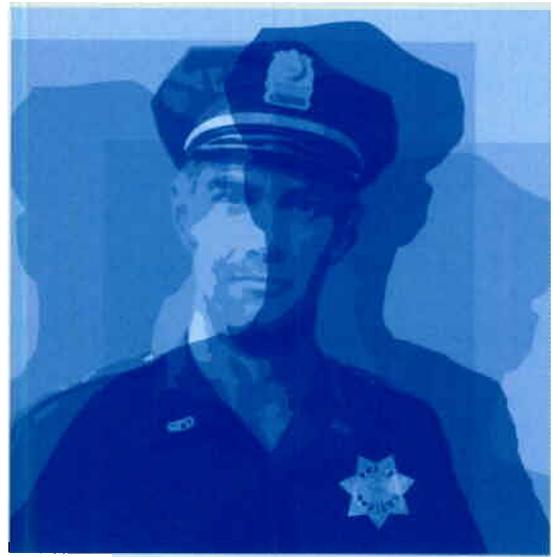




T R A I N I N G



**background
investigation
courses**

POST-TDB.01002



background investigation courses

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INSTRUCTIONS FOR INSERTING TABS

Publication Text:

Tab: CORE COURSE

Place before page 1
(Section: Content Guidelines for the Background Investigation Course)

Tab: UPDATE COURSE

Place before page 91
(Section: Content Guidelines for the Background Investigation Update Course)

Tab: BGI PROCESS ADMIN.

Place before page 105
(Section: Content Guidelines for the Administration of the Background Investigation Course)

Tab: SUPPORTING MATERIALS AND REFERENCES

Place before page 131
(Section: Supporting Materials and References)

Background Investigation Report Section

To create this section, place tabs numbered I-V between the two golden rod cardstock pages.

**POST BACKGROUND
INVESTIGATION COURSES
2001**

CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

POST Background Investigation Courses 2001
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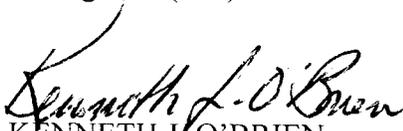
FOREWORD

State law requires that peace officers, "Be of good moral character as determined by a thorough background investigation." More recently, this requirement has been extended to public safety dispatchers. Determining the suitability of applicants for positions of public trust within criminal justice organizations is one of the most critical decisions that law enforcement administrators will be called upon to make.

This document contains a substantive revision of the POST Background Investigation Course. This program was designed to provide California law enforcement with a uniform, job-related training program which addresses the diversified aspects of personal history investigations. In addition, this document incorporates two new courses: a Background Investigation Update Course and a Background Investigation Command Staff Orientation Course. These courses were developed to provide a framework for updating incumbent background investigators and for meeting the specialized needs of unit supervisors and personnel program administrators.

POST is appreciative of the contributions of the Background Investigation Curricula Revision Advisory Committee members who were instrumental in the review, revision, and development of these programs. The net result is a series of courses which reliably address the full range of training needs expressed by law enforcement personnel involved with the background investigation process.

Questions, comments, or suggestions concerning the content of these courses may be directed to Senior Consultant Lou Madeira, the Background Investigation Curricula Revision Project Manager, at (916) 227-4872.


KENNETH J. O'BRIEN
Executive Director

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CURRICULA DEVELOPMENT AND COURSE REVISION
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CONTENT GUIDELINES FOR THE BACKGROUND INVESTIGATION CORE COURSE

June 1, 2001

I. INSTRUCTIONAL GOALS

The goals of instruction in the **Background Investigation Core Course** are to provide students with:

- A. knowledge of federal and state fair employment laws which relate to pre-employment evaluation, eligibility and appointment of criminal justice and public safety personnel;
- B. knowledge of POST regulations and procedures regarding appointment eligibility and pre-employment screening of peace officer and public safety dispatcher applicants;
- C. an understanding of the factors used to evaluate a candidate's suitability for employment;
- D. an understanding of the role and responsibilities of the Background Investigator in the pre-employment selection process;
- E. an understanding of *job dimensions, job traits, and essential job functions* and how they relate to the pre-employment background investigation process;
- F. a fundamental understanding of the Americans with Disabilities Act (ADA) as it relates to conducting pre-employment inquiries;
- G. knowledge of information sources relevant to pre-employment background investigations and the mechanisms for obtaining the information;
- H. an understanding of the benefits and limitations of devices for the detection of deception, including polygraph examinations and voice stress analysis;
- I. an understanding of the role of the pre-employment psychological screening process in the appointment of peace officers;
- J. an understanding of the importance of effective pre-employment interviews;

- K. and, knowledge of how and why to document a thorough pre-employment background investigation.

