bureau of Criminal Identification and Investigation,

2) the FBI criminal record return document, and 3) the DOJ firearms eligibility clearance return. The first two documents will also be returned for public safety dispatcher candidates. Each

one of the documents must be reviewed carefully to ensure that there is a clearance on the return document, as error messages transmitted to the employer via email look very similar

to actual Live Scan reports. Therefore, investigators must carefully inspect these returns to avoid potential problems. Note that Live Scan defaults to checking only California records for nonsworn candidates. Therefore, investigators must ensure that FBI fingerprints are specifically requested for public safety dispatcher candidates.

Any indication of criminal activity or a negative return must be thoroughly reviewed to determine compliance with Commission Regulations and agency selection standards. Additionally, pursuant to Penal Code *§11105(t)*, the agency must provide the candidate with a copy of their Criminal Offender Record Information (CORI), if it is a basis for an adverse employment decision. This information must be provided to the candidate regardless of the waivers signed by the candidate.

When responding to CORI requests pursuant to Penal Code *§§11105(k)* or *(l)*, the Department of Justice will also provide the request date and name of every agency that has previously requested a search of the candidate's pre-employment criminal history (Penal Code *§11105.06*).

Step 6

The Investigative Process

Each background investigation may take 40 or more working hours of an investigator's time. The investigative hours are likely to be spread out over many

43 Fingerprinting is also discussed in the Legal section of *Chapter 5*, Areas of Investigation, and the POST Personal History Statements. Per Cal. Pen Code *§11170(b)(9)*, peace officer candidates may also be screened through the *California Child Abuse Central Index (CACI)*, but a separate inquiry is required. NOTE: A May 2022 state auditor's report (*2021-112*) indicates that the CACI may contain incomplete data.

weeks, depending upon the candidate. Type of history, length of history, number of candidates, geographical history, available resources, and even competing demands on the investigator's time all have an impact on the length of time required.

Investigators should be aware of the available resources before embarking upon the investigation. Resource realities will dictate whether the investigation will focus on mailed or electronic inquiries, phone calls, face-to-face interviews, or some combination thereof.

Regardless of the manner in which references are contacted, the investigator must determine who and how many individuals to contact. The following general guidelines may help:

- Rather than using a "shotgun approach" (i.e., contacting everyone to ensure completeness), assess the expected value of the comments from a particular reference against the resources expended to get the information.
- Begin in the areas that appear to be the most time-consuming or an area which, if explored, is most likely to reveal information that will disqualify the candidate from further consideration. The areas will vary from candidate to candidate.
- Contact a diverse group of persons who know the candidate across a variety of contexts (home, school, work, socially, the military). Often, the point of diminishing returns is reached when this type of diverse group echoes the same information about the candidate, both positive and negative. If significantly different information is revealed, or the contacts only know the candidate in a very limited context, more interviews are probably appropriate.
- Contact with secondary references (e.g., those offered by the initial references that were identified by the candidate) are likely to yield different responses than those chosen by the candidate. Thus, it is imperative, and required by Commission Regulation 1953(e)(7)(A), that these potentially rich sources of information be contacted.

Internet Searches and Social Media

Public Records and Cybersearching. Internet searches may provide quick and convenient access to many public records not easily inspected in-person, provide background information on individuals who appear in the local media or other internet sources, and even assist in locating individuals and/or their employers when information furnished on a PHS is incomplete or out-of-date. However, the lure of cybersearching can easily result in countless valuable hours surfing for information of marginal use. An investigator must continuously balance the time available for the investigation against the potential value of information to be gained as a result of such searches.

It is also quite easy to spend excessive amounts of time and resources searching on subscription search engines (e.g., Accurint, Equifax, LexisNexis). When using commercial search engines, it is wise to identify the focus of the

search beforehand and narrow inquiries to information that will be of maximum value (and not otherwise reasonably available at a lower cost). This practice is advisable even when accessing free search engines (e.g., Google, Yahoo).

While the internet generally provides for the quick and inexpensive transmission of information, it is not secure. Background investigators are generally in possession of huge amounts of highly personal and sensitive data concerning their candidates, and care must be exercised before this information is transmitted over the internet.

Social Media and Cybervetting. The proliferation of social networking sites and online forums (e.g., Facebook, Instagram, Twitter, Tumblr, TikTok, Reddit, Quora, etc.) provide additional insight into peace officer candidate behavior and suitability. Commission Regulation *1953(e)(12)* requires that a social media search be conducted as part of the background investigation. Searches must address *"statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information…"*

Inquiries should be limited to statements, postings, and/or endorsements made by the candidate, regardless of source, that are indicative of peace officer suitability. This may include evidence of illegal acts or activities, misconduct, dishonesty, involvement and/or engagement with hate groups,[44] or indicators of bias against individuals or groups based on actual or perceived characteristics including race or ethnicity, gender, nationality, religion, disability, or sexual orientation. It is also important to include relevant positive attributes to mitigate concerns with past behaviors, if/as necessary. In all cases, care must be exercised that the social media search does not include inquiries or assessments of protected conduct or classifications (race, gender, sexual orientation, religious or political affiliation, family medical history, etc.)

California, like several other states, limits an employer's (or prospective employer's) rights to inspect social media and the applicability of such statutes to public employers is not always clear-cut. [See Labor Code *§980* (employer may not ask applicant or employee to disclose a user name or password, to open an account in the employer's presence, or to divulge any social media except, as specified).] Other state and federal privacy laws may also apply. Publicly available (e.g., open source) information does not hold the same restrictions.

In close consultation with a legal advisor, departments should develop a comprehensive cybervetting policy[45] consistent with local, state and federal rules and regulations. The use and development of such policies should focus on postings made by a candidate on social media sites, rather than attempts to access what may otherwise be confidential, private and/or constitutionally protected information through a candidate's private social media accounts.

44 The Anti-Defamation League (ADL) *Hate Symbols Database* provides information on hate symbols and their significance. As acknowledged by the ADL, the symbols should "be evaluated in the context in which they appear," as some may have contradictory meanings.

45 *POST Bulletin 2022-34 provides a list of FAQs and resources to assist departments with developing a cybervetting policy.* The International Association of Chiefs of Police (IACP) *Recruitment and Personnel* also offers guidance through their *Developing a Cybervetting Strategy for Law Enforcement (.pdf)* publication. Since this is a national publication, relevant California laws should be considered when developing a policy.

Step 7

Detection of Deception Examinations

The administration of pre-employment "detection of deception" examinations[46] (i.e., polygraph, voice stress analysis) is not a POST requirement; rather, their use is a matter of agency discretion.

Agencies electing to conduct a detection of deception examination should do so based on a full understanding of the advantages and limitations associated with this procedure. The placement of the examination within the pre-employment screening process should be decided in consideration of federal and state disability statutes. The ADA/FEHA statutes prohibit pre-offer inquiries involving medical or psychological disabilities, including history of drug use and current or past alcoholism. This prohibition applies even if the agency outsources this step in the process. Agencies should carefully review the provisions of California law and relevant case law with respect to the use and permissibility of such examinations. Regardless of the timing of the detection of deception examination, inquiries into a candidate's family medical history are prohibited.[47]

Step 8

Discrepancy Interview

A discrepancy interview may be held if inconsistencies or other issues arise during the conduct of the investigation that impact a candidate's employment eligibility. It is recommended that the investigator prepare for the meeting by writing a description of each issue to be discussed. At the start of the interview, the candidate should be provided with a copy of the written description of each discrepancy and given ample opportunity to provide a complete explanation for each identified issue. This interview is not the place to make any commitment to the candidate as to the outcome of the background investigation process.

It is highly recommended that all discrepancy interviews be audio or video recorded, with the knowledge of the candidate.[48] As discussed previously, this prevents misinterpretation or misrepresentation of what was said.

Step 9

Report and Background Packet Preparation

The heart of the background investigation is the completed package. Excellent investigative work needs to be competently, clearly, and defensibly documented. The background report must clearly address all required areas of inquiry as they relate to the essential attributes as defined in the background dimensions. For peace officer candidates, it is also important to include information relevant to the requirements of Commission Regulation 1955, bias screening of peace officer candidates. Although background investigators do not, nor should not, assess candidates for bias, they must provide findings of biased behaviors and/or evidence of bias-relevant traits and attributes in the background report provided to the employer and the screening psychologist. The Bias Assessment Framework and associated guidance tables (see Chapter 2) will assist investigators in determining what information should be included in the report.

46 Labor Code *§432.2*

47 *Genetic Information Nondiscrimination Act of 2008 (GINA)*

48 Penal Code *§632*

Below are some general guidelines for writing effective reports:

1) Write for the reader! If the report cannot be understood, is too long, poorly written, or too confusing, it will not be read, and nothing is gained.

2) Do not bury critically important information.

3) Assume that everything in the report might ultimately be subject to discovery. Avoid including information that cannot be supported with facts or corroboration.

4) Impressions count. While investigators should avoid injecting personal bias in any official action, their ability to assess the credibility and/or motives of others is key to a successful background.

5) If it cannot be documented, it did not happen. Do not put the agency in a position of having to defend something that is not documented.

6) Always keep in mind the visibility and importance of the background report and the investigation itself. The decisions resulting from this report will affect the quality of the agency's workforce. Their safety and effectiveness may well depend upon how well the investigation has been conducted and documented.

THE BACKGROUND PACKAGE

Commission Regulations 1953(g)(1) and 1959(g)(1) –Background Narrative Report – stipulate:

> *"The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of behaviors, traits and/or attributes that may be relevant to bias per the Bias Assessment Framework [subsection 1953(b)]. The report shall identify the data sources reviewed for the findings, regardless of weight given, and include relevant supporting documentation, including documentation obtained through the social media search [subsection 1953(e)(12)]. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections."*

A typical completed background package includes:

- Narrative and/or executive summary
- Results of interviews
- Personal History Statement (PHS)
- Copies of relevant supporting documents
- Complete background narrative report

These documents should be organized in a consistent, systematic manner. A package that is poorly organized or difficult to understand is unfair to the candidate as well as an inefficient use of the investigator's time and agency resources. POST offers sets of *tabbed dividers* for organizing peace officer and public safety dispatcher background files. These background investigation report organizers can be printed or ordered from the Background/Hiring section under the Forms tab on the *POST website*.

Use of these tabbed dividers is not mandatory, as POST does not dictate the precise format of a completed background package. However, the tabs help to ensure that the background package is **complete and organized so that all information can be readily located by the appointing authority and by POST consultants during the site visit.** *Chapter 6*, "POST Compliance Inspections," includes detailed guidance on organizing the background investigation package in accordance with POST requirements.

Some agencies employ a system that includes a narrative summary that omits specific sources of information and sometimes specific details. This summary, coupled with non-confidential material, might be shared with the candidate or others when required by law without compromising confidential and/or privileged information.[49] Note, however, that information and documents collected in the course of the background investigation supporting the required areas of inquiry and investigation must be retained, as discussed later in this chapter under *Record Retention*.

The choice of a background organizational reporting system should be made in close consultation with agency command staff and the department's legal counsel.[50] As noted earlier, any narrative and packaging system selected/developed must assure that all areas of inquiry and investigation are thoroughly documented in compliance with POST regulations.

An "**investigator's checklist**" is recommended, regardless of the reporting system chosen. The checklist should be included in the package,[51] along with all supporting documents situated in the appropriate sections of the completed background report packet (e.g., birth certificates, marriage dissolution documents, educational records, military records, credit report, fingerprint returns, motor vehicle records, and suitability declarations from the psychologist and the medical evaluator).[52] Example checklists are provided in Appendix C – Samples *C.1* and *C.2*.

A **sample of a partial background report** is included in *Appendix D*, illustrating the amount and depth of information that should be included. This sample report begins with a background investigation checklist that documents the individuals contacted and the steps followed. An example narrative summary, followed by

49 See Cal. Civ Code §§*1798.38*, *1798.40*, *1786.10*, Cal. Penal Code §§*13302* and *13303*, etc., Cal. Evid Code §1040, and *Johnson v. Winter,* 127 Cal. App. 3d 435 (1982).

50 Privileges, exemptions, and immunities from disclosure may be impacted by the format selected by an agency; a careful review of Cal. Civ Code §§*1786* et seq. and *1798* et seq. is recommended.

51 Because the checklist contains the identities of references and contacts, it is protected by statute (Cal. Civ Code §*1798.38*); Cal. Evid Code §*1040*; and *Johnson v. Winter*, 127 Cal. App. 3d 425 (1982).

52 The medical and psychological suitability declarations are maintained in the background file, however, any information deemed medical must be kept in a separate confidential file, per the confidentiality provisions of ADA, FEHA, and HIPAA.

an executive summary, are located behind POST report *Tab A*, Background Narrative Report. The narrative and executive summaries should not be mistaken for, nor used in place of, the more comprehensive narrative report.

Appendix D includes the investigator's narrative of interviews with contacts behind the appropriate tabs, including previous employers (*Tab K*), references (*Tab L*) and neighbors (*Tab M*). Note that there may well be additional documentation, such as returned questionnaires, included in these sections along with the interview narratives.

Note: *Previously completed background reports can serve as a useful training aid for new investigators; however, care must be taken to protect the privacy rights of the persons mentioned on these completed forms.*

REPORT RECOMMENDATIONS AND REQUIREMENTS

Agency policy will generally dictate whether the investigator is required to offer a recommendation. However, the hiring decision rests with the department head. Background investigators should not include recommendations in their report unless their recommendations are always followed. This avoids placing the agency in the potentially embarrassing position of having to explain a hiring decision in the face of the investigator's contrary recommendation.

Rather than making such recommendations, investigators should summarize their findings — especially negative information — around the POST Background Investigation Dimensions and utilize the Bias Assessment Framework and associated guidance tables.[53] Doing so can greatly aid the agency hiring authority's review and evaluation of the information contained in the larger report. The narrative report must include background investigation findings, including those relevant to the background dimensions [Commission Regulation *1953(b)]* and bias assessment [Commission Regulation *1953(g)*]. Providing findings ensure that the hiring authority and the screening psychologist have relevant information to make informed hiring decisions. An "executive summary," if used, is an excellent location for expressing the results of the investigation in terms of their impact on these critical attributes.

RECORD RETENTION

All parts of the narrative report need to be retained in the background package for inspection by POST in order to verify that all mandated areas of inquiry were thoroughly addressed. In addition, Commission Regulations 1953(g)(2) and 1959(g)(2) stipulate:

The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code § 12946.

Government Code §*12946*[54] provides that all files containing records of

53 The POST Background Investigation Dimensions and Bias Assessment Framework are described in *Chapter 2*.The POST background investigation dimensions are described in *Chapter 2*.

54 Retention requirements for counties are addressed in Cal. Gov't Code §*26202*; cities are covered in Cal. Gov't Code §*34090*.

application — including background information — must be retained for a minimum of four years after the files were initially created in the case of applicants who were not hired; records of terminated employees must be maintained for a minimum of four years from the date the employment action was taken. If notified that a verified complaint has been filed against it, an agency must preserve all records and files until the final resolution of the complaint.

In addition to Cal. Gov't Code §12946, other local and state retention policies may apply, therefore, information gathered as a part of a background (as well as the overall hiring) process should never be destroyed without guidance from and the concurrence of agency command staff and, as appropriate, the agency's legal advisor. In addition to potential violations of POST regulation, the improper destruction of these records is a criminal offense in California.[55]

Q: Must an investigator's handwritten notes be preserved along with the rest of the background?

A: If an investigator's notes are rough drafts of material faithfully and entirely reproduced in the background file, they do not have to be maintained. However, if the notes are the only record of information obtained, they would be subject to the same retention requirements as any other aspect of the background investigation.

THE CONDITIONAL OFFER OF EMPLOYMENT

Traditionally, the completed background investigation package is forwarded to the hiring authority for evaluation. Those candidates found suitable are then notified by a conditional offer of employment (COE). However, closing out the background investigation prior to a COE limits lawful inquiries into areas such as history of illegal drug use, extent of alcohol use, or other disability-related issues that are prohibited at the pre-offer phase. Therefore, at a minimum, the COE should inform candidates that further background issues may continue to be investigated as warranted. A sample COE is provided in *Appendix B*.

By law, the entire background investigation may not be deferred to the post-offer phase. However, both ADA and FEHA regulations include provisions for allowing for the deferral of certain nonmedical or non-psychological inquiries until the post-offer stage *"if the employer can demonstrate that the information could not have reasonably been collected prior to the COE."*

A thorough discussion of the practical implications and options for the sequencing of the background investigation with respect to the COE is discussed in *Chapter 3*, "Legal Qualifications and Statutory Framework" (see "The Conditional Offer of Employment: Pre- and Post-Offer Inquiries"). That section includes a discussion of GC §1031.2, a statutory provision that specifically addresses the pre/post offer sequencing of peace officer background investigations. As emphasized in Chapter 3, no changes in the sequencing of either the peace officer or the public safety dispatcher background investigation should be implemented without the direct involvement of the agency's legal counsel.

55 Cal. Gov't Code §§*6200* and *6201* make it a crime to improperly destroy a public record, whereas Cal. Gov't Code §*12946* controls the destruction of "records of applications, personnel, membership, or employment referral records and files."

MEDICAL AND PSYCHOLOGICAL EVALUATIONS AND BACKGROUND INVESTIGATIONS FOLLOW-UP

Medical evaluations are required for both peace officers and public safety dispatchers; associated regulations are contained in Commission Regulation *1954* (peace officers) and *1960* (dispatchers). Only peace officer candidates are legally required to undergo a psychological evaluation (Commission Regulation *1955*). However, many departments choose to adopt additional standards for their public safety dispatchers, including requiring a psychological evaluation.

Even though the background investigation is conducted pre-offer, background investigators may need to follow-up on personal history topics that could not be fully investigated at the pre-offer stage, such as extent or frequency of past illegal drug use, current/past alcohol abuse, and behavior issues or performance problems associated with medical or psychological conditions. A request for any information or explanations that the applicant may have lawfully withheld at the pre-offer stage can be included with the conditional offer of employment itself.

During the course of the background investigation, the investigator may uncover information indicating that a candidate may be unfit for physical, emotional, or mental reasons. In such cases, the investigator should refrain from asking any medical questions[56] and refer the information to the appropriate professional for evaluation. Furthermore, it is required that the examining physician or psychologist be provided with background information that is relevant to their respective evaluations.[57] This is especially important if the information bears specific relevance to a particular aspect of the candidate's medical or psychological condition. There may also be times when the physician or psychologist uncovers information unknown to but relevant for the background investigator. This information should be forwarded to the background investigator for evaluation and additional investigation, if appropriate. In general, the psychologist, physician, and background investigator should work cooperatively as long as the information — especially that from the psychologist or physician to the background investigator — is provided on a strictly "need to know" basis [see Regulations *1953(d)*/*1959(d)*].

MEDICAL AND PSYCHOLOGICAL EXAMINATION DOCUMENTATION

Findings of the medical and psychological suitability evaluations must be reported in writing to the appointing authority for use in the hiring decision. For peace officer candidates, the report must include the psychologist's *"findings from the bias assessment…and identify the data sources relied upon for their findings, including information obtained through the background investigation…"*[58]. As stipulated in Commission Regulations 1954, 1955 and 1960, reporting requirements must also include a medical/psychological suitability declaration containing:

1) The evaluator's printed name, contact information and medical license number,

56 *Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA*

57 Commission Regulations *1953(g)(3)* and *1959(g)(3)*

58 Commission Regulation *1955(f)(2)*

2) The candidate's name,

3) The date the evaluation was completed, and

4) A statement, signed by the physician/evaluator, affirming that the candidate was evaluated in accordance with Commission Regulations. The statement shall include a determination of the candidate's medical/psychological suitability for the position.

The declaration of the candidate's medical/psychological suitability must be included in the background file; however, the actual report and other documents that include medical and/or psychological information, which may also include a candidate's need for reasonable accommodation, must be kept in a separate confidential medical file.

SECOND OPINIONS

California Regulation [*2 Cal. Code Regs §11071(b)(2)*] grants all candidates who are rejected based on the results of a medical or psychological evaluation the right to submit an independent expert opinion for consideration before a final determination of disqualification is made. Departments should work with their legal counsel to determine an appropriate time period for which a second opinion can be sought to ensure that the selection process continues to move forward.

When a candidate notifies the department that they are seeking an independent opinion, the department is required to make available the job duties, powers, demands, and working conditions and requirements specified in the relevant regulation (Commission Regulations *1954*, *1955*, and *1960*). Other information may be shared with the second-opinion evaluator, such as specific procedures or findings from the initial evaluation, at the discretion of the department as appropriate.

The means for resolving discrepancies in evaluations rests with the department, consistent with local personnel policies and/or rules. Regardless of whether it is created by the departmental psychologist, physician or a second (or third) opinion evaluator, a medical/psychological suitability declaration, in compliance with POST medical/psychological documentation requirements, must be included in the background file of all candidates who are subsequently hired. In all cases, the candidate must be found suitable, prior to appointment.

FINAL EVALUATION – FORMAL OFFER OF EMPLOYMENT

At this time, the hiring authority should have a completed background report, including any required follow-up investigation. All documentation should be secured in the file, the narrative report of the background investigation completed, all medical and psychological screening requirements conducted, and any discrepancies resolved. The appointing authority is now ready to make a final hiring decision.

APPOINTMENT ELIGIBILITY– PEACE OFFICERS

Senate Bill (SB) 2 (2021) requires that departments verify eligibility for appointment and POST certification. This includes determining if the candidate is qualified for peace officer employment (GC *§1029*).

In addition to selection and hiring requirements, peace officers must meet specific training mandates prior to appointment. Oftentimes the background investigator is responsible for ensuring that the candidate has met these requirements and is eligible for appointment. Commission Regulations *1005* and *1007* outline the training requirements for regular, specialized and reserve peace officers. Commission Regulation *1008* contains the requalification requirements for peace officers who have had an extensive break in service and/or who do not have qualifying service.

For lateral or entry-level (e.g., academy graduate) candidates, requisite training must be verified prior to appointment. Candidates can access and print their *training profile* via the online POST PASS system. Departments can request candidate profiles by submitting a *POST Profile Request* (form 2-126).

Once a formal offer of employment has been accepted, a Notice of Appointment must be submitted via the Electronic Data Interchange (EDI) system to POST within 30 days of appointment. Departments without access to EDI may send in the Notice of Appointment (POST Form *2-114*) within 30 days.

Figure 4.2
BACKGROUND INVESTIGATION REPORT ORGANIZERS

(Tab divider sets are available through the Background/Hiring section of the Forms tab on the POST website)

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Chapter 5

AREAS OF INVESTIGATION AND THE POST PERSONAL HISTORY STATEMENTS

Commission Regulations *1953* and *1959* specify the required sources of information for background investigations of peace officers and public safety dispatchers, respectively. The required ten sources of investigation are:

1) Personal identifying information
2) Relatives and other references
3) Educational history
4) Residential history
5) Employment history
6) Military history
7) Financial history
8) Legal history
9) Driving history
10) Other topics related to assessing moral character

These information sources generally apply to both peace officers and public safety dispatchers; however, there are statutory and regulatory differences in the manner in which these areas can be investigated. These differences are highlighted in **Table 5.1**, which compares areas of investigations for these two occupations.

THE POST PERSONAL HISTORY STATEMENT (PHS)

Per Commission Regulations 1953(c) and 1959(c), candidates must complete a personal history statement before the onset of the background investigation. Although the POST Personal History Statement will satisfy this requirement, it is not required. However, any form used to meet this requirement must include questions in the ten areas of inquiry listed above.

POST offers two Personal History Statements to assist in the conduct of background investigations:

1) Personal History Statement – *Peace Officers* (POST *2-251*)
2) Personal History Statement – *Public Safety Dispatchers* (POST *2-255*)

Table 5.1
COMPARISON OF AREAS OF BACKGROUND INVESTIGATION FOR PEACE OFFICERS AND PUBLIC SAFETY DISPATCHERS

Type/Source of Information	Peace Officer	Public Safety Dispatcher
1. State Department of Motor Vehicles	Driving record and adherence to the law	Same
2. High school and all higher educational institutions attended	Verify U.S. high school graduation or equivalent, per GC §1031(e), and character of candidate	Determine school record and character of candidate
3. Official documents (e.g., birth certificates, citizenship papers)	Verify age and citizenship per GC §1031(a) and (b),[59] 1031.4, and eligibility for employment per 8 USC §1324a	Verify eligibility for employment in United States per 8 USC §1324a
4. Police files in jurisdictions where candidate resided, worked or frequently visited	Determine if criminal record exists	Same
5. Criminal records of the California Department of Justice	Establish legal eligibility for employment and possession of a firearm (via firearms clearance letter)	Establish DOJ eligibility for unsupervised CLETS access, and assessment of integrity and moral character
6. Federal Bureau of Investigations records	Establish legal eligibility for employment and possession of a firearm per GC §1029 and §1031, PC §29805, and 18 USC §922(d)	Same as criminal records for CA DOJ
7. Other Relevant Records Checks	Verify eligibility for peace officer employment per GC §1029	Not applicable
8. Previous employers	**For at least the past 10 years**, to determine quality of work record. For experienced peace officers, a check of their general personnel file or designated separate file is required (PC §832.12).	**Within the past 10 years**, to determine quality of work record
9. References supplied by candidate, and other references supplied by the initial references (i.e., secondary references)	Determine whether candidate has exhibited behavior incompatible with the position sought	Same
10. Present and past neighborhoods	Determine whether the candidate has exhibited behavior incompatible with the position sought	Same
11. Credit records	Determine credit standing with lenders as an indication of dependability and integrity	Same
12. Military records in and outside of the U.S.	Determine the quality of service and proof of selective service registration where required by law	Same

59 In addition, Cal. Veh Code §2267 for CHP officers.

The PHS forms listed in *Appendix E* can be downloaded from the POST website (*http://post.ca.gov/forms*). They may be completed by hand or electronically (except for initials and signatures), based on requirements of the hiring department.

Although the two PHS forms contain many of the same questions, there are several key differences as a result of both statutes and the different demands and requirements associated with these two professions. These differences are listed in *Table 5.2* at the end of this chapter.

It is strongly recommended that, prior to using the POST PHS or any personal history statement; departments submit the form(s) to their legal counsel to ensure that the form(s) meet the requirements of all local, state and federal laws, rules and regulations. Agencies who wish to revise the POST PHS forms can request unprotected, editable versions by emailing POST at: *webrequest@post.ca.gov*.

The PHS is divided into ten sections that parallel the required areas of investigation. Each section/area of investigation is discussed below, referenced by the corresponding section in the POST Personal History Statements.

PHS Section 1:
Personal

This section requests information on:

- Name (current, past, and nicknames)
- Address (residential and mailing)
- Contact Information (phone numbers and e-mail address)
- Citizenship Status/Eligibility for Employment
- Birth Place and Birth Date
- Social Security Number
- Driver License
- Physical Description

This information is to be used to verify the candidate's identity, obtain contact information, determine that the candidate meets statutory requirements, and to enable fingerprinting and the accurate acquisition of documents required to successfully conduct the background investigation.

VERIFYING IDENTITY

Establishing identity is a first critical step in the background investigation process. An original birth certificate or certified copy should at least be examined, a copy of which can be made for the investigator's records. If a birth certificate cannot be located (or is in a foreign language), a U.S. passport, passport card, or an original or certified copy of a Certification of Naturalization, or presentation of a valid Permanent Resident Card will suffice. Candidates can be assigned the responsibility for obtaining these documents, as well as all other personal documents.

It is permissible to make copies of official documents; only duplicates made with the intent to defraud are prohibited by law.

Both the parents' and the candidate's name should be verified on these documents. Any discrepancies should be explained.

DISCREPANCIES IN NAMES – USE OF AN ALIAS

Name changes can occur for a variety of legitimate reasons, including marriage, adoption, or naturalization. The law permits individuals to use any name as long as the change of name is not for fraudulent purposes. However, the candidate should be able to produce documents that reflect these changes. Use of other names for fraudulent or other illegal purposes speaks directly to the individual's suitability for law enforcement.

CITIZENSHIP

Every employer in the United States is required by law to show that anyone hired since June 1, 1986 is legally eligible to be employed in the U.S.[60] This is true for native-born citizens, as well as naturalized citizens and permanent residents.

- **Peace Officers** – Peace officers must, at a minimum, be either United States citizens or permanent residents who are eligible for and have applied for citizenship. (Note: Peace officers with the California Highway Patrol must be United States citizens.)[61]

  All individuals born within the contiguous 50 states and the territories of Guam, Puerto Rico, and a portion of the Virgin Islands are citizens of the United States. Proper evidence of citizenship is a valid birth certificate documenting birth in the United States, U.S. passport or passport card,[62] or a valid document from the Department of State documenting birth to an American citizen in a foreign country, such as a child of parents in the United States military or in other foreign service. Such documents are issued by the State Department. Other evidence of citizenship is a Certificate of Naturalization.

  Government Code *§1031.5* stipulates that in order for permanent resident immigrant to maintain peace officer eligibility, citizenship status must be conferred within three years of application for employment. Permanent resident immigrants need to provide documentation that they are eligible and have applied for U.S. citizenship. Acceptable proof of citizenship includes both a Permanent Resident Card issued by U.S. Citizenship and Immigration Services (USCIS) as well as a copy of an official receipt from USCIS showing that the candidate's application for citizenship has been received. Note: "proof of mailing" from the Postal Service is not equivalent to a receipt issued by USCIS.

  Where an application for citizenship is not completed within three years, there is a presumption that the candidate is not cooperating with USCIS. Any delays which push the application period beyond that three-year period

60 *8 USC §1324a*

61 Cal. Veh Code §*2267*

62 U.S. passports issued to U.S. nationals from American Samoa, Swains Islands and Commonwealth of the Northern Marianas Islands are not acceptable proof of U.S. citizenship. Candidates from these areas must provide other proof of U.S. citizenship.

must be the documented responsibility of USCIS, rather than due to the failure of the candidate to complete the process.

- **Public Safety Dispatchers** – There are no unique citizenship requirements for public safety dispatchers; therefore, the dispatcher PHS only asks, "Are you legally authorized for permanent employment in the United States?" Proof of eligibility to work in the United States (*USCIS Form I-9*) is required.[63]

BIRTH PLACE AND BIRTH DATE

Birth place and birth date is collected for identification purposes, for fingerprinting, and to verify that peace officer candidates meet the minimum age requirement of 21 years old.[64] Note that both federal and state laws prohibit employment discrimination based on age and national origin.

Age can be verified by presentation of a valid birth certificate or other documents as described above for verifying citizenship requirements.

SOCIAL SECURITY NUMBER

A social security number is collected to obtain credit records, Employment Development Department employment histories, employment files, and other information. Care must be taken to ensure that this information is not shared with unauthorized individuals and is otherwise kept private.

PHYSICAL DESCRIPTION AND PHOTOGRAPHS

Photographs, as well as a physical description of the candidate (e.g., height, weight, hair color, eye color) can be very useful for positive identification purposes during the background investigation. The photograph should be taken when the candidate meets with the background investigator to start the background process. There are some candidate protection rules regarding use of photographs:

- Photographs are not permitted at time of initial application and may not be used as a basis for employment discrimination.
- Candidates cannot be made to pay for their own photograph.

PHS Section 2:
Relatives and References

This section requests contact information on:

- Parents (including step-parents and in-laws)
- Spouses/Registered domestic partners (current and former)
- Siblings (including half, step, foster, etc.)
- Children (including natural, adopted, step, and foster)
- References other than family members or individuals listed elsewhere

63 U.S. Citizenship and Immigration Services (USCIS) Form I-9: Employment Eligibility Verification (*https://www.uscis.gov/i-9*)

64 Cal. Govt Code §*1031.4*. Exemptions to the 21 years of age minimum requirement include jail deputies appointed under 830.1(c) of the Penal Code

Commission Regulations *1953* and *1959* require that, within practical limits, background investigators contact the references supplied by the candidate, and other references supplied by these initial contacts (i.e., secondary references), to determine whether the candidate has exhibited behavior incompatible with the position sought. Anyone who knows the candidate is a potential source of information. Typically, different types of personal associations with the candidate will lead to familiarity with different facets of the candidate's background. These individuals' greatest value may be as sources of information for secondary references; that is, other individuals who know the candidate but were not listed as such by the candidate. Sometimes secondary references prove to be more candid than primary references supplied by the candidate.

The number of contacts that are initiated is largely up to the common sense and good judgment of the investigators and their reviewing authorities. In general, more contacts are better than few, but investigators and their agencies are ultimately responsible for determining to what length an investigation must go. Every contact attempted should be documented.

Not every person or entity contacted will respond to a request for interview, return a phone call, respond to an email, or complete and mail back a questionnaire. The duty to cooperate with background investigations is a matter of public policy; however, except in very narrow circumstances, there is no legal obligation to do so. Background investigators should document even unsuccessful attempts to contact references.

FAMILY MEMBERS

Family members often have the most long-term and in-depth knowledge of the candidate. Relatives may be able to provide information about the candidate's traits and temperament, academic problems and learning ability, legal misconduct (e.g., arrests and/or lawsuits), as well as names of others who are familiar with the candidate. That longstanding relationship with the candidate may, however, affect the objectivity of the information provided. Investigators must judge the completeness and accuracy of that information on a case-by-case basis.

It is recommended that the investigator inquire into whether the candidate has had serious interpersonal problems, including whether the candidate has had any marital problems or any problems with physical or psychological abuse. This does not mean, however, that the investigator should examine every minor family disagreement and dispute, nor unnecessarily violate a family's privacy. The purpose, rather, is to inquire into problems that are of sufficient severity to affect job performance and therefore the candidate's qualifications. Note, however, that investigators must never ask questions about family medical history, regardless of whether the interview takes place pre- or post-offer.[65]

The investigator should be aware that attitudes of the spouse or other close personal relations regarding the candidate joining the department might affect that person's ability to objectively evaluate the candidate's qualifications. The investigator may find it useful to ascertain those attitudes.

Officers and dispatchers have been known to be susceptible to the influence of

65 *Genetic Information Nondiscrimination Act of 2008 (GINA)*

unprincipled relatives or acquaintances; therefore, such information uncovered during the investigation should be examined. However, having relatives or acquaintances with a criminal or unsavory past should not be an automatic basis for disqualification. Instead, the investigator should focus on the candidate's behavior regarding such relatives or acquaintances and the degree of the candidate's susceptibility to such influence.

MARITAL STATUS

An individual's marital status is prohibited as a basis for employment discrimination.[66] No judgments should be made about the candidate's current marital status (i.e., married, single, separated, or divorced), nor should routine inquiry be made into the facts surrounding the candidate's decision to marry or remain single.

FORMER SPOUSE(S)/FORMER REGISTERED DOMESTIC PARTNER(S)

Peace officer and public safety dispatcher candidates must show proof of dissolution of marriage even if they have not subsequently remarried. Besides helping establish legal rights of survivorship or medical decision-making, dissolution documents can contain highly relevant information concerning a candidate's character or financial well-being. Restraining orders, allegations of domestic violence, property settlements, and continuing financial obligations may be detailed in such documents.

Although a copy of the final judgment is sufficient, an inspection of the full file has the benefit of indicating any current or past restraining orders. The final judgment should be inspected to ensure that a final date of dissolution (not merely a request for final judgment) is entered. For candidates who were divorced outside of the United States while they were a citizen of another country, proof of marriage dissolution is often easier to establish by reviewing their Certificate of Naturalization, rather than attempting to translate and verify the legal sufficiency of a foreign document.

Former spouses or domestic partners can be the source of very useful information for a wide variety of uses, including employment history, residences, financial problems, drug use, and other facts. The reason for the break-up itself can provide useful information. The given reasons should be confirmed, whenever possible, by obtaining a copy of the dissolution of marriage or domestic partnership, or checking the civil filing index of the court in order to uncover further information. The investigator should also confirm that child support, if any, is up-to-date.

Any information gathered from a prior spouse/partner should be carefully evaluated and corroborated. Ill feelings generated by dissolution can cause hostility towards the candidate, which can affect the honesty of the information provided. However, if serious acts of wrongdoing are alleged, every effort should be made to verify those claims through additional sources. For example, if acts of domestic violence are claimed, the investigation should include determining whether police reports were filed and/or court restraining orders were sought.

66 Cal. Govt Code §*12900*, et seq.

CHILDREN

Generally, the behavior of the candidate's offspring should not be used in evaluating the candidate's acceptability. Exceptions would be the situations in which the candidate knowingly supported or contributed to the delinquent behavior of the offspring, or there is evidence of abuse or neglect. Support of dependents is a separate question, which is addressed later in this chapter in the Financial section.

OTHER REFERENCES

Anyone who has lived with or has had a relationship with the candidate is a potential source of relevant information, depending upon the nature of their relationship and how recently that relationship existed. Therefore, the context, frequency of contact, and length of the candidate's relationship with the relative, reference, or acquaintance should be investigated. However, no judgments should be made based on the mere fact of the gender of the individual with whom the candidate has resided.

Some references, even those supplied by the candidate, will be quite reluctant to provide disparaging information about the individual. It is critical that a valid authorization form from the candidate be provided along with an explanation of the protection afforded to the information they provide. An example authorization form for peace officer candidates is included in Appendix B – Sample *B.5*.

The background investigator is required to solicit and then contact secondary references as provided by relatives, references, and acquaintances [Commission Regulation *1953*(e)(7)]. The secondary and other references can often provide the investigator with valuable insight and information that listed references may not be willing to furnish.

References should be asked about the candidate's participation in illegal or unethical conduct, their knowledge of the candidate's reputation for honesty and integrity, and their knowledge of the candidate's behaviors, traits and/or attributes relevant to bias, including verbal and/or written statements espousing bias toward a protected group or individuals perceived to belong to the group.[67] Specific instances of illegal or unethical activity and/or indications of bias should be corroborated and documented. Other useful topic areas include candidate drug use, financial difficulties, strengths and weaknesses, intergroup contact, and their understanding of the reasons underlying their interest in a career in law enforcement.

Ideally, relatives and references should be interviewed in person or, minimally, via real-time contact (e.g., via phone call). However, if the individuals to be contacted are not within a geographical area that makes personal interviews feasible, or if availability is an issue, contacts may be made through email or mailed inquiries. A sample letter and questionnaire are located in Appendix C – Samples *C.3* and *C.4*. Questionnaires should always include space for the individual completing the form to include additional contact information for follow-up and a place to list secondary references.

67 Cal. Govt Code §*1031(f)*; AB 846 (2020)

PHS Section 3:
Education

This section requests information on secondary and post-secondary education, including:

- Degrees and certificates
- Dates attended and units completed
- Trade, vocational, or business schools/institutes attended
- Attendance at a POST Basic Academy/Public Safety Dispatcher Basic Course
- History of academic discipline, suspension, or expulsion

Peace officer candidates must have achieved a high school diploma or equivalent.[68] No minimum educational standards are established for **public safety dispatchers**; however, educational information listed on their PHS must be verified.

VERIFYING MINIMUM REQUIREMENTS – PEACE OFFICERS

Government Code *§1031(e)* established the following education standards for peace officers; however, this does not preclude an agency from establishing higher, job-related post-secondary education requirements. All **peace officers** must have attained ***one*** of the following:

- Graduated from an acceptable United States public high school, Department of Defense high school, or accredited or approved public or non-public high school, ***or***
- Passed the General Education Development (GED) test or other *high school equivalency test* approved by the State Department of Education, ***or***
- Passed the California High School Proficiency Examination, ***or***
- Attained a two-year, four-year, or advanced degree from an accredited college or university.

U.S. public high schools are acceptable if they meet the high school standards set by the state in which the school is located. The status of a public high school, as well as many private schools, can be checked by contacting that state's Department of Education, or the local school district itself. A list of state education departments can be accessed at *http://www2.ed.gov/about/contacts/state/index.html?src=ln*.

To comply with Government Code §1031(e), nonpublic high schools as well as post-secondary institutions ***must be*** accredited or approved by:

- A *state or local government educational agency*,
- A *regional accrediting association*,
- An accrediting association recognized by the Secretary of the US Department of Education or holding full membership in the *National Council for Private School*

68 Cal. Govt Code §*1031(e)*

Accreditation (NCPSA) or the *National Federation of Nonpublic School State Accrediting Associations* (NFNSSAA), ***or***

- An organization holding full membership in *AdvancED or Cognia* or the *Council for American Private Education* (CAPE).

Accreditation of postsecondary institutions (e.g., colleges, universities) can be searched through the U.S. Department of Education's Database of Accredited Postsecondary Institutions and Programs (*DAPIP*). Accredited U.S. Department of Defense (DOD) high schools are also sanctioned by Government Code §1031(e). The status of a DOD school can be checked at *www.dodea.edu*.

There are a limited number of foreign schools that meet the criteria stipulated in Government Code §1031(e). These include overseas schools operated by the Department of Defense schools, foreign schools accredited by an association recognized by one of the accrediting agencies recognized by the Secretary of the United States Department of Education, or one of the four additional associations that oversee the accreditation of private institutions (i.e., NCPSA, AdvancED/ Cognia, CAPE, and NFNSSAA).

Official transcripts are the only authoritative means of verifying a person's educational background. Transcripts may be acquired through the institution itself or through an e-transcript service authorized by the educational institution. Transcripts from accredited institutions should bear regional accrediting information. Some candidates may be reluctant to furnish original transcripts because of the fees involved or the steps necessary to arrange for them. Not uncommonly, however, the reason that candidates fail to furnish original transcripts is because their academic records have been impounded for unpaid school fees or loans, a fact that may serve as another legitimate area of concern.

If official records are not available through any source, and the candidate does not have any of the other qualifications outlined in GC §1031(e), they will need to pass the GED or other *high school equivalency test* approved by the State Department of Education.

NOTE: Transcripts, degrees or credentials that have been translated or evaluated for equivalency by an evaluation service do NOT meet the requirements of GC §1031(e) or Commission Regulation 1953. The educational institution itself must be accredited or approved by one of the recognized accrediting bodies.

RELATED EDUCATIONAL BACKGROUND INQUIRIES

Commission Regulations 1953(e)(5) and 1959(e)(4) require that an investigation must be made into the high school and all higher educational institutions that the candidate attended. At a minimum, this investigation should verify that the information supplied by the candidate on the PHS is accurate. School personnel may also provide useful information if the candidate has recently finished school. This is especially true if there is any record of disciplinary actions, such as suspensions, expulsions or any other form of academic punishment.

It can be particularly useful to contact staff from the candidate's Basic Police Academy or Public Safety Dispatcher Academy. Academy staff are especially likely to remember candidates who stood out from their classmates. Candidates

who claim completion of POST-certified basic training on their PHS should provide a copy of their *POST profile*, which can be easily accessed by the candidate through the online POST PASS system.

PHS Section 4:
Residence

This section requires candidates to detail their residential history for the past 10 years (or since the age of 15), including:

- Addresses
- Dates resided
- Contact information for property manager, rent collector, or owner
- Roommate/housemate contact information
- Reasons for moving
- History of being evicted or asked to leave a residence
- History of leaving a residence owing rent

Commission Regulations 1953(e)(9) and 1959(e)(8) stipulate that the background investigation include "contacts and interviews with current, and where practicable, previous neighbors to determine whether the candidate has exhibited behavior incompatible with the position sought." An investigation of residential history facilitates local police record inquiries, as well as providing information about the candidate from neighbors, landlords, roommates, and others acquainted with the candidate.

A neighborhood check is not merely a restatement of a candidate's residential history. Rather, it includes contacting a sampling of neighbors (and landlords) to determine if any job-relevant behaviors can be identified and documenting those contacts. Although there is no specific number of required contacts, it does not preclude the investigator from meeting this obligation and, at a minimum, attempting to contact neighbors in person, regardless of the length the candidate has been at the residence. If in-person contact is not feasible, investigators must contact neighbors via phone, mail and/or electronically. A sample neighborhood reference check interview questionnaire can be found in **Appendix C – Sample C.5**. Questionnaires should include space for the neighbor to include contact information (e.g., phone, email) for further follow-up, if/as necessary.

The security provisions in some housing complexes may restrict the ability to directly contact neighbors. Committing a potential criminal trespass to accomplish a neighborhood check is not required, and information gleaned from the property owner may be all that is available. For limited access locations, investigators should search public information for contact information. Every effort should be made to contact the neighbors to inquire about the candidate. All attempts should be documented.

When interviewing neighbors, the background investigator should inquire into how well the neighbor is acquainted with the candidate, whether there have been any incidents requiring a law enforcement response at the candidate's residence,

and how the candidate interacts with others in the neighborhood. Contacts with landlords and property managers/homeowners associations should include inquiries into the candidate's timeliness in paying rent, complaints from other neighbors or tenants about the candidate, and whether the property was vacated with the proper notice and left in good repair. Information gleaned from these interviews should be maintained in the background narrative report.

If personal interviews with landlords are not feasible, inquiries may be made by letter. **Appendix C – Sample C.6** and **C.7** include a sample letter and background questionnaire for landlords.

PHS Section 5:
Experience and Employment

Information about the candidate's past work behavior and performance is of tremendous value when determining the individual's suitability for employment. Commission Regulation *1953(e)(6)* requires an investigation of a peace officer candidate's employment history for a minimum of the past 10 years; however, the peace officer PHS requires candidates to document their entire employment history (and, in the case of dispatcher candidates, their employment for the past 10 years). Information inquiries include:

- Employer name, location, and dates and status of employment
- Job titles and duties
- Name and contact information for supervisors and coworkers
- Reasons for leaving (or wanting to leave)
- Dates and reasons for periods of unemployment
- History of counterproductive work behavior, including:
  - Disciplinary actions
  - Being fired, released from probation, or asked to resign
  - Workplace violence
  - Resignation in lieu of termination
  - Subject of written complaints or counseling for poor performance
  - Subject of discrimination accusations
  - Attendance problems
  - Unsatisfactory performance reviews
  - Misuse of confidential information
  - Misuse of sick leave
  - Poor performance as a result of drug/alcohol consumption
- History and status of applications to other law enforcement agencies

GENERAL AREAS OF EMPLOYMENT HISTORY INQUIRY

At a minimum, investigators should:

- Contact past employers and co-workers
- Inquire into the reason(s) for the candidate's having had no prior employment or extended gaps in employment
- Inquire into whether the candidate has ever been fired or asked to resign from any place of employment and the circumstances surrounding the termination or resignation
- Inquire into a candidate's reason for leaving a job if that reason is other than being fired or being asked to leave
- Inquire into the facts that formed the basis for rejection of the candidate from another position requiring peace officer powers
- Inquire into whether the candidate has ever received unemployment insurance, workers compensation, or other state or federal assistance through fraudulent means

POST regulations require the investigation of a peace officer candidate's past ten years of employment. However, there may be circumstances where an agency feels the need to investigate beyond that ten year period because of answers furnished on the PHS, such as an indication of significant disciplinary problems, terminations, prior peace officer experience, etc.