II. RECOMMENDED TOPICS

- A. Reasons for conducting pre-employment background investigations
- B. The roles and responsibilities of the background investigator
- C. The 15 *Peace Officer Job Dimensions* and the relationship to the background investigation process, to include:
 - 1. Communication skills
 - 2. Problem-solving ability
 - 3. Learning ability
 - 4. Judgment under pressure
 - 5. Observational skills
 - 6. Willingness to confront problems
 - 7. Interest in people
 - 8. Interpersonal sensitivity
 - 9. Desire for self-improvement
 - 10. Appearance
 - 11. Dependability
 - 12. Physical ability
 - 13. Integrity
 - 14. Operation of a motor vehicle
 - 15. Credibility as a witness in a court of law
- D. *Public Safety Dispatcher Job Traits* and the relationship to the background investigation process, to include:
 - 1. Adaptability
 - 2. Tolerance of stress
 - 3. Tolerance of unpleasant work environment
 - 4. Social concern
 - 5. Positive attitude
 - 6. Assertiveness
 - 7. Teamwork
 - 8. Interpersonal sensitivity
 - 9. Emotional control
 - 10. Maturity
 - 11. Integrity
 - 12. Dependability

13. Motivation
14. Productivity
15. Appearance

E. Areas of investigation, to include relevant history associated with:

1. Personal identifying information
2. Relatives and references
3. Education
4. Residence(s)
5. Experience and employment
6. Military
7. Financial
8. Legal
9. Motor vehicle operation
10. General

F. Legal aspects of pre-employment background investigations, to include:

1. Federal statutes and fair employment regulations
2. State statutes and fair employment regulations
3. Americans with Disabilities Act (ADA)
4. Criminal and civil liability considerations
5. Lawful inquiry areas
6. Fair Credit Reporting Act
7. Confidentiality of information
8. Disclosure of information (Government Code Section 1031.1)
9. Legal issues associated with medical and psychological screening
10. Legal requirements for information releases
11. Access to peace officer personnel records
12. Valid disqualifiers
13. Undetected criminal conduct
14. Restoration of rights issues

G. Identification, acquisition, and verification of pre-employment background information, to include:

1. POST Personal History Statement form (PHS), or its equivalent
2. Employment history records
3. Financial/credit history
4. Primary and Secondary references
5. Neighborhood checks
6. Educational institutions
7. Military/Selective Service

8. Department(s) of Motor Vehicles
9. Law enforcement agencies
10. Governmental record depositories
11. Dissolution of marriage records
12. Verification of a qualifying pre-employment medical and psychological suitability examinations

H. Considerations for pre-employment interviewing, to include:

1. Importance of effective pre-employment interviews
2. Basic interviewing concepts
3. Interviewing information sources
4. Initial applicant interviews
5. How to conduct a discrepancy interview

I. Devices for detection of deception, to include:

1. Legal considerations
2. Benefits and limitations of detection of deception examinations
3. Placement of detection of deception examination(s) within the selection process
4. Considerations for selecting an examiner
5. Working relationships among the examiner, background investigator, and mental health examiner

J. Pre-employment psychological examinations, to include:

1. Placement of pre-employment psychological examinations within the selection process
2. Psychological screening requirements for peace officer applicants
3. Evaluative criteria and testing methodology
4. Working relationships among the psychologist, background investigator, and polygraph examiner

K. Documenting the background investigation, to include:

1. Narrative reports
2. Investigative summaries
3. Supporting documents
4. Organization/packaging
5. POST Compliance Inspection

III. RECOMMENDED STUDENT LEARNING ACTIVITIES

- A. Given one or more sample Personal History Statements (PHS), students will individually or collectively evaluate the report and participate in a facilitated discussion regarding its contents. At a minimum, the discussion should address:
 - 1. Completeness
 - 2. Apparent discrepancies
 - 3. Missing blocks of time
 - 4. Other factors pertinent to the applicant's eligibility for appointment
- B. Given a sample detection of deception report, students will individually or collectively evaluate the report and participate in a facilitated discussion regarding strategies for addressing evidence of deception or admissions made which are relevant to the suitability of the applicant for appointment.
- C. Given one or more examples of pre-employment documents (e.g., transcripts, diplomas, licenses, certificates, etc.), students will individually or collectively evaluate the documents and participate in a facilitated discussion regarding their legibility, validity, and adequacy.
- D. Given one or more sample credit reports, students will individually or collectively interpret the information contained in the report and participate in a facilitated discussion regarding the contents of the report. At a minimum, the discussion should address:
 - 1. Legal uses and requirements associated with financial history information and credit reports.
 - 2. Any information which suggests that the person has an unstable credit history and its association to any applicable job dimensions.
- E. Given a Personal History Statement, credit report, detection of deception report, and a variety of supporting documents all relating to the same fictitious applicant for public safety employment, students will work in small groups to develop a series of relevant follow-up questions as would be used in a subsequent discrepancy interview.