EMPLOYERS

Quite often, both public and private employers refuse to speak to investigators, or refer to their designated spokespersons who provide very limited information. GC *§1031.1* was specifically added to facilitate obtaining written employment information from present or past employers of peace officer candidates who are not currently employed as peace officers or applicants for positions other than sworn peace officer within a law enforcement agency (i.e. public safety dispatchers).[69] It requires these employers to disclose employment information to background investigators, including job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to performance of a peace officer or other law enforcement agency applicant, except information prohibited from disclosure by any other state or federal law or regulation. However:

- The request must be made in writing
- The request must be accompanied by a notarized authorization from the candidate releasing the employer of liability
- The request and authorization must be presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency

69 Per Cal. Gov't Code §*1031.1(d)*, an employer's refusal to disclose information to a law enforcement agency constitutes grounds for a civil action for injunctive relief. Note that this provision may not apply to dispatchers employed by non-law enforcement agencies.

- The disclosed information is deemed confidential. However, the information may be released to other law enforcement agencies that are also conducting a background investigation into a peace officer or other law enforcement agency applicant. In this case, the receiving agency shall use the information for investigative leads only and must independently verify the information to use it in determining suitability for peace officer or other law enforcement agency applicant employment.

Past and present employers are entitled to charge reasonable fees to reimburse costs incurred in furnishing the information.

A sample of a written request for information, including a copy of GC §1031.1, is included in **Appendix C – Samples C.8** and **C.9**. Note that individual employers may have their own specific requirements and release forms to be completed before they provide information.

Access to employment information on past or current employees of a public agency but who are not covered by GC §1031.1 is guaranteed by the *California Public Records Act*.[70] PC *§832.7(b)* makes certain peace officer records subject to disclosure under a public records act request.

CANDIDATES WITH PRIOR PEACE OFFICER EMPLOYMENT

PC *§832.12* requires peace officer employers to make records of any investigations of misconduct by a peace officer in the officer's general personnel file or a separate file designated by the department. It further obligates a peace officer seeking employment with another department to give written permission to view the file and obligates the hiring department to review the records.[71]

PC *§13670(c)* requires a law enforcement agency to "disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that former peace officer," unless specifically prohibited by law.

Dispatcher applicants should not be asked to complete waivers designed for peace officer applicants; rather, separate waivers should be designed for that purpose. Investigators can reassure references contacted in the course of such backgrounds that similar legal privilege (per Civil Code *§47*) may apply (but only if the agency is in the POST Public Safety Dispatcher Program, thereby making a background investigation a legal requirement).

Some past employers maintain records only for limited periods of time, others cease operations, and still others even decline to respond to those requests even though they are legally required to do so (i.e., GC *§1031.1*). To satisfy POST, every contact with a current or past employer, even an unsuccessful one, needs to be documented. The extent to which the department is willing to pursue remedies under the law to attempt to obtain this information is governed by the department and their legal counsel, not by POST. It is also up to the agency to decide the impact of an inability to obtain meaningful (or any) information from a present or former employer.

70 Cal. Gov't Code §*6253*.

71 *Senate Bill (SB) 16 (2021)* modified PC §832.12 to require that potential peace officer employers review records maintained by current or former peace officer employers.

Cal. Civ. Code §47(c) confers absolute privilege[72] on the persons who are contacted or who come forward on legally mandated backgrounds (i.e., peace officers and public safety dispatchers in the POST program). As discussed in **Chapter 3**, "Legal Qualifications and Statutory Framework," information that is privileged may not be introduced in a court proceeding if it is adverse to the interests of the provider of that information. This protection should be spelled out in a notarized letter from the candidate releasing the employer from liability, such as in the sample letter for peace officer candidates found in Appendix B – Sample B.6, and the comparable letter for dispatcher candidates located in Appendix B – Sample B.7. Employers can also be reminded of the legal risks associated with providing inaccurate evaluations, either highly positive or negative.

Information from the employer should include, if at all possible:

- A verification of the dates of employment and the position held
- An examination of the original application documents to assure that the candidate is disclosing their entire job history
- An assessment of the candidate's job skills and reputation as an employee
- Identification of any performance problems or work habits, including the ability to work with others and as part of a team
- The candidate's attendance and punctuality record or other indications of dependability
- The real reason why the employee is leaving or has left that employer
- If the former employer would recommend or rehire that person

Before drawing any conclusions, the background investigator should establish or refute the veracity of any negative information; to the extent possible, the employer's observations should be supported with official records. Any discrepancies between these personal assessments and the official record should be explored. Investigators must keep in mind that many employers, even public employers, often fail to document assessments of work performance, and an official record may be very difficult, if not impossible, to access.

SUPERVISORS AND CO-WORKERS

Current and past co-workers and supervisors can serve as useful sources of information, as well as a source of leads to additional co-workers, friends, and other useful contacts. As with all references, the relevance and usefulness of the information provided by these individuals depends upon how recently they worked with the candidate, for how long, and the nature of their working relationship. Any information provided by supervisors and co-workers - positive or negative - should be carefully evaluated and corroborated.

If past employers and supervisors cannot be interviewed personally, contact may be made by letter or by telephone. A sample letter and questionnaire that can be used to contact the past and present employers are found in Appendix C – Samples C.10 and C.11.

72 O'Shea v. General Telephone Co. 193 Cal. App 3d 1040

PERIODS OF UNEMPLOYMENT

The PHS requires candidates to indicate all periods of unemployment and reason for the unemployment, choosing from five categories: student, between jobs, leave of absence, travel, and other. As discussed in the section on disability discrimination, medical inquiries are prohibited prior to a conditional offer of employment. However, it is permissible to question any gaps or sudden departures of employment per se, even if it may elicit information about a medical condition or disability. Medical information volunteered in response to this line of questioning should not be pursued until and unless the candidate receives a conditional job offer.

REASON FOR LEAVING A JOB

While inquiring into the reasons for the candidate's leaving a job is recommended, caution must be exercised. Limited employment opportunity is a valid and acceptable reason for terminating an employment relationship, as are hostile work environments, unlawful terms of employment, relocation, and other explanations.

CURRENT EMPLOYER

A current employer or supervisor may present a biased or inaccurate picture of the candidate in order to encourage (or discourage) employment of the candidate elsewhere. The investigator must exercise caution and ensure that any information, either positive or negative, is carefully evaluated and corroborated.

The investigator should avoid deliberately placing a candidate's present job in jeopardy. If on the PHS, the candidate indicated that there would be a problem if the current employer were contacted, it is lawful to defer contact with that employer until after a conditional offer of employment has been extended. In this case, the investigator should contact the present employer only after all other candidate screening steps have taken place.[73]

REJECTION FROM ANOTHER PEACE OFFICER OR PUBLIC SAFETY DISPATCHER POSITION

The investigator should inquire into the facts surrounding the rejection for any other peace officer or public safety dispatcher position. Resulting information must be carefully verified and evaluated; it should not automatically be assumed that the previous investigation was unbiased, thorough, and complete. Furthermore, different agencies may have different minimum standards (such as age, education, drug use history, residency, etc.); therefore, the investigator should assess whether the reasons for such a rejection are relevant to the present employer. Another employer's reason for rejection is not automatically relevant. Agencies should reject unsuitable candidates based on their own job-relevant criteria rather than those of another agency (especially if those reasons have not been independently verified or are deemed irrelevant, outdated, or otherwise inapplicable).

Note: Per Penal Code §*11105(k), (l)*, DOJ is required to provide the date and name of every agency that has previously requested a search of the candidate's

73 *ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations*, EEOC, October, 1995.

criminal history. This information may help corroborate the experience and employment included on the candidate's PHS.

PHS Section 6:
Military

Commission Regulation *1953(e)(10)* requires that the background investigation of peace officer candidates include an evaluation of military records in the service of the United States, jurisdictions therein, or foreign government, to determine the quality of the individual's service and proof of Selective Service registration where required by law. The same investigation is required of public safety dispatcher candidates, per Regulation *1959(e)(9)*.

This section of the PHS requires candidates to detail their military history, including:

- Selective Service registration (if applicable)
- Branch of service and dates
- Type of discharge
- Current status as a reservist
- Disciplinary actions, judicial and non-judicial
- Security clearance problems

The candidate's participation in the National Guard or a reserve component of the armed services is protected by the Military and Veterans Code §*394*. It is a misdemeanor to discriminate against a reservist in any aspect of employment. Further, Cal. Govt Code §*12940* prohibits discrimination based on military or veteran status.

SELECTIVE SERVICE REGISTRATION

In July 1980, Congress restored the Selective Service registration, requiring all males (excluding the sons of foreign diplomats) born on or after January 1, 1960 to register within 30 days of their 18th birthday, and up to the age of 26 they are required to notify the Selective Service of changes in name, address, or telephone number.

Information on the candidate's compliance with current registration requirements can be obtained from the Selective Service System at their website (*www.sss.gov*). If proof of registration is not available on the website, a letter should be written to the Selective Service System. A sample written inquiry is provided in Appendix C – Sample *C.12*.

Note that since 1973, the military uses the individual's social security number for identification purposes.

Willful failure to register per the Military Selective Service Act (*50 U.S.C. 3801* et seq.) is not a disqualifier under POST regulations. Any explanation to justify a failure to register must be made by the applicant to the agency administering the right, benefit, or privilege for which Selective Service System registration is required.

MILITARY SERVICE HISTORY

Military service records should be requested on candidates who have served in the military. Candidates can obtain their military service records electronically through *eVetRecs*. Military records can also be obtained by using either a Standard Form 180[74] or an equivalent form developed by the agency. Information on how to obtain military service records can be found by matching the candidate's service history with the records repositories listed on the back of the SF-180. To ensure that complete information is received, a letter, signed by the candidate, can be submitted that specifies the exact information requested, including:

- copies of personnel records,
- copies of DD-214s,
- eligibility for reenlistment,
- records of judicial and non-judicial punishments,
- performance ratings, and other records.

Requests should be sent to the appropriate military records custodian, as listed on the last page of *SF-180*.

DD-214

Candidates who have been in the military are almost always issued a report of separation each time they are released/discharged from active duty. Individuals may have one or more such report, depending on their military history. There are two versions of the DD-214[75]: a short form and a long form. Commission Regulations 1953(e)(10) and 1959(e)(9) require investigators to examine the long form (usually depicted as a Form 2 or 4), which contains the separation information (type of separation, character of service, authority and reason for separation, separation and reenlistment eligibility codes). Investigators should always examine an original document.

With the exception of some "entry-level separations," virtually anyone who enters the military will be issued discharge documents at their time of separation. If the candidate possesses a DD-214 "short form," it is almost inconceivable that they were not issued a "long form," as well (they are generally stapled together).

Currently, inquiries directed to the Army and Air Force generally produce less comprehensive replies. However, most recent veterans can obtain copies of their separation documents on-line. [*Note:* many military records issued prior to 1973 were destroyed in a catastrophic fire at the National Personnel Records Center, although the number of applicants facing that issue is rapidly declining].

RE-ENTRY CODES

Although re-entry codes reflect a variety of things, a "1" or "2" generally indicates that there were no problems. A "3" indicates some substantial issue that needs to

74 Standard Form 180 can be downloaded from *https://www.archives.gov/veterans/military-service-records/standard-form-180.html*.

75 Military reservists and National Guard members without active military service will not necessarily receive a DD-214; rather they will be issued separation documents, such as a DD-249, DD-256, or NGB-22.

be explored because re-enlistment would require a waiver by the service branch. A “4” indicates that re-enlistment would be prohibited and must be carefully explored. However, re-entry codes may vary depending upon the branch of service, thus they should be verified through the respective branch of service.

TYPE OF DISCHARGE/CHARACTER OF SERVICE

The DD-214 will list one of five possible entries under “character of service” (type of discharge):

1) Honorable
2) General – under honorable conditions (less than full honorable)
3) Other than honorable conditions (OTH or UD)
4) Bad conduct discharge (BCD) – resulting from a special court martial
5) Dishonorable discharge – resulting from a general court martial. No longer considered a veteran.

Because reason for separation, type of discharge, and re-enlistment codes appear only in predetermined combinations on genuine DD-214s, a local armed forces recruiter can help if assistance is needed in interpreting the meaning of these or other codes. However, federal privacy laws prohibit identifying the service member when discussing the form.

CURRENT MILITARY STATUS

The PHS asks the candidate to indicate any current military obligations (military reserve or National Guard program). When the candidate indicates a current military obligation, the current unit, co-workers, and supervisors should be treated no differently than a civilian job.

MILITARY DISCIPLINE

Inquiry into judicial and non-judicial military disciplinary action may reflect upon the candidate’s suitability. Such information should be explained in the PHS and verified through military records (i.e., DD-214 or other available records), or through contact with military acquaintances or commanding officers.

Senate Bill (SB) 2 (2021) added a subsection to 1029 of the Government Code disqualifying individuals from peace officer employment, if they have been convicted of or adjudicated through military or other judicial processes of specified offenses against public justice, including if the acts were committed in other jurisdictions which would have been in violation of specific sections, if committed in California [GC §1029(a)(9)].

CONTACT PAST COMMANDING OFFICERS OR MILITARY ACQUAINTANCES

When interviewing commanding officers and military acquaintances, the investigator might ask questions such as:

- When or how long ago did you know the candidate?
- How well did you know the candidate?

- Was the candidate ever the subject of any disciplinary action?
- Do you know if the candidate got along well with others?
- Can you think of any reason why the candidate might not be qualified to work in a law enforcement agency?

PHS Section 7:
Financial

Commission Regulations *1953(e)(11)* and *1959(e)(10)* require that a credit check be performed on peace officer and public safety dispatcher candidates, "to determine the candidate's credit standing with lenders, as an indication of the candidate's dependability and integrity." This section requires the candidate to provide an estimate of their income and expenditures, and to respond to specific questions associated with history of fiscal responsibility, including.

- Bankruptcy filings
- Contact by collection agencies
- Repossessions
- Wage garnishments
- Delinquencies, failure to pay, or cheating on taxes
- Employment bond refusals
- Defaulting or avoiding repayment on loans
- Debts due to gambling
- Expenditures on illegal activities
- Failure to make court-ordered payments
- Bad checks

Although an important area of investigation, the evaluation of a candidate's behavior regarding the handling of finances must be careful and judicious. In some instances, outwardly negative information may involve legal rights and even factors that are completely outside of the candidate's control. Financial opportunities can be limited as much by race, gender, marital status, and even geography as by willful acts of the candidate. It is therefore critically important to understand the full circumstances surrounding any apparently negative financial information.

SOURCE OF INCOME

Investigators are permitted to inquire into sources of income reported by the candidate. However, candidates cannot be asked to reveal their salary history information.[76] The POST PHS forms require the candidate to provide their total monthly disposable income, which may include income from spousal support, business ventures, and investments. Provided that the source of income is lawful,

76 Cal. Lab Code §*432.3* prohibits employers from asking candidates for salary history information, including compensation and benefits.

investigators should not draw conclusions about a candidate merely based on the amount of money earned.

EXPENDITURES

It is permissible to inquire into the amount of money a candidate claims to spend on a monthly basis. However, assuming that the expenditures are for a lawful purpose, how a candidate chooses to spend money is generally not relevant. Instead, the focus should address the following questions: Does the reported income support the expenditures that a candidate claims? Do the reported expenditures correspond with the obligations appearing on the credit report? Does the candidate meet the obligations that they have agreed to assume?

BANKRUPTCY

Individuals have three essential avenues in which bankruptcy may be pursued: Chapter 7 (discharge of debt), Chapter 11 (business-related protection from creditors), and Chapter 13 (individual reorganization of debt).

Bankruptcy is a legal right. Absent any evidence of fraud, the mere fact that a candidate has undergone bankruptcy cannot be the sole basis upon which employment is denied.[77] Investigators may inquire into the circumstances that led up to bankruptcy, including the examination of supporting court records regarding reported assets and liabilities at the time when the bankruptcy petition was filed. Once filed with the United States District Court, these are public records. Records may be accessed through the Public Access to Court Electronic Records (*PACER*) system.[78]

State law forbids a consumer/credit reporting agency from reporting any fully discharged bankruptcy that is more than ten years old [Cal. Civ Code *§1786.18(a)(1)*].

BILLS TURNED OVER FOR COLLECTION AND REPOSSESSIONS

In many cases, collection activity and repossessions are indicative of problem behavior. Investigators should take care to assure that the bill in collection is, in fact, the responsibility of the candidate against whose credit it has been reported and that any repossession reported similarly applies to the candidate. Investigators should then inquire as to why the bill had to be turned over to collection or why repossession was necessary.

GARNISHMENTS

At one time, garnishments were almost always indicative of a candidate's failure to meet obligations. Today, however, as in the case of child support obligations, many courts automatically garnish wages, even where there has been no history of delinquencies. In some cases, tax payment plans can, for the convenience of the taxpayer, be automatically garnisheed from wages and frequently involve liens against the taxpayer's credit record.

77 *11 USC §525*

78 Public Access to Court Electronic Records: (*https://www.pacer.gov/*)

TAX DELINQUENCIES

The failure to satisfy lawful tax obligations may have a significant financial impact on a candidate's suitability. However, the reasons for the delinquencies may be more important than the delinquencies themselves. Unforeseen tax liabilities (wild fluctuations in company stock options, non-liquid inheritances, liquidation of property forced by marriage dissolution, criminal activities by a spouse or former spouse, and even changes in tax law) may or may not reflect upon a candidate. This is a legally complex area. Investigators may be best served by conducting a case-by-case review of a candidate's situation and should be open to authoritative interpretations by tax professionals.

CONSUMER CREDIT REPORTS

A great deal of financial information is obtainable from consumer credit reporting agencies, and they often provide a timely and inexpensive means by which to assemble summary credit information.

Information obtained from a credit-reporting agency may include name, age, spouse's name, number of dependents, former addresses, occupation, employer, monthly income, paying habits, number of accounts maintained, balances on accounts, and case history of accounts. However, caution should be exercised when reviewing credit information. It is possible that these credit reports may contain some erroneous information. All credit reports should be verified for accuracy, and candidates ***must*** be furnished a free copy of that report if it is to be used contrary to their interests. Any circumstance surrounding any negative information should be evaluated on its own merits.

Recognizing that credit reports are frequently inaccurate, both the U.S. Congress and the California Legislature have imposed procedural safeguards to reduce the likelihood that an individual can be unwittingly denied employment based upon erroneous credit information. Background investigators may subject their agencies to unnecessary civil liability in the event that they fail to follow the disclosure rules present in the Fair Credit Reporting Act (*15 USC § 1681*) and the California Consumer Credit Reporting Agencies Act (Cal. Civ Code §§1*785.20* and *1785.20.5*).

Title 15 USC 1681 § 604(b) supersedes the provisions of the California Civil Code regarding an employer's use of credit information. Candidates must be notified that a prospective employer may consider credit history in evaluating suitability for appointment. Under the law, candidates must be informed of their rights under the Fair Credit Reporting Act (FCRA) before any adverse decision can be made.

Credit scores generally have little to do with one's suitability for employment; in fact, that is one of the reasons why the major Credit Reporting Agencies do not include those numbers on employment documents. Further, the economy, in general, may have an impact on things such as credit scores and credit lines, even where an individual has a perfect payment record. Credit itself, or even the lack thereof, may have limited bearing on someone's suitability for employment as a peace officer.

Instead, the background investigation should concern itself with issues such as whether the reported sources of income are lawful and fully accounted for, whether the candidate meets their obligations as agreed, and the reasons underlying any indications of credit problems (e.g., are the credit problems the fault/responsibility of the candidate, or are they related to the actions of others or situations out of their control? Pandemic-related employment issues may have placed many individuals in unanticipated hardship). Some candidates have no credit history at all, while others may have extraordinary resources.

PRACTICAL CONSIDERATIONS

Investigators should take heed of the following:

- Financial data is extremely sensitive. Take steps to safeguard it.
- Always be wary of the accuracy of financial data, whether furnished by the candidate or by some other source. It is notoriously inaccurate.
- Whenever conducting a credit check of candidates for employment purposes, a candidate's signed consent is required.
- Whenever credit reports are used for adverse employment purposes, the candidate is entitled to a free copy of any such report under federal law.
- Whenever a candidate for employment is rejected from employment, in part or in whole, based upon credit information, the candidate must be informed.
- The mere fact of bankruptcy cannot be the sole basis upon which a candidate is denied employment.
- Concentrate on whether a candidate's income and expenditures are lawful, properly reported, and satisfied in a timely manner.
- Absent fraud or conspiracy, financial data pertaining to the candidate's family, business partners, and even spouses (in some cases) are generally irrelevant and not permitted.
- Candidates who are self-employed may need to produce documents such as financial statements from an accountant or even tax returns to support their claimed income.

Investigators should not, however, collect such sensitive documents unless necessary. Additionally, Cal. Lab Code §*432.3* prohibits employers from asking candidates for salary history information.

PHS Section 8:
Legal

California law[79] and Commission regulations[80] require that the background investigation include a review of specific sources of information, including, but not limited to:

- Criminal records of the California Department of Justice

79 Cal. Gov't Code §*1029*

80 Commission Regulations *1953(e)(3) and (4)* and *1959(e)(2) and (3)*

- All police files in jurisdictions where the candidate has resided, worked, or frequently visited
- Federal Bureau of Investigation records
- State Department of Motor Vehicles, Division of Driver Licenses
- Specified administrative, military, or judicial convictions or adjudications
- POST certification records
- National Decertification Index (NDI)

This PHS section requires the candidates to detail their history of involvement with legal authorities, as well as to recount illegal but undetected activities. This includes:

- Arrests, detentions, diversion programs and convictions
- Probation
- Civil lawsuits
- Referrals to Child Protective Services[81]
- Home visits by law enforcement officers
- Being the subject of emergency protective and related court orders
- Filing of fraudulent claims (e.g., welfare, worker's compensation)
- Misdemeanor-level acts (past seven years)
- Felony-level acts (lifetime)
- Current illegal drug use and history of recreational drug use

LEGAL HISTORY SEARCH GUIDELINES

Checks of all local agencies where a peace officer candidate has lived, worked, or frequented should be conducted to locate any relevant criminal history that does not appear on a DOJ or FBI Rap Sheet. State law [Cal. Pen Code §*13300(f)*] requires California law enforcement agencies to furnish, without charge, local criminal history information on all peace officer applicants. Local agency checks should be also conducted for all public safety dispatcher candidates; however, note that non-criminal justice agency dispatcher candidates have different levels of protection for their arrest records.[82]

The circumstances surrounding any candidate's arrest/conviction record, whether adult or juvenile, should be investigated. The conduct that led to an arrest or conviction is in many cases as relevant (if not more) than the presence or absence of an arrest.

The facts surrounding the candidate's present or past involvement in any civil court action should be researched. This requirement applies to peace officer and public safety dispatchers.

81 Per Cal. Pen Code §*11170(b)(9)*, peace officer candidates may also be screened through the *California Child Abuse Central Index*, but a separate inquiry is required.

82 See "Disclosure Provisions" in *Chapter 3*: "Legal Qualifications and Statutory Framework"

Arrest reports and court records should be obtained for both peace officer candidates and public safety dispatcher candidates for law enforcement agencies.

FELONY CONVICTIONS

Any person convicted of a felony (or of a crime in another jurisdiction that would be a felony in California) is prohibited from employment as a California peace officer [Cal. Govt Code §1029(a)]. With few exceptions, this prohibition holds even if the conviction was sealed, expunged, or set aside. It may also apply to any convictions that were subsequently reduced to a misdemeanor occurring on or after January 1, 2004.

Proceedings under juvenile court are generally not considered to be a criminal conviction under GC *§1029* unless the individual was certified, tried, and convicted as an adult. Therefore, juvenile convictions are not included as a legal bar to appointment as a peace officer. However, the conduct surrounding the offense should certainly be considered as part of the overall background.

There are no similar regulations prohibiting the employment of those convicted of a felony as public safety dispatchers.

MISDEMEANOR CONVICTIONS

Misdemeanor convictions are generally not, in and of themselves, automatically disqualifying either for peace officers or for public safety dispatchers. However, SB 2 (2021) introduced several new provisions, including subsections to Government Code section 1029, which makes specified misdemeanors disqualifying for peace officer employment. Additionally, conduct underlying ***any*** conviction should be carefully examined with regard to its relevance to the candidate's suitability for appointment, ***especially the impact on eligibility to possess a firearm*** pursuant to Penal Code §*1170.18(k)*[83] , §*29805*, or *18 USC §922(d) and (g)*. *Note:* For peace officer candidates, a firearms clearance letter will be mailed separately from DOJ.

Some persons convicted of offenses have undergone legal proceedings either to seal or expunge a criminal conviction. Investigators need to check criminal history information for the full details, and it may be necessary to obtain additional documentation from the court of record to determine the factual outcome.

Department policy will largely govern the response to involvement in criminal activity, detentions, arrests, convictions, diversion programs, and even probation. While the PHS covers a wide array of detected and undetected illegal activity - including illegal use of controlled substances - the decision regarding their impact on hiring (apart from issues of legal disqualification under Cal. Govt Code §*1029*) rests with the agency.

Agencies may be tempted to deal with each issue and admission on a case-by-case basis; however, this approach can result in claims of disparate treatment, especially against individuals in protected classes (i.e., race, gender, age, sexual orientation, marital status, disability, political affiliation, etc.). A well thought-out and articulated policy in advance of the decision may assist in minimizing the likelihood of accusations and litigation.

83 *Proposition 47*: The Safe Neighborhoods and Schools Act

SEALED AND EXPUNGED RECORDS

In certain circumstances, applicants may lawfully deny that an arrest (and in some cases even a conviction) ever occurred. These issues are complicated, and each circumstance must be carefully evaluated, in consultation with legal counsel, before making a final decision as to a candidate's eligibility for disclosure or non-disclosure of an arrest or conviction, the candidate's eligibility to possess firearms, and suitability for peace officer employment. Public safety dispatcher applicants are generally exempted from disclosing any legal proceeding that was sealed, expunged or set aside, with the exception of those falling under the Federal Youth Offender Act (*18 USC § 5038*).

It is important to underscore that a sealing or expungement usually does not relieve the applicant from providing information about the underlying conduct that led to such a sealed or expunged record. (One possible exception might be an arrest/conviction expunged by a court pursuant to PC §*851.8*, in which case the court made a factual finding of innocence, as there is no underlying conduct to disclose). Livescan information obtained from DOJ or the FBI are presumptively authoritative records of an individual's history of arrest and/or conviction.

The POST PHS admonishes applicants to obtain legal advice before failing to disclose any arrest and/or conviction. Background investigators must therefore determine whether such information, if discovered, constitutes a material omission of required information, or the exercise of a "release from penalties" right afforded to applicants by law.

PRACTICAL CONSIDERATIONS

In dealing with legal issues, it is important to consider:

- The seriousness of the offense itself
- The age of the candidate at the time of the offense/conduct
- How recently the offense/conduct occurred
- The occupation/career path of the candidate at the time of the offense
- Any mitigating circumstances
- The impact, if any, upon the candidate's potential credibility as a witness in a court of law

CIVIL COURT ACTION

The investigation of a candidate's involvement as a plaintiff or defendant in any civil court action can prove to be very informative. The investigator may want to go so far as to check the civil filing index of the superior courts of counties where the candidate has resided.[84]

RESTRAINING OR STAY-AWAY ORDER

Behavior that led to a restraining or stay-away order placed on a candidate can directly relate to the applicant's suitability for the job. Both the behavior and the circumstances should be thoroughly investigated. Restraining orders associated

84 The use of public record information, even by agencies in the conduct of their own background investigations, may require disclosure of that information to a candidate if it is to be used adverse to their interests per Cal. Civ Code §*1786.53*.

with allegations of domestic violence appear in the CLETS System DVROS database and should be revealed during any “wants and warrants check.”

DIVERSION PROGRAMS

There are many forms of court-ordered diversion programs. Peace officer candidates must report such diversions,[85] but the reporting requirements are different for non-sworn positions, such as public safety dispatcher. Investigators should consult the specific section of law authorizing the diversion in order to determine whether that proceeding must be reported.

FINGERPRINTING

The submittal of fingerprints is required for both peace officer and public safety dispatcher applicants. Throughout California, paper fingerprint cards have been replaced by Live Scan. Agencies that do not have their own Live Scan terminal should contract with another agency to provide this service.

Although Live Scan responses may return in 24 hours or less, problem records can take upwards of 30 days. Firearms clearance letters are mailed separately. Investigators should carefully read each fingerprint return, as quite often problem records require resubmission or other further action.

Due to the costs associated with fingerprinting candidates, agencies have delayed processing fingerprints. Lengthy or indefinite delays can and have resulted in overlooking the submittal of fingerprints entirely, a fact often detected during the POST compliance audit.

A copy of the return must be retained in the candidate’s background file, and Commission Regulations *1953(e)(3)(C)* and *1959(e)(2)(C)* specify that a search be made of the Federal Bureau of Investigation records and that a copy of that return must also be retained in the candidate’s background file.

The California Department of Justice prohibits a hiring agency from using the Automated Criminal History System to investigate a candidate’s history of arrest or conviction, or transmitting local criminal history information over the CLETS system for employment purposes.

ILLEGAL DRUG AND ALCOHOL USE

As discussed in *Chapter 3*, “Legal Qualifications and Statutory Framework,” it is unlawful to make disability-related inquiries prior to making a conditional offer of employment (COE). Protected disabilities include a history of drug addiction or dependence. Therefore, questions that can be expected to elicit this type of information are prohibited pre-offer. This would include questions such as “Have you ever been treated for drug addiction?” or “How many times in your life have you used illegal drugs?”

The PHS includes questions on current and past illegal drug use. The latter question asks candidates to indicate if they: (1) never used any drug recreationally, or (2) tried or used drug(s), but only under **limited** circumstances (e.g., parties, concerts, etc). Candidates who check box (2) are asked to provide

85 Participation in diversion programs as a result of simple possession of marijuana occurring five years ago or longer need not be reported (Cal. Pen Code §*1000*).

details about their drug use, including drug(s) used, most recent date used, and circumstances. Note that if neither box (1) or (2) is checked, it may be assumed (after ruling out carelessness) that the candidate may have used illegal drugs under more than limited circumstances. However, in compliance with the prohibition on pre-offer disability inquiries, investigating the extent and nature of past illegal drug use should be deferred until the post-offer stage.

Alcoholism — past and current — is a protected disability; therefore, questions about how much a candidate drinks, etc., are not allowable prior to a COE. However, inquiries about job-relevant behavior are permissible, even if that behavior was a result of drunkenness. For example, it is permissible to ask about DUIs, or attendance problems at work because of alcohol use.

PHS Section 9:
Motor Vehicle Operation

Commission Regulations 1953(e)(4) and 1959(e)(3) mandate checking the DMV records of both peace officer and public safety dispatcher candidates to determine their driving record and adherence to the law. Although a review of a candidate's driving history is required, the operation of a motor vehicle is neither a state nor a POST requirement for either public safety dispatchers or peace officers. Rather, the review of driving history is intended to provide information regarding the candidate's impulse control/attention to safety, conscientiousness, and other related character attributes.

This section requires candidates to provide information on their driving history, including:

- Driver license number, state, expiration date, and name under which license was granted
- License refusals, revocations, etc.
- Traffic citations (excluding parking citations)
- Refusal or revocation of automobile liability insurance
- Automobile insurance
- Liability coverage (peace officers only)
- Motor vehicle accidents in the past seven years (peace officers only)

DRIVER LICENSE

As mentioned above, possession of a valid driver license is not a requirement for either peace officer or public safety dispatcher employment, and therefore should not be a condition of employment unless this is an express agency qualification standard.

Information on driving records and the status of licenses in California can be obtained by completing DMV Form INF 252 (*Appendix F*). Completed forms, including the department's Requester Code Number, should be mailed to:

Department of Motor Vehicles
Division of Headquarters Operations Information Services
P.O. Box 944231, Mail Station G201
Sacramento, CA 94244-2310

Under California Department of Justice policy (Bulletin 98-22-CAS), California Law Enforcement Telecommunications Systems (CLETS) subscribing agencies **may** access DMV records via CLETS for their candidates.

As an alternative, hiring departments can require candidates to provide an official DMV printout of their driving history. Candidates can request their official driving record by completing and mailing DMV Form *INF 1125* or taking it directly to a DMV field office.

If the candidate lived or worked outside of California, out-of-state agencies may be contacted for records, although virtually all states (including California) have purge criteria that may limit driving history information. The amount of time that information remains on a DMV record may be influenced by the driving record itself. As a general rule, in California, infractions remain on a record for 37 months, misdemeanor offenses for seven years, and DUIs and hit-and-run incidents for ten years.

DRIVER LICENSE REFUSED

A driver license may be refused for a number of reasons that may or may not have relevance to suitability for employment as a peace officer or public safety dispatcher. Investigators should inquire into the reason for the refusal of any state to grant a driver license to the candidate.

VEHICLE INSURANCE

The California Compulsory Financial Responsibility Law requires that operators and owners of motor vehicles be covered by vehicle liability insurance or place a $35,000 deposit with the Department of Motor Vehicles, or a bond for the same amount. The investigator should determine if candidates are complying with insurance requirements on their vehicles. Note that persons can be covered by their parents' insurance if they drive their parents' vehicle, or if their vehicle is co-registered to their parents. However, they should be named as an additional insured, either generically on the policy or by name.

DRIVING RECORD

The candidate's driving record, in particular the nature and number of moving violations and the number of accidents, can provide useful information about the individual's driving ability as well as other job-relevant personal characteristics. An individual's history of automobile accidents is less likely to be of critical importance for public safety dispatcher candidates and is therefore not included on that PHS.

In a routine investigation, inquiries should not be made into the number of parking citations the candidate has received, since no precise number of parking citations can be established as being job-relevant. Parking citations are also extremely difficult to track, as many agencies have contracted this function to private

organizations. However, the investigator should look into any illegal abuses of the citation process or warrants issued as a result of parking citations.

REVOKED OR SUSPENDED LICENSE

A revoked or suspended driver license can be very relevant to candidate suitability, especially where such a suspension or revocation resulted from other willful misconduct (i.e., failure to appear, failure to pay a fine).

REFUSED AUTO LIABILITY INSURANCE

The driving history of a candidate who has been refused auto liability insurance must be carefully investigated to determine why the insurance was refused. A candidate's insurability is critical for those agencies where driving is an essential function of the position.

PHS Section 10
Other Topics

The questions in this section ask about a history of physical violence, gang membership, and other behavior associated with anger control problems and anti-social tendencies. Specifically, these items include:

- Denial of a concealed weapons permit
- Membership or association with criminal enterprises, gangs, or other groups that advocate violence, racism or other forms of bigotry
- Having a tattoo associated with a criminal enterprise, gang, or other group that advocates violence, racism, or other forms of bigotry
- History of physical violence
- History of domestic violence

TATTOOS

The PHS limits inquiries about tattoos to those that signify affiliation with or membership in criminal enterprises, street gangs, or other groups that advocate violence and/or bigotry. Tattoos signifying affiliation with or endorsement of hate groups[86] or law enforcement gangs[87], and/or signifying or representing bias[88] should be investigated. No other questions about tattoos in general should be asked unless they can be shown to be relevant to performing the job.

86 The Anti-Defamation League (ADL) *Hate Symbols Database* provides information on hate symbols and their significance. As acknowledged by the ADL, the symbols should "be evaluated in the context in which they appear," as some may have contradictory meanings.

87 Penal Code *13510.8(b)(7)* and §13670

88 Penal Code §13510.8(b)(5)

Table 5.2
DIFFERENCES BETWEEN PEACE OFFICER AND PUBLIC SAFETY DISPATCHER PERSONAL HISTORY STATEMENTS

Personal History Statement	Peace Officer	Public Safety Dispatcher
SECTION	**POST FORM 2-251**	**POST FORM 2-255**
1. Personal Information	Inquiries regarding: *U.S. citizenship or application for citizenship*	Inquiries regarding: *Legal authorization for employment in U.S.*
2. Relatives and References	Requests contact information for *7 to 10* references	No difference
3. Education	Inquiries regarding: Attendance at *POST basic courses*	No difference
4. Residence	No difference	No difference
5. Experience and Employment	Requests candidate to list all *past and current employment* Inquiries regarding: Past job performance problems	Requests candidate to list employment for past 10 years Inquiries regarding: Past job performance problems
6. Military Experience	No difference	No difference
7. Financial	No difference	No difference
8. Legal	Requests candidate to disclose all detentions, arrests, and convictions, including diversion programs that were not successfully completed, and in some cases, offenses that may have been pardoned, unless specifically exempted by state or federal law	Requests candidates applying to criminal justice agencies (as defined in PC § 13101) to disclose any detention, arrest, or conviction, except where sealed or expunged Candidates applying to non-criminal justice agencies are only required to disclose arrests resulting in conviction, except where sealed or expunged
9. Motor Vehicle Operation	Inquiries regarding: • Vehicle liability insurance • Accidents	No inquiries regarding: • Vehicle liability insurance • Accidents
10. Other Topics	No difference	No difference

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Chapter 6

POST COMPLIANCE INSPECTIONS

POST is required by statute (Cal. Pen Code §*13512*) to conduct regularly scheduled inspections to verify that agencies are in compliance with documentation requirements and appointment standards. Records are inspected of those peace officers and public safety dispatchers (whose agencies are in the POST program) for whom a Notice of Appointment (*POST 2-114*) has been received by POST since the last site visit.

Tables 6.1 and **6.2** (located at the end of this chapter) represent the tables of content from the background investigation files (Background Investigation Tab Dividers). **Table 6.1** lists the required areas of documentation for *peace officer* background investigations; **Table 6.2** lists the corresponding required areas of documentation for *public safety dispatcher* background investigations.

The specific documentation requirements for each area are discussed briefly below, including the relevant statute and/or regulation, the focus of the inspector's review, and common oversights/problems encountered during compliance inspections. Where problems/deficiencies are noted during a compliance inspection, POST Regional Consultants will conduct periodic re-checks to ensure that issues have been addressed, if/as necessary.

The Background Investigation Tab Dividers can be printed or ordered from the Background/Hiring section under the *Forms tab* on the POST website (*www.post.ca.gov*).

Tab A
BACKGROUND NARRATIVE REPORT

Commission Regulations *1953(g)* and *1959(g)*

A narrative report must be compiled by the background investigator and included in the employee's background file. The narrative must fully address and document all mandated areas of inquiry, and contain sufficient information to allow the hiring authority to make a defensible decision. Complete documentation must be included in the file.

Common Oversights/Problems:

- Narrative **does not provide sufficient** detail (e.g., "all references were positive").
- No details in the narrative to allow for actual identification of contacts interviewed and what was said.
- No reference to the Background Investigation Dimensions
- No reference to findings of biased behaviors, and/or bias-relevant traits or attributes that may be relevant
- No identification of data sources reviewed for bias related content

- Narrative fails to address all mandatory areas of inquiry.
- Narrative includes all information with **no supporting documentation in applicable tabs**.

Tab B
PERSONAL HISTORY STATEMENT *(POST form or alternative)*

Commission Regulations *1953(c)* and *1959(c)*

A thoroughly completed Personal History Statement must be contained in the file. The POST forms *2-251* (Peace Officer) or *2-255* (Public Safety Dispatcher) can be used, or an alternative form that includes questions related to the ten areas of investigation listed in Commission Regulations 1953(c) and 1959(c). Completed forms will be reviewed to ensure sufficient personal information to begin and conduct the background investigation [e.g., current and past residences, current and past employment (including unexplained gaps in employment or residences), references, family members].

Common Oversights/Problems:

- Sections of the form are incomplete or inaccurate.
- No applicant signature on the statement.
- Candidate has not initialed each page, if required by PHS form.
- Does not include inquiries addressing all GC *§1029* disqualifications or peace officer appointment
- Alternative PHS does not include inquiries related to all required areas of investigation

Tab C
CRIMINAL AND OTHER QUALIFICATIONS RECORDS CHECKS – Local, State, and National

DOJ/FBI Fingerprint Returns – Peace Officers and Public Safety Dispatchers

Government Code *§1029(a),(b)* and *§1031(c)*, and Commission Regulations *1953(e)(3)(B),(C)* and *1959(e)(2)(B),(C)*

Results from both Department of Justice and Federal Bureau of Investigation fingerprint checks for criminal history must be in the file. The results must be **relevant to the position sought** and conducted prior to but no greater than a year from hire.

Common Oversights/Problems:

- Confusing a delay notification with an actual clearance return.
- Reports are **more than one year old** and/or associated with a different position (e.g., non-sworn, correctional officer).
- Failing to request returns from **both** DOJ and FBI on the Live Scan request form.

DOJ Firearms Clearance and Qualifications Records Checks – Peace Officers Only

18 USC §922, Cal. Pen Code *§29800* et seq and Commission Regulation *1953(e)(3)(B)*

Results from the Department of Justice (DOJ), Bureau of Identification (BID), pertaining to authorization to possess and carry firearms (i.e., Firearms Clearance) must be contained in the file. The DOJ mails the Firearms Clearance **separate** from the record check (fingerprint return).

Common Oversights/Problems:

- Confusing a DOJ concealed weapons print return for reserve officers with a Firearms Clearance: a reserve officer needs the same fingerprint returns as a full-time officer.
- Confusing a delay notification with an actual clearance return.
- Reports are **more than one year old** and/or associated with a different position (e.g., non-sworn, correctional officer).
- Failing to include POST Profile Report (eff. 1/1/2023)

Tab D
DRIVING RECORD CHECK

Commission Regulations *1953(e)(4)* and *1959(e)(3)*

Results from the ***Department of Motor Vehicles*** or other official driving record must be in the file. Information is used to determine the candidate's driving record and adherence to the law. POST regulations do not require a copy of the candidate's driver license, as operation of a motor vehicle is not required by state law or POST regulation.

Common Oversight/Problem:

- Reports are more than one year old.
- Copy of CDL in file in lieu of driving record.
- Missing official DMV printout.
- Record is from a third-party source (e.g., 4safedrivers).

Tab E
LOCAL LAW ENFORCEMENT AGENCY RECORD CHECKS

Cal. Pen Code §*13300(k)*, and Commission Regulations *1953(e)(3)(A)* and *1959(e)(2)(A)*

Returns from checks of records from agencies serving jurisdictions where the candidate has lived, worked, attended school, or had other extended stays should be included in the file. The record check inquiries and responses should be appropriate to the position being sought. The background summary ***should identify specific names of agencies checked*** based on information provided in the PHS. ***Letters from agencies on letterhead*** are the best evidence of

compliance with this requirement. If agencies do not provide a written return, the fact that they were checked should be noted in the narrative. (Note: some agencies restrict — or decline entirely — requests for local criminal history on non-peace officer applicants).

Common Oversights/Problems:

- Missing from file or not covered in narrative.
- Not waiting for all returns.
- Copies of CLETS, NCIC, or other similar computer record printouts in file, in lieu of required documentation.

Tab F
CREDIT RECORDS CHECK

Commission Regulations *1953(e)(11)* and *1959(e)(10)*

A check of the individual's financial status must be contained in the file. The check should be conducted prior to but no greater than a year before hire.

Common Oversights/Problems:

- Reports are more than one year old.
- Report is ***not*** from bona fide credit reporting agency (i.e., Experian, TransUnion, Equifax).

Tab G
EDUCATION VERIFICATION

Cal. Govt Code §*1031(e)* and Commission Regulations *1953(e)(5)* and *1959(e)(4)*

Official transcripts are the only authoritative means of verifying a person's educational background. The transcript shall be an original, a certified copy, or a copy marked "copied from original" that is signed and dated by the background investigator.

If any contact was made with current and prior educational institutions attended by the employee, this should be contained in the file also. Peace officer files must contain documentation verifying graduation from either a U.S. public high school, accredited DOD high school, or accredited/approved private or nonpublic high school; verification of passing the GED or other high school equivalency test approved by the State Department of Education; California High School Proficiency Examination; or possession of a two-year (e.g., Associate's), four-year (e.g. Bachelor's), or advanced degree from an accredited college or university. The use of credential evaluation services does not meet the requirements of GC 1031(e) or Commission Regulation 1953(e)(5).

Common Oversights/Problems:

- Documented education does not correspond/support education claimed on PHS.
- Transcripts are not official.
- Diploma rather than transcript is included.

- Copy of transcript is not certified or lacks notation that it was copied from the original.
- College transcript does not indicate a **completed degree**, when degree is used to establish minimum education requirement,
- School is not accredited per Government Code §1031(e) – *peace officer only.*
- Includes training records rather than, or in addition to, education records (e.g., transcripts). (Training records should be placed under the MISC tab.)

Tab H

CITIZENSHIP/AGE REQUIREMENTS – Peace Officers

Cal. Govt Code §*1031(a) and (b)* and Commission Regulation *1953(e)(1),(2)*

Documentation verifying U.S. citizenship and age must be contained in the peace officer's file. Acceptable evidence includes an official U.S. birth certificate, naturalization documentation, U.S. passport or passport card, or other acceptable citizenship documentation. The documents shall be original, certified, or investigator-attested-to copy.

Common Oversights/Problems:

- Certificate is not issued by a government agency.
- Document is not certified, original or an investigator-attested copy of the original and/or certified document.
- For candidates who are not yet citizens, failing to include proof of application for citizenship and legal permanent resident card.
- Accepting an "Abstract of Birth" in lieu of an official birth certificate.
- Passport or passport card is not current/valid.
- Copy of the passport or passport card is not endorsed by the investigator as being a true copy of the original.
- Copy of passport card does not include **both** sides.

EMPLOYMENT ELIGIBILITY – Public Safety Dispatchers

8 USC §1324a and Commission Regulation *1959(e)(1)*

Documentation verifying employment eligibility must be contained in the public safety dispatcher's file. Acceptable evidence includes U.S. birth certificate, naturalization documentation, or current permanent resident card. Social security cards may also be used as proof of eligibility to work provided they do not indicate otherwise.

Common Oversights/Problems:

- Work authorization is expired.
- Documentation does not support right to work.

Tab I
MILITARY HISTORY CHECK

50 USC Appendix §462 and Commission Regulations *1953(e)(10)* and *1959(e)(9)*

Verification of military service (DD-214 long form) or verification of Selective Service registration, if appropriate, must be in the file. The DD-214 long form will contain the candidate's separation information (type of separation, character of service, authority and reason for separation, separation and reenlistment eligibility codes).

Selective Service registration is required for all males (excluding the sons of foreign diplomats) born on or after ***January 1, 1960.***

Common Oversights/Problems:

- Document submitted is not DD-214 long form.
- DD-214 long form (identified as Service or Form 2 or 4) not in file.
- No documentation is offered for willful failure to register.

Tab J
DISSOLUTION OF MARRIAGE CHECK

Commission Regulations *1953(e)(8)* and *1959(e)(7)*

Evidence of dissolution of previous marriage(s)/domestic partnerships must be contained in the file.

Common Oversight/Problem:

- Failure to include entire court-issued final **dissolution** of marriage/domestic partnership, with an affixed court date/verification stamp, in the file.
- Only entry of judgment in file.
- Child custody, similar family documents, or court orders detailing property divisions are **not** acceptable as proof of dissolution

Tab K
EMPLOYMENT HISTORY CHECKS

Commission Regulations *1953(e)(6)* and *1959(e)(5)*

Documented verification of contact with previous employers must be contained in the file.

Common Oversight/Problem:

- Insufficient number of employers contacted (regulations require **at least 10 years worth)**.
- Contacts with employers not dated.
- No supporting documentation (e.g., questionnaires, employer comments) in the file.

- Using former evaluations in lieu of personal contact with employers.
- Former law enforcement agency not contacted and/or files not reviewed pursuant to Penal Code section 832.12(b).