IV. RECOMMENDED TESTING REQUIREMENT

- A. Satisfactory completion of a presenter-developed cognitive test to be administered at the conclusion of instruction.

- V. RECOMMENDED MINIMUM INSTRUCTIONAL TIME: 32 hours
- VI. ORIGINATION DATE: January 1, 1996
- VII. REVISION DATES: March 1, 1999
June 1, 2001

BACKGROUND INVESTIGATION CORE COURSE CURRICULA

NOTE: This curricula has been primarily designed for training persons who will be conducting pre-employment background investigations for peace officer and public safety dispatcher positions. Because persons representing other employment disciplines commonly attend POST Background Investigation Courses, presenters may wish to provide appropriate clarification and guidance to these persons, as needed.

I. INTRODUCTION TO THE PRE-EMPLOYMENT BACKGROUND INVESTIGATION PROCESS

A. Reasons for Conducting Pre-employment Background Investigations

1. Legal Requirements

a. Peace Officers

- (1) Government Code Section 1029 (Conviction of felony as disqualification for peace officer)

NOTE: Instructors should be aware that Government Code Section 1029(b) contains an exemption to the felony conviction disqualification for certain correctional job classifications.

- (2) Government Code Section 1030 (Fingerprinting of peace officers)
- (3) Government Code Section 1031 (Public officers or employees having powers of peace officers; minimum standards)

b. Public Safety Dispatcher

- (1) California Code of Rules and Regulations (CCR) Section 1018(c)

2. POST Requirements

NOTE: Most POST Regulations have been incorporated into the California Code of Rules and Regulations (CCR). This body of law was formerly known as

the California Administrative Code. All POST regulations are binding upon agencies that have been admitted into the POST program. Certain regulations (e.g., peace officer hiring standards) are binding upon all law enforcement agencies. POST also publishes a variety of advisory guidelines and procedures.

- a. POST Regulation 1002 (Minimum standards for employment - Peace Officers)
- b. POST Regulation 1007 (Minimum standards for employment - Reserve Peace Officers)
- c. POST Regulation 1018 (Public Safety Dispatcher Programs)

3. Agency Requirements

- a. Students should be directed to their individual agency policies for guidance in completing the background investigation.
- b. The investigator is obligated to follow the local chain of command in seeking legal guidance from appropriate agency counsel.

4. Vicarious Liability (negligent hiring)

- a. Incomplete or inadequate background investigation
- b. Potential for criminal or civil liability
- c. Negative impact on employing agency
- d. Negative impact upon the community

B. Peace Officers: (POST regulations and requirements regarding pre-employment background investigations per POST Regulations 1002 and 1007)

1. Verification of appointment eligibility

- a. Completion of a fingerprint check
- b. Determination of any criminal convictions
 - (1) No felony convictions (Government Code Section 1029 and CCR 1002(a)(1))

- (2) No misdemeanor convictions per Penal Code 12021(c) - Firearm ten-year ban
 - (3) No misdemeanor domestic violence convictions per Title 18 USC 922(d) - Firearm lifetime ban
 - c. Determination of age eligibility (Government Code Section 1031(b) and CCR 1002(a)(4))
 - d. Determination of citizenship requirement (Government Code Sections 1031(a), 1031.5, 24103, Vehicle Code Section 2267 and CCR 1002(a)(3))
 - e. Determination of minimum educational requirements (Government Code Section 1031(e) and CCR 1002(a)(6))
 - f. Determination of physical and psychological suitability (Government Code Section 1031(f), CCR 1002(a)(7) and Welfare and Institutions Code Section 8103(f)).
 - g. Good moral character, as determined by a thorough background investigation (Government Code Section 1031(d))
- C. Public Safety Dispatchers: (POST regulations and requirements regarding pre-employment background investigation per POST Regulation 1018)
- 1. POST minimum selection standards for public safety dispatchers are less specific than those for peace officer candidates. The minimum requirements relate to three specific areas:
 - a. Absence of past behavior indicative of unsuitability to perform public safety dispatcher duties (as evidenced by a *thorough background investigation* conducted prior to hire).
 - b. Absence of any medical condition which would preclude the safe and efficient performance of dispatcher duties (as evidenced by a *medical examination* conducted prior to hire).
 - c. Possession of oral communications skills commensurate with the performance of dispatcher duties (as evidenced by a pre-hire skills assessment).
 - 2. Minimum elements of a *thorough* public safety dispatcher background investigation.