Tab L
REFERENCES AND SOCIAL MEDIA CHECKS

Commission Regulation *1953(e)(7)* and *1959(e)(6)*

Documented verification of contact with personal references must be contained in the file, including secondary references. For peace officer candidates, social media checks must include specific references to sites searched, findings, and documentation verifying information (e.g., printouts), if/as appropriate.

Common Oversight/Problem:

- Contact information not included in file.
- Contacts with references not dated.
- No supporting documentation (e.g., questionnaires, comments) in the file.
- No documentation of contact with secondary references or ex-spouses/domestic partners.
- Secondary references not clearly identified

Peace Officers ONLY

- No documentation of social media websites searched or services used
- No copies of webpage printouts, if relevant
- Documentation provided is not relevant to suitability for peace officer employment

Tab M
NEIGHBORHOOD CHECKS

Commission Regulation *1953(e)(9)* and *1959(e)(8)*

Documented verification of contact with current **and** past neighbors must be contained in the file.

Common Oversight/Problem:

- Residential history included instead of actual contacts with current/former neighbors.
- No checks of **past** residences.
- Contacts with neighbors not dated.
- No supporting documentation (e.g., questionnaires, neighbor comments) in the file.

Tab N

MEDICAL CLEARANCE – Peace Officers and Public Safety Dispatchers

Cal. Govt Code §1031(f) and Commission Regulations 1954(e) and 1960(e)

Documented verification that the medical evaluation was conducted according to regulation must be contained in the background file. The suitability declaration must be signed by the examining physician, and must include the physician's printed name, license number, the date the examination took place, that it met appropriate regulatory requirements, and that the individual was found suitable for employment. A copy of the suitability declaration is permissible, if the original is maintained by the agency's human resources department. The ***actual medical*** examination ***results*** (i.e. medical information) ***must be kept as a confidential medical record, separate from the background file***.

Common Oversights/Problems:

- Suitability declaration signed by medical assistant or nurse practitioner rather than physician.
- Confidential medical information in file.
- Evaluation completed **more than one year** prior to date of employment/ appointment.
- No documentation in file; merely a note that clearance letter is kept at HR.
- No medical license # or contact information for physician.
- Statement indicating the evaluation was conducted per Regulation 1954/1960 not included on clearance.

PSYCHOLOGICAL CLEARANCE – Peace Officers Only

GC §1031(f) and Commission Regulation 1955(e)

Documented verification that the psychological evaluation was conducted according to regulation must be contained in the peace officer's background file. The suitability declaration must be signed by the evaluating psychologist, and must include the psychologist's printed name, license number, the date the evaluation took place, that it met regulatory requirements, and that the individual was found suitable for employment. A copy of the suitability declaration is permissible, if the original is maintained by the agency's human resources department. The ***actual psychological results*** (i.e., medical information) ***must be*** kept as a c***onfidential medical record, separate from the background file***.

Common Oversights/Problems:

- Suitability declaration not signed by psychologist.
- Confidential psychological information in file.
- Evaluation completed **more than one year** prior to date of employment.
- No documentation in file; merely a note that clearance letter is kept at HR.
- No medical license # or contact information for psychologist.

- Statement indicating the evaluation was conducted per Regulation 1955 not included on clearance.
- Failure of department to verify screening psychologist is compliant with POST CPE requirements at the time of the evaluation (*https://post.ca.gov/psychological-evaluators-list*). Non-compliant status will invalidate the clearance.

Table 6.1

BACKGROUND INVESTIGATION AREAS OF DOCUMENTATION – *PEACE OFFICER*

(As shown in the Background Investigation Tab Dividers)

Candidate

First | MI | Last

Table of Contents

Background Investigation Files: Peace Officer

A	Background Narrative Report	☐
B	Personal History Statement	☐
C	DOJ / FBI Fingerprint Returns and Firearms Clearance	DOJ ☐ FBI ☐ Firearms ☐
D	Driving Record Check	☐
E	Local Law Enforcement Agency Record Checks	☐
F	Credit Records Check	☐
G	Education Verification	☐
H	Citizenship / Age Verification	☐
I	Military History Check	☐
J	Dissolution of Marriage Check	☐
K	Employment History Checks	☐
L	Relatives / Personal References Checks	☐
M	Neighborhood Checks	☐
N	Medical / Psychological Clearances	Med ☐ Psych ☐
Misc	Other Documentation	☐

Table 6.2

BACKGROUND INVESTIGATION AREAS OF DOCUMENTATION – *PUBLIC SAFETY DISPATCHER*

(As shown in the Background Investigation Tab Dividers)

Candidate:

First | MI | Last

Table of Contents

Background Investigation Files: Public Safety Dispatcher

A	Background Narrative Report	☐
B	Personal History Statement	☐
C	DOJ / FBI Fingerprint Returns	DOJ ☐ FBI ☐
D	Driving Record Check	☐
E	Local Law Enforcement Agency Record Checks	☐
F	Credit Records Check	☐
G	Education Verification	☐
H	Employment Eligibility	☐
I	Military History Check	☐
J	Dissolution of Marriage Check	☐
K	Employment History Checks	☐
L	Relatives / Personal References Checks	☐
M	Neighborhood Checks	☐
N	Medical Clearance	☐
Misc	Other Documentation	☐

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APPENDICES

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Appendix A

DEVELOPMENT OF POST BACKGROUND INVESTIGATION DIMENSIONS

The creation of the POST background investigation dimensions resulted from a review of multiple job analyses of both the peace officer and public safety dispatcher position, including the 1977 and 1998 job analyses from which the previous background dimensions were derived, a personality-based peace officer job analysis conducted by POST in 2003 which led to the development of psychologically-based job dimensions, a 2003 project by the Department of Justice on Community Oriented Policing, and a 2002 POST study leading to the creation of oral interview factors.

An additional rich source of information about both job classifications was provided by the O*NET database. Created in 1999 by the U.S. Department of Labor, this interactive database includes information on tasks, skills, abilities, knowledge, work activities, and attributes for 1,122 occupations, including ***police patrol officer*** and ***police, fire, and ambulance dispatchers***. Because the O*NET assesses all occupations against the same set of criteria, it provides a very effective means for comparing peace officer and dispatcher worker attributes.

Table A.1 on the next page lists 21 O*NET job requirements and attributes most relevant to background investigations. The importance of these attributes for peace officers and public safety dispatchers are extremely similar; only a few percentage points separate the ratings for virtually every characteristic. These results serve to demonstrate that, despite the fact that peace officers and public safety dispatchers involve very different duties and tasks, these two occupations are strikingly similar with respect to many worker requirements.

Given this similarity, one common set of ten background dimensions was created for peace officers and public safety dispatchers. The dimensions are organized into five major categories (Moral Character, Handling Stress and Adversity, Work Habits, Interactions with Others, and Intellectually-Based Abilities). These dimensions are fully described in *Chapter 2*, Peace Officer and Public Safety Dispatcher Background Investigation Dimensions.

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Table A.1
IMPORTANCE RATINGS:
SELECTED U.S. DEPARTMENT OF LABOR O*NET JOB ATTRIBUTES AND REQUIREMENTS

		Importance Rating (%)	
ATTRIBUTE	**REQUIREMENTS**	**PEACE OFFICER**	**DISPATCHER**
Integrity	**CHARACTER** – Job requires being honest and ethical.	**96 %**	**91 %**
Stress Tolerance	**DEALING WITH STRESS** – Job requires accepting criticism and dealing calmly and effectively with high stress situations.	**93**	**96**
	FREQUENCY OF CONFLICT SITUATIONS – How often are there conflict situations the employee has to face in this job?	**94**	**88**
	DEALING WITH UNPLEASANT OR ANGRY PEOPLE – How frequently does the worker have to deal with unpleasant, angry, or discourteous individuals as part of the job requirements?	**92**	**94**
	SELF CONTROL – Job requires maintaining composure, keeping emotions in check, controlling anger, and avoiding aggressive behavior, even in very difficult situations.	**96**	**94**
Decision Making and Judgment	**CRITICAL THINKING** – Using logic and reasoning to identify the strengths and weaknesses of alternative solutions, conclusions or approaches to problems.	**86**	**81**
	FREQUENCY OF DECISION MAKING – How frequently is the worker required to make decisions that affect other people, the financial resources, and/or the image and reputation of the organization?	**94**	**95**
	INDUCTIVE REASONING – The ability to combine pieces of information to form general rules or conclusions (includes finding a relationship among seemingly unrelated events).	**84**	**88**
	DEDUCTIVE REASONING – The ability to apply general rules to specific problems to produce answers that make sense.	**75**	**81**

Table A.1 *continued*

IMPORTANCE RATINGS:
SELECTED U.S. DEPARTMENT OF LABOR O*NET JOB ATTRIBUTES AND REQUIREMENTS

		Importance Rating (%)	
ATTRIBUTE	**REQUIREMENTS**	**PEACE OFFICER**	**DISPATCHER**
Conscientiousness	**DEPENDABILITY** – Job requires being reliable, responsible, and dependable, and fulfilling obligations.	**88**	**91**
	INITIATIVE – Job requires a willingness to take on responsibilities and challenges.	**80**	**82**
	ATTENTION TO DETAIL – Job requires being careful about detail and thorough in completing work tasks.	**90**	**88**
	GETTING INFORMATION: Observing, receiving, and otherwise obtaining information from all relevant sources.	**93**	**99**
Interpersonal Skills	**WORKING DIRECTLY WITH THE PUBLIC** – Dealing directly with the public, such as serving customers in restaurants and stores, receiving clients or guests, etc.	**92**	**92**
	WORK WITH WORK GROUP OR TEAM – How important is it to work with others in a group or team in this job?	**92**	**93**
	CONCERN FOR OTHERS – Job requires being sensitive to others' needs and feelings and being understanding and helpful on the job.	**81**	**84**
	ACTIVE LISTENING – Giving full attention to what other people are saying, taking time to understand the points being made, asking questions as appropriate, and not interrupting at inappropriate times.	**88**	**97**
Communication Skills	**ORAL COMPREHENSION** – The ability to listen to and understand information and ideas presented through spoken words	**84**	**100**
	SPEAKING – Talking to others to convey information effectively.	**81**	**92**
	WRITING – Communicating effectively in writing as appropriate for the needs of the audience.	**84**	**59**
	WRITTEN EXPRESSION – The ability to communicate information and ideas in writing so others will understand.	**66**	**84**

Appendix B

SAMPLE NOTIFICATIONS, ADVISEMENTS AND RELEASE AUTHORIZATIONS

Appendix B includes the following samples of written notifications, advisements and release authorizations.

Sample forms that can be modified for agency use can be found on the POST website: *http://lib.post.ca.gov/Publications/formsList.pdf*

Samples:

B.1 Notification of Conditional Job Offer

B.2 Advisement to Candidate Regarding False Statements

B.3 Advisement Seeking Lateral Placement – Peace Officers

B.4 Advisement Seeking Lateral Placement – Public Safety Dispatchers

B.5 Authorization/Advisement to Conduct a Pre-Employment Peace Officer Background Investigation

B.6 Authorization to Release Information for Employment – Peace Officer Candidates

B.7 Authorization to Release Information for Employment – Public Safety Dispatcher Candidates

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Sample B.1

NOTIFICATION OF CONDITIONAL JOB OFFER

AGENCY LETTERHEAD

[Date]

[Name]
[Mailing Address]
[City, ST Zip]

SUBJECT: CONDITIONAL OFFER OF EMPLOYMENT

Dear Mr./Ms. _____:

This letter constitutes a conditional offer of employment as a _____[Position]_____ with the _____[Agency Name]_____ Department. However, **a final, unconditional job offer may be made only upon successful completion of each and every one of the following:**

1. A medical screening in accordance with the provisions of Government Code Sections 1031, 12940 and the California Commission on Peace Officer Standards and Training.

2. A psychological screening in accordance with California Government Code §1031(f) and guidelines established by the California Commission on Peace Officer Standards and Training.

3. Completion of the background investigation pursuant to California Government Code §1031(d), to include information that was neither legal nor practical to obtain prior to the extension of this offer, or in response to issues that arose subsequent to this offer.

Should you be unsuccessful in any of the above evaluations, this job offer is revoked.

Due to some expected attrition of candidates who either resign or are removed from the eligibility list at the post-offer stage, the number of conditional job offers extended may exceed the number of immediate vacancies. If this happens, you may be placed in a candidate pool and will be extended an offer of employment as soon as a vacancy arises.

THEREFORE, DO NOT GIVE NOTICE, QUIT YOUR PRESENT EMPLOYMENT OR RELOCATE UNTIL YOU HAVE BEEN OFFICIALLY NOTIFIED THAT YOU HAVE SUCCESSFULLY COMPLETED THE MEDICAL EVALUATIONS AND YOUR HIRE DATE HAS BEEN CONFIRMED.

Sincerely,

[Name]
[Title]

[Contact Number – *optional*]
[Email – *optional*]

Sample B.2

ADVISEMENT TO CANDIDATE REGARDING FALSE STATEMENTS

ADVISEMENT TO CANDIDATE
REGARDING FALSE STATEMENTS

CANDIDATE NAME:

The overall purpose of the pre-employment background investigation is to verify that your application and any statements you have made to your prospective employer concerning your qualifications are true.

The California courts have held that an employer has a legal duty to know the persons whom it employs. In some cases, California law may mandate a background investigation before employment, while in other cases it is merely a case of public policy or prudence before placing someone in a position of public trust.

Both State and Federal courts have also held that there is an absolute necessity for public employees to be truthful. You must understand that a lack of truthfulness or deception of any type on your part will automatically and irrevocably result in your application being rejected from further consideration.

For some people, there may be one or more incidents or occurrences in their background which they regret or over which they may feel some embarrassment. A prospective employer will not make inquiries into areas of a person's background that have no legitimate bearing on their qualifications for the job. You should understand that the mere presence of so-called "negative" information in your background is not automatically disqualifying. For example, an applicant may have engaged in petty thievery as a child, used illegal drugs, been fired from a job, or been convicted of a crime as an adult. While these things in and of themselves may not automatically remove that person from consideration for a job, lying about them will.

A pre-employment background investigation is not intended to be an intimidating experience or an unwarranted invasion into your privacy. Your background investigator will contact persons who know you, including present and/or former employers, and will examine official documents and records concerning you to assure that you have been honest in your application and to fulfill the legal mandates imposed by the courts and legislature. The more forthright you have been, the greater the likelihood that your background can be completed in a timely and successful manner.

CERTIFICATION

I understand that any false statement and/or deliberate misrepresentations, whether by omission or commission, will result in my application being automatically and irrevocably rejected from further consideration. I certify that I have read the above statement, understand its contents and have been furnished a copy of it.

Signature: _____ Date: _____

Sample B.3

ADVISEMENT SEEKING LATERAL PLACEMENT

PEACE OFFICERS

ADVISEMENT TO PEACE OFFICERS
SEEKING LATERAL PLACEMENT

California Government Code §1031 prohibits the employment of persons who are not of good moral character or who are not fit to serve as peace officers. This legal prohibition applies equally to persons seeking employment as peace officers, as well as to persons already employed as peace officers seeking appointment with another agency.

STATEMENT

You will undergo a rigorous, in-depth background investigation as a result of your application for this position. In the event that your background investigation for this position should uncover information that you have, or are suspected of having been, engaged in *illegal activities while employed as a peace officer,* this information will likely bar you from further consideration for this position. *Further,* in the event that this illegal activity occurred during the time of your present employment as a peace officer, or if this background investigation should uncover information which raises questions about your fitness to continue as a peace officer, this information may be transmitted to your present employer for their independent investigation.

CERTIFICATION

I certify that I have read this advisement, understand its implications, and have received a copy of it.

_____ _____
Signature of Applicant Date

_____
Print Name

Sample B.4

ADVISEMENT SEEKING LATERAL PLACEMENT

PUBLIC SAFETY DISPATCHERS

ADVISEMENT TO PUBLIC SAFETY DISPATCHERS
SEEKING LATERAL PLACEMENT

California Code of Rules and Regulations, Title 11 §1959 [enacted pursuant to **California Penal Code §13510(c)**] prohibits the employment of persons who exhibit past behavior incompatible with the performance of the duties of a public safety dispatcher. This legal prohibition applies equally to persons seeking employment as public safety dispatchers, as well as to persons already employed as public safety dispatchers seeking appointment with another agency.

STATEMENT

You will undergo a rigorous, in-depth background investigation as a result of your application for this position. In the event that your background investigation for this position should uncover information that you have, or are suspected of having been, engaged in **illegal activities while employed as a public safety dispatcher**, this information will likely bar you from further consideration for this position. **Further,** in the event that this illegal activity occurred during the time of your present employment as a public safety dispatcher, or if this background investigation should uncover information which raises questions about your fitness to continue as a public safety dispatcher, this information may be transmitted to your present employer for independent investigation.

CERTIFICATION

I certify that I have read this advisement, understand its implications, and have received a copy of it.

_____
_____
Signature of Applicant Date

_____
Print Name

Sample B.5

SAMPLE AUTHORIZATION/ADVISEMENT TO CONDUCT A PRE-EMPLOYMENT PEACE OFFICER BACKGROUND INVESTIGATION

AUTHORIZATION/ADVISEMENT

INFORMED CONSENT RELEASE AND HOLD HARMLESS FOR CONFIDENTIALITY OF PRE-EMPLOYMENT BACKGROUND INVESTIGATION DATA

CANDIDATE NAME: _____

I fully recognize that under California law, individuals must clearly demonstrate their personal, medical, and psychological fitness to serve in the position of a peace officer. I further recognize that an employing agency must make reasonable efforts to ensure that any person employed as a peace officer will conform to the standards required by law.

I understand that I am authorizing an intensive investigation into all aspects of my personal, medical, and psychological fitness, and that such investigation will include contacting persons and/or organizations who have information relating to my fitness, including if I am or have been a peace officer in California, information protected under sections 832.7 of the Penal Code and 1043 of the Evidence Code. I also understand that those persons and/or organizations may feel inhibited, intimidated, or otherwise reticent about furnishing information concerning my fitness unless confidentiality of their information can be guaranteed on a permanent basis, which means I will not be permitted to access or review information communicated by those persons or organizations about my suitability for peace officer employment.

I further recognize that although some of the information contained in the background investigative report is a matter of public record, or may otherwise be accessible to me, this information may be inextricably interwoven with other confidential data to which I otherwise would not be privy. I have been informed that because this background investigation is mandated by law, responses from persons contacted, whether solicited or unsolicited, are privileged under California Civil Code §47 or other applicable provisions of law. Those persons must be able to communicate freely and openly with a background investigator about my qualifications and suitability for law enforcement employment without fear that their statements might subject them to liability or become known to me.

Therefore, I exonerate, release, and discharge the person contacted by my prospective employer, together with my prospective employer, and their officers, agents, or assigns, from any claim for liability or damages of any kind, whether in law or in equity, on behalf of myself, my heirs, agents, or assigns, for their communications about my suitability for employment, and for any refusal to make available to me any and all confidential information contained in this pre-employment investigation, including but not limited to the identity of any person or organization who may have supplied information in the course of this investigation, as well as the substance of any such information supplied which might identify that person, and from any other compliance with this authorization or attempts to comply with it.

I have had adequate time to review this form, I understand its meaning and purpose and understand that I have the right to be furnished a signed copy of this form, upon request, pursuant to California Labor Code §432.

►_____ _____

Candidate Signature Date

This release is valid for 120 days from the date of signature.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

State of California

County of _____

Subscribed and sworn (or affirmed) before me on this _____ day of _____, 20___ by _____ _____, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

►_____

Notary Public Signature

Notary Public Seal

Sample B.6

SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR EMPLOYMENT – PEACE OFFICER CANDIDATES

RELEASE AUTHORIZATION

EMPLOYMENT INFORMATION – PEACE OFFICER

CANDIDATE NAME: _____

California Government Code §1031, subdivision (d), provides that each class of ***Public Officer or Employees declared by law to be Peace Officers*** shall *"be of good moral character, as determined by a thorough background investigation."*

As a candidate for a position with the [Name of Employer] , I am required to furnish information for use in determining my qualifications. I accordingly authorize, for 120 days from the date I sign this release and waiver, any authorized representative of my prospective employer bearing this release or any copy thereof, to obtain any and all information you have concerning me, including but not limited to, information pertaining to my employment, job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to my suitability for peace officer employment, including any and all files otherwise deemed confidential or privileged, including any and all materials that have been sealed by agreement, court order, or otherwise, including, but not limited to, disciplinary matters. I acknowledge and understand that when my prior employers, or other persons, provide information to my prospective employer in order for my prospective employer to determine suitability for peace officer employment, that the disclosure of information by my prior employer or other persons to my prospective employer is protected, by, among other things, the privilege found in California Civil Code §47, subsections (b) and (c), and California Government Code §1031.1.

Pursuant to Penal Code section 832.12, I further understand that peace officers, when seeking employment with another department or agency employing peace officers in this state, are required to give written permission to the hiring department or agency to review his or her general personnel file and any other separate file designated by his or her agency, including investigations of misconduct.

I hereby acknowledge and understand that certain records or information contained in any of the files, materials or information that may be disclosed to my prospective employer pursuant to this release may be considered confidential under California Penal Code §832.7 and other applicable law, and therefore potentially otherwise subject to discovery or disclosure only pursuant to a noticed motion under California Evidence Code §1043. By signing this authorization, I hereby voluntarily and irrevocably waive any and all rights to have any record or records or information contained therein discovered or disclosed only by a noticed motion pursuant to California Evidence Code §1043, and instead hereby freely and voluntarily authorize the disclosure of all such records, including those records to which, as an employee, the undersigned would have or did have access. I agree that if I am hired, I may choose to have information gathered during the background investigation remain confidential and not become part of my general personnel file for purposes of the Public Safety Officers Procedural Bill of Rights Act, Gov't Code §§ 3300 et seq.

I hereby release, discharge, and exonerate the agency and/or any person furnishing information pursuant to this release, including their agents and representatives, from liability or damages of any kind arising out of the furnishing and/or inspection of records in compliance with this authorization and request to release information. I hereby waive any and all right and/or opportunity to review, inspect and/or obtain the background investigation report and/or any information provided during the background investigation.

It is further understood, acknowledged, and agreed to, that any information secured pursuant to this statutorily required background investigation, which would negatively reflect on my fitness for duty, may be furnished to my current law enforcement employer or other third parties as may be deemed necessary in the course of fulfilling its official responsibilities.

This release shall be binding on my legal representatives, heirs, and assigns.

►_____ _____

Candidate Signature Date

The authorization to release records is valid for 120 days from the date of signature.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

State of California

County of _____

Subscribed and sworn (or affirmed) before me on this _____ day of _____, 20___ by _____ _____, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

►_____

Notary Public Signature

Notary Public Seal

Sample B.7

SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR EMPLOYMENT – *PUBLIC SAFETY DISPATCHER CANDIDATES*

RELEASE AUTHORIZATION

EMPLOYMENT INFORMATION – PUBLIC SAFETY DISPATCHER

CANDIDATE NAME:

*As an applicant for the position of **Public Safety Dispatcher** with the_____[Name of Employer]_____, under California law [Code of Regulations, Title 11, Sections 1956-1960, enacted pursuant to Penal Code §13510(c)], my prospective employer is required to conduct an investigation into my fitness to serve in this capacity.*

I hereby authorize and direct you, your organization, its Custodian of Records, and/or persons in your employ to furnish and release any and all information which you may have concerning me, including information which may be of a confidential, privileged, and/or derogatory nature, including, but not limited to: employment information, official employment documents, employment performance data (pursuant to Government Code §1031.1 and other applicable law), character reference information, educational records and transcripts (pursuant to the Family Educational Rights and Privacy Act of 1974 [Public Law 93-380]), medical, surgical, psychological, and dental records (if I am offered employment with this agency) (pursuant to, e.g., the Confidentiality of Medical Information Act, Civil Code §56 et seq., applicable federal law, including but not limited to 29 C.F.R. 1630 et seq.), credit and financial information (pursuant to, e.g., the Right to Financial Privacy Act, and various state and federal Fair Credit Reporting Acts), local criminal history information [pursuant to Penal Code §13300(b)(10)], and/or any other information that you possess about me.

I exonerate, release and discharge you, your organization, its officers, agents, and assigns, from any liability or damages, whether in law or in equity, for furnishing the truthful information requested by the bearer of this authorization form. Truthful responses are protected, even if unsolicited, by the privilege found in California Civil Code §47.

I have had adequate time to review this form, I understand its meaning and, if requested, will be furnished a copy of it pursuant to California Labor Code §432

►_____ _____

Candidate Signature Date

This release is valid for 120 days from the date of signature.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

State of California

County of _____

Subscribed and sworn (or affirmed) before me on this _____ day of _____, 20___ by _____ _____, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

►_____

Notary Public Signature

Notary Public Seal

Intentionally blank

Intentionally blank

Appendix C

SAMPLE FORMS, REFERENCE CHECK LETTERS AND QUESTIONNAIRES

Appendix C includes the following examples of forms, reference check letters and questionnaires.

Sample forms that can be modified for agency use can be found on the POST website: *https://post.ca.gov/portals/0/post_docs/publications/background-investigation-manual/formsList.pdf*

Samples:

C.1 Background Investigation Checklist – Peace Officer

C.2 Background Investigation Checklist – Public Safety Dispatcher

C.3 Cover Letter for Reference Checks

C.4 Questionnaire for Reference Checks

C.5 Interview Questionnaire for Neighborhood Reference Checks

C.6 Cover Letter to Landlords

C.7 Questionnaire Landlord Reference Check

C.8 Employment Query Letter

C.9 Attachment to Employment Query (Government Code Section 1031.1)

C.10 Cover Letter to Past Employers/Supervisors

C.11 Questionnaire for Past Employers/Supervisors

C.12 Inquiry Letter for Selective Service System

Sample C.1

BACKGROUND INVESTIGATION CHECKLIST – PEACE OFFICER

Name	Position

1. Documents Verified

TYPE OF DOCUMENT	DATE	BY	TYPE OF DOCUMENT	DATE	BY
Birth Date			Marriage Dissolution(s):		
Citizenship Requirement					
Educational Requirement					
Selective Svc Registration/Military Discharge					
Driver License					

2. Reference Checks Completed

TYPE OF CONTACT	DATE			BY	TYPE OF CONTACT	DATE			BY
	PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED			PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED	
Relatives and References					**Employers, Supervisors, and Co-workers**				
Neighbors and Landlords					**Secondary References**				

Sample C.1 *continued*

BACKGROUND INVESTIGATION CHECKLIST – PEACE OFFICER

Name	Position

3. Record Checks Completed

TYPE OF INQUIRY	DATE REQUEST SENT	DATE RESPONSE RECEIVED	BY	TYPE OF INQUIRY	DATE REQUEST SENT	DATE RESPONSE RECEIVED	BY
Educational Documents				**Legal Records**			
Credit Records				**Local LE Agency Checks**			
Military Records				**Social Media Check**			
DMV Records							

4. Examinations Completed

TYPE OF SCREENING	DATE	BY	OTHER	DATE	BY
Medical Screening Completed					
Psychological Screening Completed					

5. Additional Actions Completed

TYPE OF ACTION	DATE	BY	COMMENTS
Applicant Orientation and Questionnaire Review *(Optional)*			
Applicant Discrepancy Interview, if any *(Optional)*			
Narrative Investigation Report Completed			

Sample C.2

BACKGROUND INVESTIGATION CHECKLIST – PUBLIC SAFETY DISPATCHER

Name	Position

1. Documents Verified

TYPE OF DOCUMENT	DATE	BY	TYPE OF DOCUMENT	DATE	BY
Birth Date			Marriage Dissolution(s):		
Citizenship Requirement					
Educational Requirement					
Selective Svc Registration/Military Discharge					
Driver License					

2. Reference Checks Completed

TYPE OF CONTACT	DATE			BY	TYPE OF CONTACT	DATE			BY
	PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED			PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED	
Relatives and References					**Employers, Supervisors, and Co-workers**				
Neighbors and Landlords					**Secondary References**				

Sample C.2 *continued*

BACKGROUND INVESTIGATION CHECKLIST – PUBLIC SAFETY DISPATCHER

Name	Position

3. Record Checks Completed

TYPE OF INQUIRY	DATE		BY	TYPE OF INQUIRY	DATE		BY
	REQUEST SENT	RESPONSE RECEIVED			REQUEST SENT	RESPONSE RECEIVED	
Educational Documents				**Legal Records**			
Credit Records				**Local LE Agency Checks**			
Military Records				**Social Media Check**			
DMV Records							

4. Examinations Completed

TYPE OF SCREENING	DATE	BY	OTHER	DATE	BY
Medical Screening Completed					
Psychological Screening Completed					

5. Additional Actions Completed

TYPE OF ACTION	DATE	BY	COMMENTS
Applicant Orientation and Questionnaire Review *(Optional)*			
Applicant Discrepancy Interview, if any *(Optional)*			
Narrative Investigation Report Completed			

Sample C.3

SAMPLE COVER LETTER FOR REFERENCE CHECKS

AGENCY LETTERHEAD

[Date]

[Name]
[Mailing Address]
[City, ST Zip]

Dear Mr./Ms. _____:

[Name of Candidate] has applied for a position in this department. We are informed that you may be able to furnish information of value concerning the candidate's qualifications.

Please assist us by expressing your opinion of this individual and answering the questions on the attached questionnaire. Your responses are absolutely privileged under the law.

We rely upon well-informed individuals to assist us in the selection of personnel who are qualified for public service employment and who will maintain high standards of performance in law enforcement.

Your cooperation and an early reply in this matter will be appreciated.

Very truly yours,

[Name]
[Title]

[Contact Number – *optional*]
[Email – *optional*]

Sample C.4

SAMPLE QUESTIONNAIRE FOR REFERENCE CHECKS

QUESTIONNAIRE
REFERENCE CHECK

CANDIDATE NAME: _____

1. **How do you know this candidate?**

   _____

   _____

   _____

2. **How long have you known the candidate?** ____ **years** ____ **months**

3. **Do you feel the candidate will be effective in a job where helping other people is a key responsibility?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

4. **Do you consider the candidate to be an honest person?** ☐ **Y** ☐**N**

   Explain: _____

   _____

   _____

5. **How does the candidate deal with difficult problems or emergencies?**

   _____

   _____

   _____

6. **How well does the candidate keep their commitments on time and as agreed?**

   _____

   _____

   _____

7. **Does the candidate presently engage in illegal drug use?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

8. **Are you aware of the candidate ever displaying any behaviors, either verbally or in writing, that would indicate bias toward any person or group based on their race or ethnicity, gender, nationality, religion, disability or sexual orientation? (This could include conversations, verbal or written statements, posts on social media, tattoos).** ☐ **Y** ☐ **N**

   If yes, explain: _____

   _____

   _____

Sample C.4 *continued*

SAMPLE QUESTIONNAIRE FOR REFERENCE CHECKS

QUESTIONNAIRE
REFERENCE CHECK

CANDIDATE NAME: _____

9. To the best of your knowledge, does the candidate tend to treat all individuals fairly, regardless of race or ethnicity, gender, nationality, religion, disability or sexual orientation? ☐ Y ☐ N
Provide specific examples and/or reason(s) for your response:

Explain: _____

_____

_____

10. Would you trust this candidate with your own personal safety or that of your family? ☐ Y ☐ N

_____

_____

_____

11. Please provide any other information about the candidate that you feel might be relevant to the background investigation:

_____

_____

_____

12. List other personal references we may contact regarding the candidate:

Name	Name	Name
Address	Address	Address
Phone	Phone	Phone
Email	Email	Email

Signature: _____ **Date:** _____

Print Name: _____

Address: _____

PLEASE RETURN QUESTIONNAIRE TO: [AGENCY NAME]
[MAILING ADDRESS]
[CITY, ST, ZIP]

[ATTN: CONTACT NAME/DEPARTMENT]

THANK YOU FOR YOUR ASSISTANCE

Sample C.5

SAMPLE INTERVIEW QUESTIONNAIRE FOR NEIGHBORHOOD REFERENCE CHECK

INTERVIEW QUESTIONNAIRE
NEIGHBORHOOD REFERENCE CHECK **page 1 of 2**

CANDIDATE'S NAME:	DATE OF INTERVIEW W/NEIGHBOR:
NEIGHBOR'S NAME:	NEIGHBOR'S PHONE:

NEIGHBOR'S ADDRESS:

1. **On a scale of 1 (not at all) to 5 (very well), how well do you know the candidate? (Circle response.)**

Not at all		Somewhat		Very well
1	2	3	4	5

2. **How long have you known the candidate?**

   Explain: _____

   _____

   _____

3. **Have you ever had any complaints against the candidate?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

4. **Have any of the other neighbors ever complained about the candidate?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

5. **Is the candidate friendly and/or helpful to others?**

   Explain: _____

   _____

   _____

6. **Are you aware of the candidate ever displaying any behaviors, either verbally or in writing, that would indicate bias toward any person or group based on their race or ethnicity, gender, nationality, religion, disability or sexual orientation? (This could include conversations, verbal or written statements, posts on social media, tattoos).** ☐ **Y** ☐ **N**

   If yes, explain: _____

   _____

   _____

Sample C.5 *continued*

SAMPLE INTERVIEW QUESTIONNAIRE FOR NEIGHBORHOOD REFERENCE CHECK

INTERVIEW QUESTIONNAIRE
NEIGHBORHOOD REFERENCE CHECK **page 2 of 2**

CANDIDATE NAME: _____

7. **To the best of your knowledge, does the candidate tend to treat all individuals fairly, regardless of race or ethnicity, gender, nationality, religion, disability or sexual orientation?**

_____

_____

_____

8. **Have you ever suspected any illegal activity by the candidate? 0 Y 0 N**

9. **Has law enforcement ever responded to the residence? ☐ Y ☐ N**

Explain: _____

_____

_____

10. **Do you know the candidate well enough to recommend them for this position of public trust? ☐ Y ☐ N**

Explain: _____

_____

_____

11. **Are you aware of any circumstances that might disqualify the candidate from this position of public trust? ☐ Y ☐ N**

_____

_____

_____

12. **Would you want the candidate as a neighbor in the future? ☐ Y ☐ N**

_____

_____

_____

Additional Comments:

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Sample C.6

SAMPLE COVER LETTER TO LANDLORDS

AGENCY LETTERHEAD

[Date]

[Name]
[Mailing Address]
[City, ST Zip]

Dear Mr./Ms. _____:

_____ [Name of Candidate] _____, who resided as a tenant

at: _____

_____

from: _____ to: _____

is a candidate for a position as a 0 peace officer 0 public safety dispatcher with this agency.

We are asking your assistance in helping us determine their qualifications for the position. Please do so by completing the attached questionnaire. Your responses enjoy absolute privilege under the law.

Sincerely,

[Name]
[Title]

[Contact Number – *optional*]
[Email – *optional*]

Sample C.7

SAMPLE QUESTIONNAIRE FOR LANDLORD REFERENCE CHECK

QUESTIONNAIRE
LANDLORD REFERENCE CHECK **page 1 of 2**

CANDIDATE NAME: _____

1. **How long have you rented/did you rent to the candidate?**

   _____

2. **Do/Did you know the candidate other than as a tenant? ☐ Y ☐ N**

   Explain: _____

   _____

   _____

3. **Does/Did the candidate pay their rent on time/as agreed? ☐ Y ☐ N**

   Explain: _____

   _____

   _____

4. **Does/Did the candidate have any problems with other tenants/neighbors? ☐ Y ☐N**

   Explain: _____

   _____

   _____

5. **Are you aware of the candidate ever displaying any behaviors, either verbally or in writing, that would indicate bias toward any person or group based on their race or ethnicity, gender, nationality, religion, disability or sexual orientation? (This could include conversations, verbal or written statements, posts on social media, tattoos)? ☐ Y ☐ N**

   If yes, explain: _____

   _____

   _____

6. **To the best of your knowledge, does/did the candidate tend to treat all individuals fairly, regardless of race or ethnicity, gender, nationality, religion, disability or sexual orientation? ☐ Y ☐ N**

   Provide specific examples and/or reason(s) for your response: _____

   _____

   _____

7. **Would you rent to this candidate again? ☐ Y ☐ N**

   Explain: _____

   _____

   _____

Sample C.7 *continued*

SAMPLE QUESTIONNAIRE FOR LANDLORD REFERENCE CHECK

QUESTIONNAIRE
LANDLORD REFERENCE CHECK **page 2 of 2**

CANDIDATE NAME:

8. Did the candidate leave your property in good/satisfactory condition? ☐ Y ☐ N ☐ N/A

_____

9. Would you recommend the candidate for a position of public trust such as police officer or public safety dispatcher? ☐ Y ☐ N

Explain: _____

_____

_____

10. Please give any additional pertinent facts that may occur to you:

_____

_____

_____

_____

_____

Signature: _____ **Date:** _____

Print Name: _____

Address: _____

_____

_____

PLEASE RETURN QUESTIONNAIRE TO: [AGENCY NAME]
[MAILING ADDRESS]
[CITY, ST, ZIP]

[ATTN: CONTACT NAME/DEPARTMENT]

THANK YOU FOR YOUR ASSISTANCE

Sample C.8

SAMPLE LETTER – EMPLOYMENT QUERY

[To be used for peace officer candidates who are not currently employed as peace officers and candidates seeking public safety dispatcher positions with law enforcement agencies.]

AGENCY LETTERHEAD

[Date]

[Name]
[Mailing Address]
[City, ST Zip]

Dear Mr./Ms. _____:

_____ [Name of Candidate] _____, who was employed by you from _____ to _____, is a candidate for the position of peace officer/public safety dispatcher in this department. We are asking your assistance in helping to determine their qualifications for the position by supplying us with employment information regarding this individual.

Government Code §1031.1 requires employers to disclose written employment information when a person is applying for a peace officer/public safety dispatcher position. A copy of the law is attached for you. An employer has an obligation to disclose written employment information, which includes information in connection with job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to peace officer/public safety dispatcher performance (except information prohibited from disclosure by any other state or federal law or regulation).

We would appreciate your cooperation in providing the above employment information regarding _____ [Name of Candidate]_____. We are accompanying this request with a notarized authorization releasing you from civil liability. We would be glad to cover any costs you incur in copying and furnishing these documents to us. Of course, your responses are absolutely privileged under the law.

Very truly yours,

[Name]
[Title]

[Contact Number – *optional*]
[Email – *optional*]

Attachments: Government Code §1031.1
Authorization/Advisement Form

Sample C.9

SAMPLE LETTER – ATTACHMENT TO EMPLOYMENT QUERY (GOVERNMENT CODE 1031.1)

Attachment

GOVERNMENT CODE SECTION 1031.1

1031.1. (a) For purposes of performing a thorough background investigation for candidates not currently employed as a peace officer, as required by subdivision (d) of §1031, or in the case of an applicant for a position other than a sworn peace officer within a law enforcement agency, an employer shall disclose employment information relating to a current or former employee, upon request of a law enforcement agency, if all of the following conditions are met:

(1) The request is made in writing.

(2) The request is accompanied by a notarized authorization by the candidate releasing the employer of liability.

(3) The request and the authorization are presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency.

(b) In the absence of fraud or malice, an employer shall not be subject to civil liability for any relevant cause of action by virtue of releasing employment information required pursuant to this section. This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) For purposes of this section, “employment information” includes written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to the performance of a peace officer or other law enforcement agency applicant, except information prohibited from disclosure by any other state or federal law or regulation.

(d) An employer’s refusal to disclose information to a law enforcement agency in accordance with this section shall constitute grounds for a civil action for injunctive relief requiring disclosure on the part of an employer.

(e) Employment information disclosed by an employer to an initial requesting law enforcement agency shall be deemed confidential. However, the initial requesting law enforcement agency may disclose this information to another authorized law enforcement agency that is also conducting a background investigation into a peace officer or other law enforcement agency applicant. If this information is disclosed to another law enforcement agency, that agency shall utilize the information for investigative leads only and the information shall be independently verified by that agency in order to be used in determining the suitability of a peace officer or other law enforcement agency applicant.

(f) An employer may charge reasonable fees to cover actual costs incurred in copying and furnishing documents to law enforcement agencies as required by this section.

Sample C.10

SAMPLE COVER LETTER FOR QUESTIONNAIRE TO PAST EMPLOYERS/SUPERVISORS

AGENCY LETTERHEAD

[Date]

[Name]
[Mailing Address]
[City, ST Zip]

Dear Mr./Ms. _____:

_____ [Name of Candidate] _____, who was employed by you from _____ to _____, is a candidate for the position

of _____ [Position Title]_____ in this department.

We are asking your assistance in helping to determine their qualifications for the position. Would you please help us by answering the questions on the enclosed questionnaire? Your responses are absolutely privileged under the law.

If you prefer to speak with us by phone, please contact me at __[Area Code - Number]_. My normal work hours are _____[Hours]_____.

Your cooperation is greatly appreciated.

Very truly yours,

[Name]
[Title]

enclosure

Sample C.11

SAMPLE QUESTIONNAIRE TO PAST EMPLOYERS/SUPERVISORS

QUESTIONNAIRE
LANDLORD REFERENCE CHECK **page 1 of 2**

CANDIDATE NAME: _____

1. **Why did the candidate leave your employ?**

   _____

   _____

   _____

2. **Was the candidate punctual and dependable?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

3. **How did the candidate get along with other employees?**

   _____

   _____

   _____

4. **How did the candidate deal with difficult problems or emergencies?**

   _____

   _____

   _____

5. **Was the candidate honest and truthful?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

6. **Did the candidate have any problems following/adhering to company or agency policies?** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

7. **Did the candidate have any extended work absences? (Do NOT include periods of disability, legitimate illness, or maternity leave.)** ☐ **Y** ☐ **N**

   Explain: _____

   _____

   _____

Sample C.11 *continued*

SAMPLE QUESTIONNAIRE TO PAST EMPLOYERS/SUPERVISORS

QUESTIONNAIRE
LANDLORD REFERENCE CHECK **page 2 of 2**

CANDIDATE NAME: _____

8. Would you rehire or recommend the candidate for hiring? ☐ Y ☐ N

Explain: _____

_____

_____

9. Are you aware of or did you ever receive any complaints about the candidate, while in your employment, displaying any behaviors that would indicate bias toward any person or group based on their race or ethnicity, gender, nationality, religion, disability or sexual orientation? (This could include conversations, verbal statements, posts on social media, tattoos). ☐ Y ☐ N

If yes, explain: _____

_____

_____

10. To the best of your knowledge, does/did the candidate tend to treat all individuals fairly, regardless of race or ethnicity, gender, nationality, religion, disability or sexual orientation? ☐ Y ☐ N

Provide specific examples and/or reason(s) for your response:

_____

_____

_____

11. Can you think of any reason why the candidate might not be qualified to work in a law enforcement agency? ☐ Y ☐ N

Explain: _____

_____

_____

12. If you know of other persons who may be able to furnish information about the candidate, please give their names and contact information:

Name	_____	Name	_____
Address	_____	Address	_____
	_____		_____
Phone	_____	Phone	_____
Email	_____	Email	_____

Signature _____ **Date** _____

Print Name _____

Address _____

_____

_____

PLEASE RETURN QUESTIONNAIRE TO: [AGENCY NAME]
[MAILING ADDRESS]
[CITY, ST, ZIP]

[ATTN: CONTACT NAME/DEPARTMENT]

THANK YOU FOR YOUR ASSISTANCE

Sample C.12

SAMPLE INQUIRY LETTER FOR SELECTIVE SERVICE SYSTEM

AGENCY LETTERHEAD

Date

Selective Service System
Data Management Center
P.O. Box 94638
Palatine, IL 60094-4638

Ladies and Gentlemen:

[Name of Candidate] is a candidate for a position in this department, and we are unable to locate his proof of registration in your automated system.

Please send us a copy of information pertaining to the candidate's compliance with Selective Service registration requirements. We have enclosed a waiver signed by the candidate.

To aid you in finding the candidate's file, we are providing the following information:

Complete Name: _____

Current Mailing Address: _____

_____

Telephone Number: _(_____)_____

Date of Birth: _____

Selective Service Number: _____

Address at Time of Registration: _____

_____

Approximate Date of Registration: _____

Your cooperation is appreciated.

Sincerely,

[Name]
[Title]

enclosure

Appendix D

SAMPLES OF SELECTED SECTIONS OF A COMPLETED BACKGROUND INVESTIGATION REPORT

(THIS APPENDIX SECTION IS CURRENTLY UNDER REVIEW.)

Appendix D includes the following examples of completed areas of the background investigation files.

Sections Represented:

BACKGROUND INVESTIGATION CHECKLIST *(optional – refer to Appendix C – Sample C.1)*

TAB A **BACKGROUND NARRATIVE REPORT**

TAB K **EMPLOYMENT HISTORY CHECKS**

TAB L **RELATIVES/PERSONAL REFERENCES CHECKS**

TAB M **NEIGHBORHOOD CHECKS**

Sample *(Optional)*

BACKGROUND INVESTIGATION CHECKLIST – *PEACE OFFICER REQUIREMENTS*

Name	Position

1. Documents Verified

TYPE OF DOCUMENT	DATE	BY	TYPE OF DOCUMENT	DATE	BY
Birth Date			Marriage Dissolution(s):		
Citizenship Requirement					
Educational Requirement					
Selective Svc Registration/Military Discharge					
Driver License					

2. Reference Checks Completed

TYPE OF CONTACT	DATE			BY	TYPE OF CONTACT	DATE			BY
	PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED			PERSONAL CONTACT	REQUEST SENT	RESPONSE RECEIVED	
Relatives and References					**Employers, Supervisors, and Co-workers**				
Kathleen & Robert Smith (parents)	10/10/16				Triple Play Sports Grill	10/12/16			
Michael McFarland	10/11/16				VA Linux Systems	10/14/16			
Randy Highland	10/11/16				Sanmina Corp (HADCO)	10/14/16			
Carolyn Hooper (best friend)	10/15/16				Dot Hill Unlimited (storage facility)	10/18/16			
Maria Gonzalez	10/15/16				Compaq (Tandem)		10/18/16	10/24/16	
Nancy Johnson	10/15/16				ADECCO (Olsten Staffing)	10/20/16		*	
Robin Ferguson	10/16/16				Toys-R-Us	10/21/16		*	
Nelson Burnette	10/16/16				Media Services Inc.	10/24/16		*	
Rod Sackett	10/20/16				A LA Carte Services	10/24/16		*	
Jeremy Demas	10/20/16				PCS Corporation	10/28/16			
Peter Chang	10/24/16				Walgreen's	10/28/16		*	
Jeanette Ahmad	10/24/16				Perform Cost Mgmt	10/28/16		*	
Neighbors and Landlords					**Secondary References**				
1524 First Ave (main house)	10/12/16								
1528 First Ave (cottage)	10/12/16								
1730 Elk Road (apt mgr)	10/12/16								

** No information*

continues

Sample *(Optional)*

BACKGROUND INVESTIGATION CHECKLIST – *PEACE OFFICER REQUIREMENTS*

continued

Name	Position

3. Record Checks Completed

TYPE OF INQUIRY	DATE REQUEST SENT	DATE RESPONSE RECEIVED	BY	TYPE OF INQUIRY	DATE REQUEST SENT	DATE RESPONSE RECEIVED	BY
Educational Documents				**Legal Records**			
H.S. Transcripts	10/10/16	10/21/16		FBI Record			
College Transcript – De Anza	10/10/16	10/24/16		CA Department of Justice	10/06/16	10/06/16	
College Transcript - Cabrillo	10/10/16	10/18/16		Firearms Clearance Letter			
Credit Records				**Local LE Agency Checks**			
Credit Check Inc.	10/14/16	10/20/16					
Military Records				**Social Media Check**			
				Anytown P.D.	10/06/16	10/10/16	
				Somewhere P.D.	10/06/16	10/18/16	
				Anycounty County S.D.	10/06/16	10/20/16	
DMV Records				Someplace County S.D.	10/08/16	10/14/16	
Driving Record	10/06/16	10/18/16		Township P.D.	10/08/16	10/13/16	
Proof of Insurance	10/06/16	10/18/16					

4. Examinations Completed

TYPE OF SCREENING	DATE	BY	OTHER	DATE	BY
Medical Screening Completed	11/04/16		Polygraph (HOLD FOR RESULTS)	10/30/16	
Psychological Screening Completed	11/06/16				

5. Additional Actions Completed

TYPE OF ACTION	DATE	BY	COMMENTS
Applicant Orientation and Questionnaire Review *(Optional)*			
Applicant Discrepancy Interview, if any *(Optional)*			
Narrative Investigation Report Completed			

The Following Tab Sections Provide a Sample Narrative Summary, Executive Summary and Specific Sections from the Larger Narrative Report

Selected Section
ORGANIZER TAB A
BACKGROUND NARRATIVE REPORT

A **Background Narrative Report**
– Commission Regulation 1953(g)

(1) The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections.