- a. Check of Department of Motor Vehicle records.
- b. Fingerprint search of local, state, and national files (e.g., BID, FBI) to disclose any prior criminal record.

NOTE: The expression "thorough" with respect to a public safety dispatcher background investigations, has not been further defined by POST. Individual agencies may, at their discretion, elect to initiate contacts with previous employers, primary and secondary references, past and present neighbors, educational institutions, or other sources which would tend to reveal information related to the applicant's ability to perform the essential job functions of a public safety dispatcher.

3. Retention of public safety dispatcher background investigation files
 - a. Currently there is no POST regulation addressing the retention of public safety dispatcher background investigation files.
 - b. File retention should be governed by local agency policies in compliance with state (Government Code Sections 12946, 26202 and 34090) and federal law.
 - c. Investigators should become conversant with their individual agency policies concerning the retention of public safety dispatcher background investigation files.

II. ROLES AND RESPONSIBILITIES OF THE BACKGROUND INVESTIGATOR

A. Conduct an **objective** investigation

1. Background investigators should not prejudge applicants. Applicants should be evaluated on their own merits.
2. The usual job of the investigator is to collect, collate, and disseminate information to assist the employing authority in making a sustainable hiring decision.

B. Conduct a **thorough** investigation

1. In conformance with local agency policy, the investigation should be sufficiently thorough to address the applicant's suitability (or unsuitability) for the position sought.
2. At a minimum, the investigation must be able to stand up to a POST compliance inspection if applicable to the position.
3. Investigators should properly document all investigative actions.

C. Conduct a **defensible** investigation

1. The actions of the investigator and the content of the investigation must always be consistent with the law.
2. The actions of the investigator and the content of the investigation must be consistent with local policy and practices.

D. Culturally aware

1. As with any type of law enforcement contact, background investigators should apply appropriate strategies for effective interactions with cultural groups.
2. The background investigator should treat all persons with dignity and respect.

E. Professional

1. Demeanor must always be professional.

2. Behavior must always be ethical.
 3. The investigator should leave a positive impression on others.
- F. The background investigator must be conversant with the agency's hiring process

III. PEACE OFFICER JOB DIMENSIONS

NOTE: The following 15 job dimensions describe traits and abilities which are directly related to the effective performance of peace officer duties. These dimensions have been validated by comprehensive job-task analysis research conducted by the California Commission on Peace Officer Standards and Training (POST). The dimensions are particularly useful to the background investigator for identifying applicant behaviors which would be inconsistent with or disqualifying for a peace officer position. Students should be reminded, however, that these dimensions were introduced prior to the implementation of the Americans with Disabilities Act. As a result, instructors should discuss the impact of this law as it relates to certain dimensions (e.g., appearance, physical ability, learning ability, etc.).

A. Communications Skills

1. Ability to express oneself clearly in writing and speech.
2. Ability to read with good comprehension.
3. Ability to write a report which accurately describes what has happened.
4. Ability to speak clearly and to make oneself understood.

B. Problem-Solving Ability

1. Knowing how to size up a situation, identify the problem and make a logical decision.
2. Knowing when to take action and what kind of action is appropriate.
3. Using good judgment in making decisions.
4. Ability to see the similarities and differences between many situations confronted on a daily basis.

C. Learning Ability

1. Ability to comprehend and retain a good deal of factual information.
2. Ability to recall factual information pertaining to laws, statutes, codes, etc.
3. Ability to learn and apply what is learned.

4. Capability of learning factual material which is required of a law enforcement officer.

D. Judgment Under Pressure

1. Applying common sense in dealing with pressure situations.
2. Capability of making sound decisions on the spot.
3. Using good judgment in dealing with a potentially explosive situation.
4. Ability to make effective, logical decisions under pressure.

E. Observational Skills

1. Mental alertness, good observational skills, and memory for details.
2. Alertness to signals which indicate that something is wrong.
3. Inquisitive; senses when something is wrong.
4. Suspicious and inquisitive; able to sense when things are not satisfactory.

F. Willingness to Confront Problems

1. Ability to be assertive in a potentially explosive situation.
2. Willingness to confront a problem.
3. Won't back away.
4. Willingness to stop people who are behaving in a suspicious manner and to challenge them.
5. Having the courage to confront a potentially dangerous situation.