*(2) **Retention.** The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code § 12946.*

Common Oversights/Problems:

- Narrative does not provide sufficient detail (e.g., "all references were positive").
- No documentation in file to allow for actual identification of contacts interviewed and what was said.
- Narrative fails to address all mandatory areas of inquiry.
- Narrative includes all information with no supporting documentation in applicable tabs.

TAB A – BACKGROUND NARRATIVE REPORT (Sample Narrative Summary)

Sample

NARRATIVE SUMMARY – PEACE OFFICER

NARRATIVE SUMMARY page 1 of 3

CANDIDATE NAME: **JANE SMITH**

PERSONAL

The following are personal descriptive data concerning Police Officer Applicant Janie Smith. There is no disqualifying information in this area.

Full Name:	Mary Jane Smith
AKA:	Mary J. Smith, Janie Smith
Address:	1234 First Avenue, Hometown, CA 90000
Personal Phone:	Home: (000) 000-0000 Cell: (000) 000-0000
Work Phone:	(000) 000-0000
Date of Birth:	00-00-0000
Place of Birth:	Oldtown, State
Citizenship:	U.S.
Social Security Number:	500-00-0000
Driver License Number:	B0000000 California
Height:	0 ft – 0 in
Weight:	000 lbs
Hair Color:	Brown
Eye Color:	Hazel
FBI Number:	Not Available
CII Number:	Not Available
Fingerprint Class:	Not Available

The applicant is an unmarried female who resides in a family-owned home with her son. The applicant's claims with respect to her age, birth date, birth place, citizenship, and eligibility to work in the United State are supported by independent documentation contained in this report.

SAMPLE

TAB A – BACKGROUND NARRATIVE REPORT (Sample Narrative Summary)

Sample

NARRATIVE SUMMARY – *PEACE OFFICER* *continued*

NARRATIVE SUMMARY page 2 of 3

RELATIVES, REFERENCES, AND ACQUAINTANCES

No disqualifying information. The applicant enjoys the full and unreserved support of her parent and stepparent, who describe her as a compassionate, mentally strong, honest, personable, and thoughtful individual whose interest in this field dates back to childhood. The only criticism of the applicant centers on her tendency to be self-critical and her time management skills with regard to her child.

The balance of the applicant's references is a mixture of professional acquaintances and social peers, all of whom recommended her for this position. Several expressed initial surprise at her interest in police work, but the applicant is characterized as someone who is truthful, loyal, dedicated, compassionate, athletic, professional, possesses high integrity, and not "heavy-handed."

Criticisms of the applicant ranged from her small stature to her being soft spoken and her not working out more (physically). She is also seen as someone who is too much the perfectionist, yet not always organized. (Tab L)

EDUCATION

No disqualifying information. The applicant reportedly meets the educational requirements of this position. The applicant claims she is a 1992 graduate of Hometown High School, but only a facsimile diploma has been received in support of that claim (TAB G).

RESIDENCES

No disqualifying information. The applicant resides in a home owed by her stepfather, which she shares with her child. Although neighbors report never even having seen the applicant, her residence has not been the source of any problems.

EMPLOYMENT

No disqualifying information. The applicant is presently employed as a Food Server for a restaurant, a position she has held for the last five months. The applicant is characterized as a good worker who will be eligible for rehire.

The balance of the applicant's employment history consists of 11 positions within the last 10 years. She has worked as a Commodity Manager, "VAM" Procurement Specialist, Buyer/ Planner II, Purchasing Assistant III, Claims Processor, three times as a Temporary Worker, and twice as a Cashier. What little information there was available was generally positive.

SAMPLE

TAB A – BACKGROUND NARRATIVE REPORT (Sample Narrative Summary)

Sample
NARRATIVE SUMMARY – *PEACE OFFICER* *continued*

NARRATIVE SUMMARY **page 3 of 3**

MILITARY

No disqualifying information. The applicant reports she has not served in the Armed Forces, and she was not required to be registered under the Selective Service Registration Act.

FINANCIAL

No disqualifying information. The applicant has twenty-two reported credit accounts and has satisfied them on a timely basis. The obligations reported on her Personal History Statement (PHS) form are roughly consistent with those which appear on her credit report (TAB F).

LEGAL

No disqualifying information. The applicant's fingerprints have been submitted to the Department of Justice by the Anytown Police Department, and they have conducted her local criminal history checks as well (TABS C & E).

The applicant initially reported no involvement with illegal acts within the required reporting. However, during her independent polygraph examination she reported having used marijuana most recently at age 20 (on the edge of the seven year reporting requirement) and having been detained by Arizona police for drinking and was released to her stepfather.

MOTOR VEHICLE OPERATION

No disqualifying information. The applicant possesses a valid California Driver License which is free of any collisions or citations. She is properly insured under the California Financial Responsibility Act (TAB D).

GENERAL TOPICS:

No disqualifying information. The applicant's mandated psychological and medical assessments were conducted separately from this inquiry.

☐ Supporting documentation is appended.

_____ Date: _____

Consulting Associate Signature

_____

Print Name

TAB A – BACKGROUND NARRATIVE REPORT (Sample Executive Summary)

Sample
EXECUTIVE SUMMARY – *PEACE OFFICER*

EXECUTIVE SUMMARY page 1 of 1

CANDIDATE NAME: **JANE SMITH**

ANALYSIS AND CONCLUSIONS

The completed background investigation of Police Officer Applicant Janie Smith revealed no disqualifying information. Apart from the dearth of available employment information, the areas of investigative concern center on the applicant's Conscientiousness and Willingness to Confront Problems.

CONSCIENTIOUSNESS

Although characterized by others as conscientious, certain other factors belie that description. The applicant was initially disqualified on her background after inconsistencies on her PHS were compared to admissions on her polygraph. Although these matters were addressed by the Department, the issue is raised again by the fact that the applicant has failed to furnish all of the documents (high school transcripts) which she had been instructed to furnish (and acknowledged in writing). Without those transcripts, it is not possible to demonstrate her legal eligibility for appointment.

The applicant also reports having been employed in 1992 at the Walgreen's in Anyville, Arizona, but store officials dispute her claim. It has not been established if the applicant simply failed to devote enough time to accurately complete her form, or if there is another reason. Her parents have suggested that time management is not one of her strengths.

CONFRONTING AND OVERCOMING PROBLEMS, OBSTACLES AND ADVERSITY

Some of the applicant's references expressed some surprise at her interest in a police career, pointing to the combination of her small stature, soft-spoken nature, and willingness to back down when challenged. She is also seen by some as a person who is overly self-critical, so should she be conditionally offered employment with the Department, her psychological assessment may be especially important in assessing this job dimension.

This background and the completed Investigation Narrative are based solely on the interviews, and supporting documentation is appended herein.

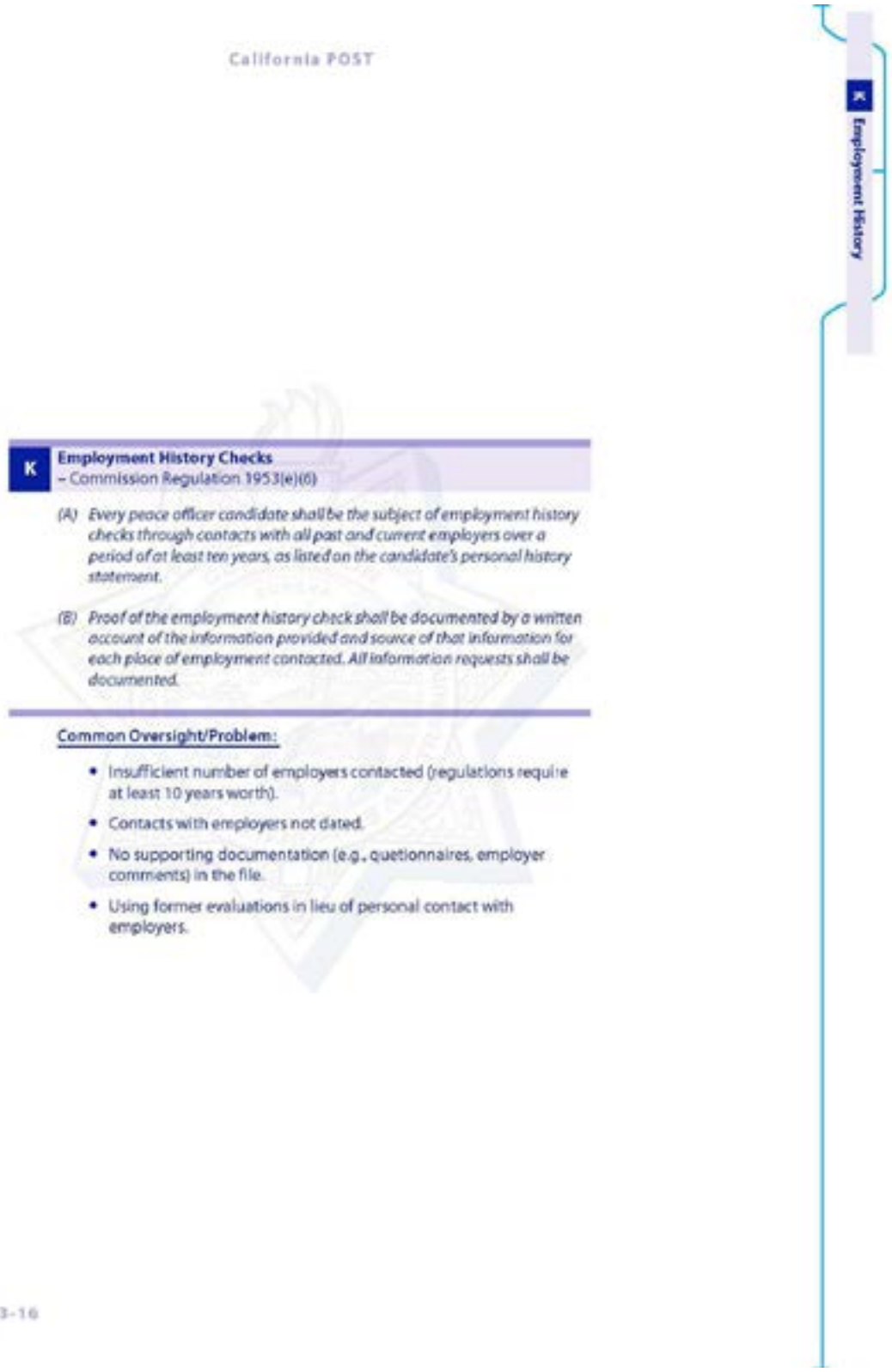
Mark Evans

Consulting Associate

SAMPLE

Selected Section
ORGANIZER TAB K
EMPLOYMENT HISTORY CHECKS

Sample Employment History Checks



TAB K – EMPLOYMENT HISTORY CHECKS

Sample
EMPLOYMENT REFERENCE CHECK

CONTACT WITH PREVIOUS EMPLOYERS page 1 of 4

CANDIDATE NAME: **JANE SMITH**

Employer: 1) TRIPLE PLAY SPORTS GRILL

Donald Mandel, Owner

Contact Date: 10-12-16

No disqualifying information. The applicant has been employed there as a Food Server since May 6 of this year. The applicant will be eligible for rehire.

The applicant's personnel file does not contain any performance evaluations, disciplinary actions or commendations. The applicant's original application listed only her address and previous employer.

Mandel reported that his brother-in-law, **Eric Tracey** who is a co-owner, is not available for comment, and co-workers "do not know anything" and should not be contacted on the job or at home. **Mandel** reported that he "respectfully" does not wish to state whether he would recommend the applicant for this position, adding that there is "nothing negative." He just does not feel "exposure" as a food server is the same as what a police officer would face.

Mandel reported that the applicant responds well to criticism and direction, and she gets along very well with co-workers. The applicant is punctual, reliable, hardworking, customer service oriented, and he considers her a good employee who has no negative areas.

The applicant follows restaurant policies, and observes safety rules, she uses her work time constructively, shows initiative when appropriate, and she keeps **Mandel** informed of problems that deserve his attention. The applicant has lost her temper at work, but **Mandel** would not elaborate. **Mandel** also reported that the applicant has never exhibited any racial or ethnic bigotry, and she dresses appropriately for work.

Employer: 2) VA LINUX SYSTEMS

Larry Fowler, Human Resources Manager

Contact Date: 10-14-16

No disqualifying information. The applicant was employed there as a Commodity Manager between August 28, 2010 and February 23 of this year. The applicant's division was eliminated, but **Fowler** reports that she would be eligible for rehire in another position.

There is no personnel file for the applicant, and the applicant's manager and co workers were also laid-off.

SAMPLE

TAB K – EMPLOYMENT HISTORY CHECKS

Sample
EMPLOYMENT REFERENCE CHECK *continued*

CONTACT WITH PREVIOUS EMPLOYERS

Employer: 3) SANMINA (HADCO)

Noel Thatcher, Director, Human Resources

Contact Date: 10-14-16

No disqualifying information. The applicant was employed there as a "VAM Procurement Specialist" between February 2, 2008 and August 18, 2010. The applicant is eligible for rehire.

In response to a written request, **Thatcher** reported that **Sanmina** purchased **Hadco** in June of 2010, and none of the applicant's co-workers or supervisors are still with the company. According to **Thatcher's** records, the applicant never received a "below standard" evaluation, she was never the subject of any disciplinary actions, and the applicant never conducted herself in a manner which would raise questions about her good moral character.

Thatcher also reported that while the applicant was in their employ, she never demonstrated any behaviors that would suggest she would be unable to successfully perform the essential functions of this position. The applicant never displayed any ill-temperament or assaultive behavior toward any co-worker, supervisor, or member of the public. There was also never any reason to question her honesty or integrity.

Employer: 4) DOT HILL UNLIMITED (STORAGE FACILITY)

Emma Baxter, Human Resources Administrator

Contact Date: 10-18-16

No disqualifying information. The applicant was employed there as a Buyer/Planner II between April 29, 2006 and January 29, 2008. The applicant's eligibility for rehire is unknown, according to Baxter, who would only respond to a written request per company policy.

Baxter reported that none of the applicant's performance evaluations were "below standard," she was never the subject of any disciplinary actions, and the applicant never conducted herself in a manner that would raise questions about her good moral character. Baxter also reported that while the applicant was in their employ, she never demonstrated any behaviors that would suggest she would be unable to successfully perform the essential functions of this position. The applicant never displayed any ill temperament or assaultive behavior toward any co-worker, supervisor, or member of the public. There was also never any reason to question her honesty or integrity.

SAMPLE

TAB K – EMPLOYMENT HISTORY CHECKS

Sample
EMPLOYMENT REFERENCE CHECK *continued*

CONTACT WITH PREVIOUS EMPLOYERS

Employer: 5) COMPAQ COMPUTER CORPORATION (TANDEM COMPUTERS)

Nola Sanchez, Human Resources Administrator

Contact Date: 10-18-16

No disqualifying information. The applicant was employed there as a Purchasing Assistant III between May 31, 2005 and April 25, 2006.

In response to a written request, Sanchez reported that company policy prohibits the release of any further information.

Employer: 6) ADECCO (OLSTEN STAFFING)

Wilton Flagstone, Human Resources - Corporate Headquarters

Contact Date: 10-20-16

No information. The applicant reported she was employed there between September 2003 and June 2005.

Flagstone reported that ADECCO purchased Olsten, and records prior to 2007 have been purged.

Employer: 7) TOYS-R-US

(Automated Employment Verification)

Contact Date: 10-21-16

No information. The applicant reported she was employed there for one week in November 2003. The automated system only keeps records from 2007 forward.

Employer: 8) MEDIA SERVICES, INC.

Anyville, California

Contact Date: 10-24-16

No information. The applicant reported she was employed there as a Temporary Worker between August and September 2003. There is no listing with Directory Assistance for this company.

SAMPLE

TAB K – EMPLOYMENT HISTORY CHECKS

Sample
EMPLOYMENT REFERENCE CHECK *continued*

CONTACT WITH PREVIOUS EMPLOYERS

Employer: 9) A LA CARTE SERVICES

Employment Verification, Anytown, California

Contact Date: 10-24-16

No information. The applicant reported being employed as a Temporary Worker between August and September 2003. Several phone messages have not been answered. A written request was sent, and the response received (which is not signed or dated) states that they purchased the business in 2003 and have no records for the applicant.

Employer: 10) PCS CORPORATION

June Wilson, Human Resources, Somewhere, Arizona

Contact Date: 10-28-16

No disqualifying information. The applicant was employed there as a Claims Processor between November 23, 2002 and August 13, 2003 at which time she relocated to California, according to Ann Swane (worker). Swane reports that she only has a computer entry for the applicant. When asked if the applicant is eligible for rehire, Swane replied, “Anyone has the right to apply.”

Employer: 11) WALGREEN’S

Employment Verification, Anycity, Arizona

Contact Date: 10-28-16

No information. The applicant reported she was employed there as a Cashier between June and November 2002. Store Manager Morey Anderson reports that this store was not even built until August 2005, and he has been there since then and has no record of the applicant having worked for him. Doreen Rider at Corporate Headquarters Human Resources also has no record of the applicant. She reports their records go back to 2000 and both a name and social security number search come up no record found.

Employer: 12) PERFORM COST MANAGEMENT SERVICE, INC.

Somewhere, Arizona

Contact Date: 10-28-16

No information. The applicant reported she was employed there as a Data Entry Clerk between May and November 2002. There is no listing with Directory Assistance for this company.

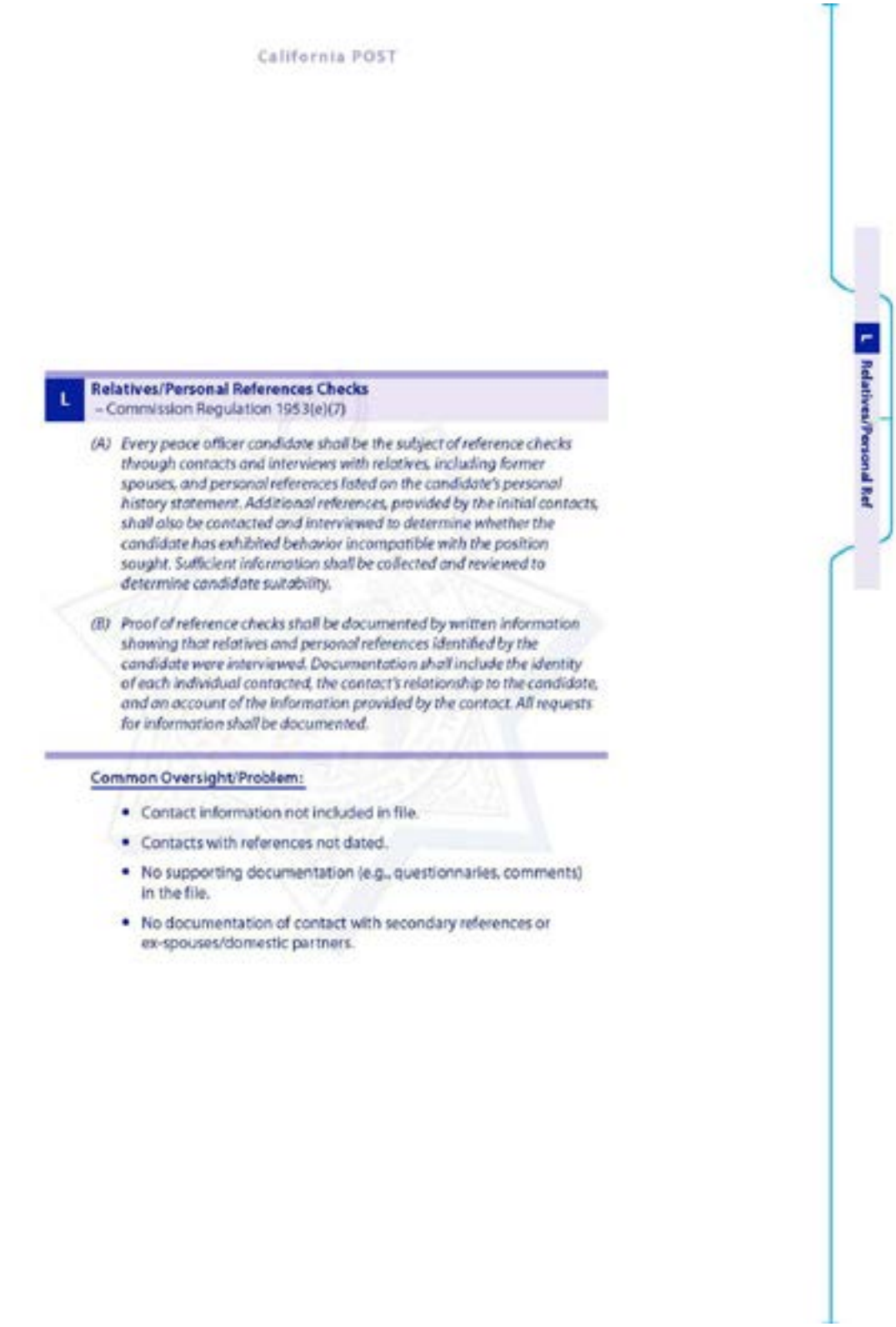
SAMPLE

Selected Section

ORGANIZER TAB L

RELATIVES/PERSONAL REFERENCES CHECKS

Sample Relatives/Personal References Checks



California POST

L Relatives/Personal Ref

L Relatives/Personal References Checks
– Commission Regulation 1953(e)(7)

(A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references, provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.

Common Oversight/Problem:

- Contact information not included in file.
- Contacts with references not dated.
- No supporting documentation (e.g., questionnaries, comments) in the file.
- No documentation of contact with secondary references or ex-spouses/domestic partners.

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK

CONTACT WITH RELATIVES AND REFERENCES page 1 of 7

CANDIDATE NAME: **JANE SMITH**

Relative: 1) KATHLEEN and ROBERT SMITH – Parent and Step-parent

Contact Date: 10-10-16

No disqualifying information. The **Smiths** report that the applicant has fully discussed this position with them, and they expressed no reservations, (apart from the natural concerns about the dangers inherent in the job). The applicant has been interested in this line of work since childhood and appears to have developed interest through an uncle who was a police officer.

The applicant's best qualities will be her compassionate, thoughtful and personable nature, her honesty, and the fact that she is "mentally strong." **Mrs. Smith** reports that the applicant is "not a good liar," and she goes out of her way to assist others, while **Mr. Smith** notes that she knows what she wants and works for it.

The only areas in which they feel the applicant could improve herself would be to be less hard on herself or not have such high expectations, to give herself credit, and to improve her time management skills with her child. The **Smiths** report that the applicant is most concerned about finding gainful employment and is most easily bothered by the mistreatment of people or animals or by her siblings not being more respectful to their mother. In these situations, the applicant will speak her mind or work it out on her own, but sometimes cries when she is angry.

Mr. Smith reports that "nothing comes to mind" with regard to any problems with the applicant in her youth, and **Mrs. Smith** reports that the applicant was insecure about her looks in junior high and high school. She notes that the applicant "acted out" and wanted attention from boys. However, both reported that the applicant accepted discipline when it was deserved.

The applicant has given them no reason to doubt her ability to successfully perform the essential functions of this position. She uses physical exercise such as running, using a treadmill, yoga, and activities with her son as a means of keeping fit and for the release of stress.

Personal Relationship: 2) MICHAEL McFARLAND – Ex-significant Other

Contact Date: 10-11-16

No information. The applicant reports that he is the father of her child, but she has had no contact with him in ten years. He declined further comment.

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES

Professional: 3) RANDY HIGHLAND – Home Theater Installer

Contact Date: 10-11-16

No disqualifying information. **Highland** reports having met the applicant some ten years ago through work at COMPAQ. **Highland** reports that they dated for a while, and he is the "acting dad" to the applicant's child. They see one another daily in that context.

Highland reports that he was initially surprised at her interest in this job. However, she has expressed that this has been a "dream of hers", she wants to "assist those who need," and he recommends her for this position. The applicant has been truthful, hardworking and loyal throughout their acquaintance.

Highland also reports that the applicant has never exhibited any racial or ethnic bigotry, there were never any "domestic issues" in their relationship, and **Highland** could not recall ever having seen her really become angry. **Highland** reports she has borrowed money and his car, and both were returned "fine."

The applicant is a "good" driver who maintains an alert state while driving. The applicant has not received any citations or been involved in any collisions. **Highland** could not recall the applicant having driven while intoxicated, and he is also certain the applicant does not abuse drugs.

Highland expressed some concern over the applicant's ability to successfully perform the essential functions of this position due to her size "5-2, 120." **Highland** reports that the applicant runs to maintain her physical fitness, but he also felt that she should take a karate course because of her small stature.

Personal Best Friend: 4) CAROLYN HOOPER – Homemaker

Contact Date: 10-15-16

No disqualifying information. **Hooper** reports that the applicant and she have been acquainted for more than seven years. They met through **Hooper's** fiancé, who worked with the applicant. They see one another a few times each week in social settings or at family events.

Hooper also expressed initial surprise at the applicant's applying for this job. **Hooper** characterized the applicant as someone who "will not stab you in the back," and she considers her a "good role model for her son." The applicant is also up-front, loyal, and dedicated.

There has never been any reason to doubt the applicant's honesty or to suspect her of any racial or ethnic bigotry. **Hooper** reports that she has seen the applicant become upset with her son, but never physically violent. **Hooper** recommends the applicant for this position, adding that the applicant has stated this has been her "childhood dream."

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES page 3 of 7

Personal
Best Friend:
#4 cont'd

The applicant is a "good" driver who maintains an alert state while driving. **Hooper** reports that the applicant has attended traffic school, but she is not aware of any details. She has never seen the applicant drive while intoxicated, in fact, the applicant will call for a ride if she has been drinking. There has been no evidence of substance abuse on the applicant's part, according to **Hooper**.

When asked if the applicant would be able to successfully perform the essential functions of this position, **Hooper** replied, "I think she is capable." **Hooper** reports that the applicant bike rides, takes yoga, and runs to maintain her physical fitness.

Hooper reports that the applicant speaks softly and will back down; this is the one area in which she felt the applicant could improve. **Hooper** feels the applicant should be more outspoken and aggressive. However, **Hooper** did not consider this to be disqualifying.

Personal: 5) MARIA GONZALEZ – Buyer

Contact Date: 10-15-16

No disqualifying information. **Gonzalez** reports having known the applicant for nearly nine years and met her through work at **Dot Hill Unlimited**. They now see one another in social settings several times each month.

Gonzalez described the applicant as a responsible individual who is loyal and dedicated. **Gonzalez** reports that, although it "seems otherwise," the applicant possesses a "strong attitude" and can be judgmental. The applicant is someone whom **Gonzalez** would feel comfortable entrusting with her own personal safety, and she has never had any reason to doubt the applicant's honesty. For these reasons, **Gonzalez** reports she is willing to recommend the applicant for this position.

Gonzalez reported being unaware of any reason the applicant could not successfully perform the essential functions of this position. The applicant runs and goes to a gym "off and on" to maintain her physical fitness.

The applicant is a "very alert" driver who has not been involved in any collisions or received any citations of which **Gonzalez** reports being aware. **Gonzalez** reports the applicant has never driven while intoxicated, and there has never been any evidence of substance abuse on the applicant's part, either. If there was any area in which the applicant could improve herself, it would be to not be hard on herself. **Gonzalez** reports that the applicant "wants things perfect," and tends to put herself down.

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES page 4 of 7

Personal: 6) NANCY JOHNSON – Administrative Assistant

Contact Date: 10-20-16

No disqualifying information. **Johnson** reports having known the applicant for nearly nine years and first met her at **Dot Hill Unlimited**. **Johnson** reports they have remained in contact on a social basis and see one another about twice each month.

The applicant is well suited for this position, according to **Johnson**. The applicant has demonstrated an ability to be friendly, open-minded, and she possesses a positive attitude. She adds that the applicant is willing to try new things, she is athletic, and she is a good mother. There has never been any reason to doubt the applicant's honesty or to suspect her of any racial or ethnic biases.

Johnson did not feel the applicant has any areas of needed improvement. The applicant is not easily flustered, and **Johnson** could not recall ever having seen her really become angry, other than occasional "boyfriend problems."

The applicant is a "good" driver who maintains an alert state while driving. **Johnson** reported being unaware of any citations or collisions involving the applicant. **Johnson** also reported never having seen the applicant drive while intoxicated, nor has she shown any evidence of substance abuse.

Johnson is confident the applicant will do well, and have no problems successfully performing the essential functions of this position since she works out regularly to maintain her level of fitness.

Personal: 7) ROBIN FERGUSON – Contract Manager

Contact Date: 10-21-16

No disqualifying information. **Ferguson** reported that the applicant and she met through their sons' Little League team nearly three years ago. They have since become friends and see one another a few times each month in social settings.

Ferguson has always found the applicant to be an honest individual who is responsible, and "she wants to help people." The applicant has follow through abilities, she is trustworthy, and she deals with everyone on a professional level. The applicant appears to handle stress well and is not easily angered.

The applicant has discussed interest in this position, noting that this has been a long term goal of hers. **Ferguson** feels comfortable recommending the applicant, pointing out that there are no obvious areas in which the applicant needs to improve.

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES

Personal:
#7 cont'd

Ferguson reports that the applicant is a "conscientious" and safe driver who has not been the subject of any citations or collisions. **Ferguson** reports being unaware of the applicant ever having driven intoxicated, and there has never been any reason to suspect her of substance abuse.

The applicant should be able to successfully perform the essential functions of this position. **Ferguson** reports that the applicant works out at a gym and bike rides to maintain her physical fitness. **Ferguson** also reports that the applicant is able to get along with people of diverse backgrounds.

SECONDARY AND WORK-RELATED REFERENCES

Personal: 8) NELSON BURNETTE – Unemployed

Contact Date: 10-16-16

No disqualifying information. **Burnette** reports that he met the applicant through work at **Hadco** nearly six years ago. They now see one another in social settings a few times each month.

The applicant is someone whom **Burnette** would recommend for this position, even though her interest in this position appeared to him to come "out of the blue." **Burnette** reports that the applicant is a good person who possesses high integrity. The applicant has high aspirations, she is goal-oriented, and he considers her an "all around good person."

Burnette reports the applicant handles stress well, she is not easily flustered, and he has never seen her really become angry. The applicant has never exhibited any racial or ethnic bigotry, and there has been no reason for **Burnette** to suspect her of substance abuse, either.

The applicant is a "very good" driver who maintains an alert state while driving. **Burnette** is not aware of the applicant being involved in any collisions or receiving any citations. **Burnette** reports never having seen the applicant drive while intoxicated.

The applicant could be more consistent in working out, but there are no other areas in which **Burnette** feels the applicant could improve. However, the applicant runs and should have no difficulty successfully performing the essential functions of this position, according to **Burnette**.

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES page 6 of 7

SECONDARY AND WORK-RELATED REFERENCES

Personal: 9) ROD SACKETT – Electrical Engineer

Contact Date: 10-20-16

No disqualifying information. **Sackett** reports that he has known the applicant for only eighteen months. They first met as co-workers at VA Linux and have since become social friends. They now see one another two or three time each month in social settings.

Sackett described the applicant as an honest individual who has never given any indication of substance abuse. The applicant has also been even-tempered and able to get along with people of diverse backgrounds.

Sackett feels the applicant's best qualities are her friendly manner, her hardworking nature, and her dedication. **Sackett** reports that the applicant "won't be heavy handed," and she tries to reconcile things. For these reasons **Sackett** is willing to recommend the applicant for this position, even though he reports he was initially surprised at her applying for this position.

Sackett denies being aware of any areas in which the applicant could improve. However, he reports he has seen the applicant become upset over "trivial matters." **Sackett** reports that he has no reason to doubt the applicant's ability to successfully perform the essential functions of this position. The applicant maintains her physical fitness through running.

Professional: 10) JEREMY DEMAS – Food Server

Contact Date: 10-20-16

No disqualifying information. **Demas** reports that he and the applicant have been working together at the **Triple-Play Grill** for the past five months. While **Demas** recommends her for this position, he expressed some surprise at her interest in being a police officer.

The applicant is someone whom he finds rather timid around strangers. This is not a problem where they work, and the applicant can be a very warm and friendly person "once you get to know her."

Demas has seen no evidence of racial or ethnic bigotry on the applicant's part, and there has been no reason to doubt her personal honesty, either. **Demas** added that "I just have a hard time seeing her as a cop," but, "maybe her training will bring that out in her."

SAMPLE

TAB L – RELATIVES/PERSONAL REFERENCES CHECKS

Sample
REFERENCE CHECK *continued*

CONTACT WITH RELATIVES AND REFERENCES page 7 of 7

SECONDARY AND WORK-RELATED REFERENCES

Personal: 11) PETER CHANG – Food Server

Contact Date: 10-24-16

No disqualifying information. **Chang** reports that he and the applicant have actually known one another since they were high school classmates, and they now work together at the **Triple-Play Grill**. He recommends her as a police officer.

Chang feels the applicant is someone who is extremely compassionate and interested in helping people. "She wants to make a difference" and feels that this is the career in which she can accomplish this. The applicant has been a good friend and a good co-worker, throughout the time they have known one another.

Chang concedes that the applicant can be a little disorganized from time to time, but he does not believe this will impact her work as a police officer. He believes the applicant will be the type of police officer who never gets the City sued.

The applicant was arrested as a teenager, **Chang** recalled, but it was nothing more than a "high school party when somebody called the cops." He doubts she has ever had any other trouble with the police, and he considers her impeccably honest.

Professional: 12) JEANETTE AHMAD – Systems Administrator

Contact Date: 10-24-16

No disqualifying information. **Ahmad** reports that she and the applicant worked together at **Compaq Computers** for nearly one year. Although they rarely see one another now, they keep in contact by e-mail.

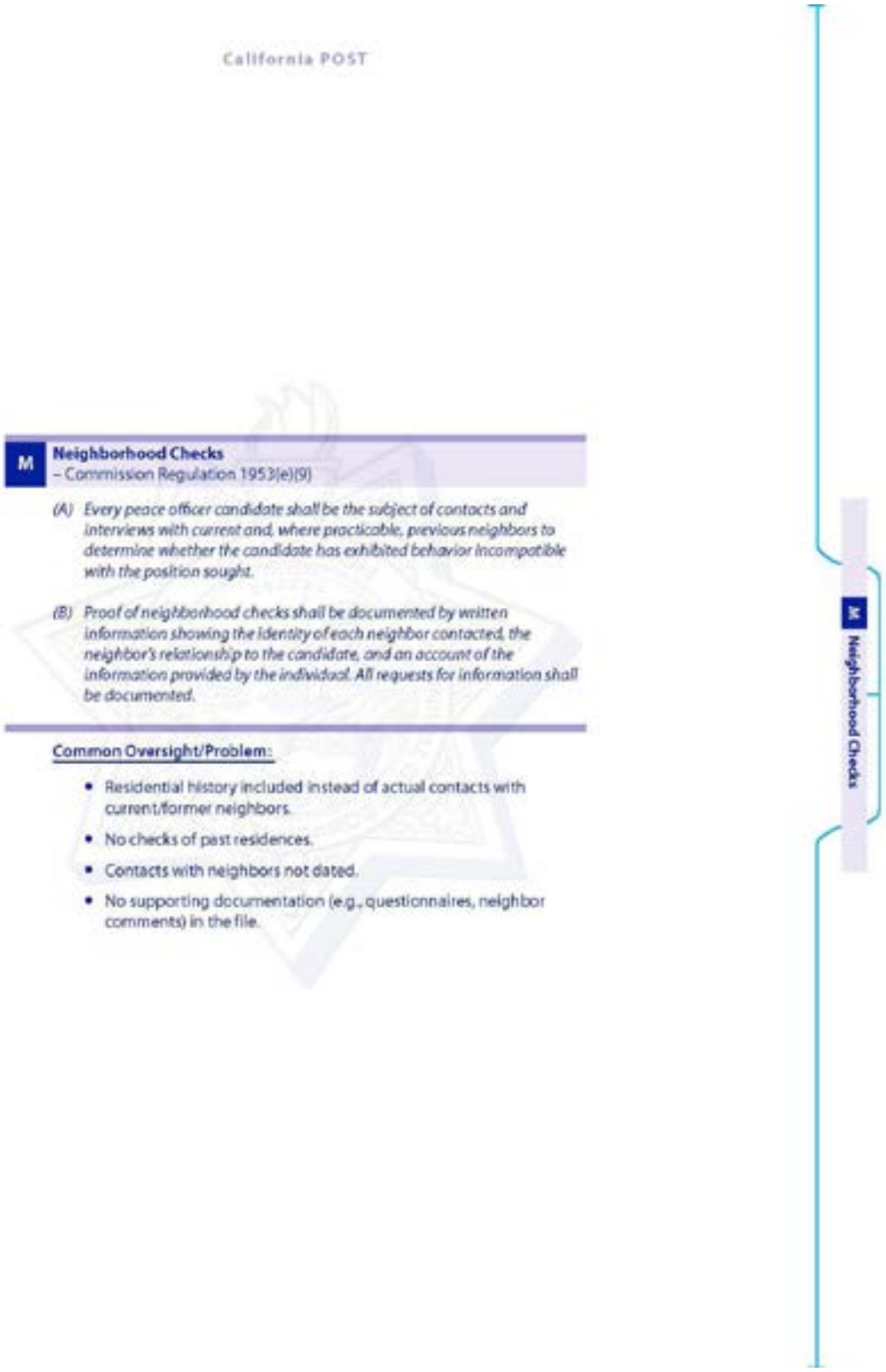
Ahmad expressed some surprise at the applicant's interest in being a police officer, adding that "she's pretty tiny to be a cop." At the same time, however, the applicant used to work out in the company gym, so she assumes that she will be able to successfully perform the essential functions of this position.

Ahmad considered the applicant to be a very honest person, and she was never one to express any racial or ethnic bigotry. She was also a very loyal friend, and they were known as the "Two Amigos" at **Compaq**. The applicant can be trusted to keep a secret, and she was "always there" whenever she was needed. In fact, **Ahmad** reports she was "my Maid of Honor at my wedding."

SAMPLE

Selected Section
ORGANIZER TAB M
NEIGHBORHOOD CHECKS

Sample Neighborhood Checks



California POST

M **Neighborhood Checks**
– Commission Regulation 1953(e)(9)

(A) Every peace officer candidate shall be the subject of contacts and interviews with current and, where practicable, previous neighbors to determine whether the candidate has exhibited behavior incompatible with the position sought.

(B) Proof of neighborhood checks shall be documented by written information showing the identity of each neighbor contacted, the neighbor's relationship to the candidate, and an account of the information provided by the individual. All requests for information shall be documented.

Common Oversight/Problem:

- Residential history included instead of actual contacts with current/former neighbors.
- No checks of past residences.
- Contacts with neighbors not dated.
- No supporting documentation (e.g., questionnaires, neighbor comments) in the file.

M Neighborhood Checks

TAB M – NEIGHBORHOOD CHECKS

Sample
NEIGHBORHOOD CHECK

CONTACT WITH NEIGHBORS AND LANDLORDS page 1 of 1

CANDIDATE NAME: **JANE SMITH**

Residence: 1) 1524 First Avenue – Main House, Nielson Residence

Contact Date: 10-12-16

No disqualifying information. **Nielson** reports that she has never even seen the applicant. The applicant's residence is quiet and has not been the source of any problems on the property. (Investigator's note: this is a very rural area; the applicant's residence is one of three on a seven and one half acre property.)

Residence: 2) 1528 First Avenue – Cottage, Jacobs Residence

Contact Date: 10-12-16

No disqualifying information. Jacobs also reports that she has never even seen the applicant. The applicant has been a quiet neighbor, and there have been no problems at her residence on the property. She reported being aware of nothing that would disqualify the applicant from further consideration for this position.

Residence: 3) 1730 Elk Road – House, O'Connor Residence

Contact Date: 10-12-16

No disqualifying information. O'Connor also reports that she has never seen the applicant. The applicant has been a quiet neighbor, and there have never been any problems involving the applicant on the property.

SAMPLE

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Appendix E

LINKS TO ONLINE FORMS FOR BACKGROUND PACKET

FORM NUMBER AND TITLE:

POST Form 2-114
NOTICE OF APPOINTMENT/TERMINATION
https://post.ca.gov/portals/0/post_docs/publications/2-114.pdf

POST Form 2-251
PERSONAL HISTORY STATEMENT – PEACE OFFICER
https://post.ca.gov/portals/0/post_docs/publications/2-251-phsPeaceOfficers.pdf

POST Form 2-255
PERSONAL HISTORY STATEMENT – PUBLIC SAFETY DISPATCHER
https://post.ca.gov/portals/0/post_docs/publications/2-255-phsDispatchers.doc

STD Form 180
MILITARY RECORDS REQUEST
https://www.archives.gov/files/research/order/standard-form-180.pdf

USCIS Form I-9
EMPLOYMENT ELIGIBILITY VERIFICATION
https://www.uscis.gov/i-9

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Appendix F

LAW ENFORCEMENT REQUEST FOR DRIVER LICENSE/IDENTIFICATION RECORD INFORMATION

(DMV INF 252)

Form DMV INF 252

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LAW ENFORCEMENT REQUEST FOR DRIVER LICENSE/IDENTIFICATION RECORD INFORMATION (DMV INF 252)

DMV
A Public Service Agency

LAW ENFORCEMENT REQUEST FOR DRIVER LICENSE/IDENTIFICATION RECORD INFORMATION

Return to: Department of Motor Vehicles, P. O. Box 944231, Mail Sta. G201, Sacramento, CA 94244-2310

1. REQUESTER CODE
2. SUBJECT DL/ID NUMBER
3. PLEASE PROVIDE: CITATION DATE
4. PLEASE PROVIDE: COURT DATE*
5. Information Requested
   - ☐ Status and Record
   - ☐ Order of Susp/Rev
   - ☐ Proof of Service
   - ☐ Sims
   - ☐ Certified
   - ☐ Photo Subj
   - ☐ Copy DL 44
   - ☐ Thumbprint
6. SUBJECT NAME (LAST / FIRST / MIDDLE)
7. BIRTH DATE (MONTH / DAY / YEAR)
8. ADDRESS
   DATE REQUESTER INFO NEEDED BY*
CITY / STATE / ZIP CODE
REASON FOR PHOTO REQUEST
REQUESTED BY / UNIT / PHONE NUMBER

Attn: _____

9. From:

10. Request for specific copy of Order of Suspension or Revocation
1. Effective date: _____
2. Effective date: _____
3. Effective date: _____

We are returning the enclosed request form(s) for the reason(s) checked below:
- ☐ No record based on information submitted and/or illegible.
- ☐ Requested documents purged. ☐ Requested documents not on microfilm.
- ☐ Suspension/Revocation and/or service order unavailable. Please resubmit request in ____ days.
- ☐ Best photo and/or thumbprint available. ☐ No photo and/or thumbprint available
- ☐ Best DL 44 available. ☐ No DL 44 available.
- ☐ No departmental action in effect.
- ☐ No departmental action in effect on citation given.
- ☐ No photo and/or DL 44 available on "X" file records.
- ☐ Your INF 252 request form must contain your requester code number, agency name, and return address.
- ☐ Upon checking departmental files, a hard copy document is unavailable. A certified driver record has been provided in lieu of the Admin Per Se Order of Suspension.
- ☐ As of March 1, 1988, the only record of Financial Responsibility and Civil Judgment suspension orders will be in the Driver's License Master files for each affected subject.
- ☐ Limited printers available.

Initials/Unit _____ Date _____

INF 252 (REV. 7/2000)

DISTRIBUTION: Original + Copy to Department (Copy returned with record information)

1. REQUESTER CODE
   Enter the five-digit requester code assigned to your agency. This code number is required on all requests.

2. LICENSE NUMBER
   Enter the permanent California driver license/ identification card number, including the single letter prefix which is a part of the number.

3. CITATION DATE
   Law enforcement agencies and courts should use this box to indicate the applicable date when requesting a copy of an order or a service document.

4. COURT DATE
   This box may be used to indicate that the information being requested is needed in connection with a pending court date and determines priority. This is very important in processing a rush request.

5. **INFORMATION REQUESTED**
   The "Status and Record" box should be checked to request a printout of the driving record, which is the standard inquiry response. The remaining items listed are furnished only to meet special needs and are not to be routinely requested. Information requests will require a minimum of a ten-day processing period in addition to four days for mailing (14 days total).

6. NAME *(REQUIRED)*
   When entering the subject's name, do not use abbreviations or initials if the full spelling is known.

7. BIRTH DATE
   Use a six digit numerical form for the birth date, for example, enter January 29, 1952 as 01/29/52. The birth date is required for positive identification on requests submitted without the driver license number.

8. ADDRESS
   Always enter the most complete address available.

9. FROM
   The requesting agency's name and address is required in this space on each INF 252 form submitted.
   Your address on the request form must be limited to a maximum of four lines. Directly below the first line, a single "Attention" line may be added if it is needed to designate a particular person or unit within your agency. Be sure each line will not require more than 35 spaces for printing.
   See the illustration below of the required format:
   AGENCY NAME
   ATTENTION LINE
   STREET ADDRESS OR P.O. BOX NUMBER
   CITY, STATE, AND ZIP CODE

10. ORDER OF SUSPENSION OR REVOCATION
    This area is to request a specific order of suspension and/or revocation.

* Please submit the record request ***two weeks prior*** to the date needed. Otherwise, you may not receive the record information by the specified date.

Each INF 252 Request Form must contain your return address (limited to 4 lines with no more than 35 characters per line) clearly entered below.

INF 252 (REV. 7/2000)