G. Interest in People

1. Willing to understand people and to work with them.
2. Having an active interest in working with people.
3. Fairness in dealing with the public regardless of ethnicity, race, economic level, etc.

4. Having a public service orientation.
5. Wanting to help people.

H. Interpersonal Sensitivity

1. Resolving problems in a way that shows some sensitivity for the feelings of people.
2. Showing empathy in working with people.
3. Does not enforce the law blindly.
4. Effective in dealing with people without arousing antagonism.
5. Understanding the motives of people and how they will react.

I. Desire for Self-Improvement

1. Desire to go out and seek knowledge which is needed to be a competent law enforcement officer.
2. Seeing oneself as being responsible for learning the job and willingness to put in the time to stay up to date.
3. Having a high degree of interest and self-drive in wanting to improve skills and knowledge.
4. Caring about one's competence as a law enforcement officer, and wanting to improve one's skills.

J. Appearance

1. Demeanor as determined by physical appearance, grooming, and personal care.

NOTE: Physical appearance in this context does not deal with individual's disabilities but how they project themselves.

2. Having personal and professional pride in one's demeanor and appearance, showing pride in appearance.
3. Professional bearing as determined by neatness and overall grooming.

K. Dependability

1. Having the habit of submitting reports on time, not malingering on calls, etc. - well motivated.
2. Dependable; follows through on assignments.
3. Taking the extra effort required to be accurate in all details of the work.
4. Willingness to turn in the hours needed to complete a job.

L. Physical Ability

1. Showing the endurance required to do the job.
2. Measuring up to the physical demands of police work, having good physical coordination, stamina, and agility.
3. Being physically able to handle himself/herself when necessary.

M. Integrity

1. Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
2. Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel.
3. Showing strong moral character and integrity in dealing with the public.
4. Being honest in dealing with the public.

N. Operation of a Motor Vehicle

1. Ability to possess a valid California Driver's License.
2. Ability to drive safely.
3. Ability to control a motor vehicle at high speeds.
4. Ability to operate a motor vehicle in all types of weather conditions.

O. Credibility as a Witness in a Court of Law

1. Ability to give testimony in a court of law without being subject to impeachment due to his/her character for honesty or veracity (or their opposites) or due to a criminal conviction.

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IV. PUBLIC SAFETY DISPATCHER JOB TRAITS

NOTE: The following 15 job traits were identified by POST during its task analysis research related to the job of public safety dispatcher. The traits describe desirable personal qualities and abilities. Although instructive in providing general indicators of job-related skills, they are not validated job requirements. Individual traits may be helpful, however, in assessing an applicant's overall suitability for appointment.

A. Adaptability

1. Acclimates easily to shifting demands of the job.
2. Adapts to substantial increases or decreases in workload and to changes in assignments.
3. Remains alert during periods of slow or repetitive work activity.

B. Tolerance of Stress

1. Performs job duties effectively under adverse conditions (e.g., working under time pressure with high visibility and serious consequences of error, in crisis situations, tragedies and emergencies, handling simultaneous incidents, and working with frequent interruption).
2. "Bounces back" from negative situations.
3. Performs duties under extreme pressure without delay.

C. Tolerance of Unpleasant Work Environment

1. Accepts and is able to function effectively in a restrictive, demanding, and highly structured environment (e.g., working in isolation, late or early shifts, sitting for prolonged periods, confined work space, rigid chain of command).

D. Social Concern

1. Concerned with the safety and welfare of others.
2. Demonstrates an interest in people and serving the public.

E. Positive Attitude

1. Reacts in a positive and constructive manner when confronted with negative work situations.
2. Is optimistic; sees the good side of situations.
3. Displays cheerfulness; acts inspired about work.
4. Sees values in the organization and in its members.
5. Is able to joke with co-workers (e.g., use humor to relieve tense or stressful situations).

F. Assertiveness

1. Takes command of situations.
2. Acts confidently, without hesitation.
3. Willing to voice personal views.
4. Not easily intimidated.

G. Teamwork

1. Assists and cooperates willingly and effectively with co-workers, field personnel, and personnel at other agencies in performing job duties.
2. Is a "team player."

H. Interpersonal Sensitivity

1. Addresses situations in a sensitive, straightforward manner, showing consideration for others.
2. Resolves disputes in the least offensive manner.
3. Acts in an unbiased fashion towards others, keeping personal prejudices out of the workplace.
4. Attempts to understand and respects the attitudes and beliefs of others.

I. Emotional Control

1. Acts calm and collected and does not allow emotions to affect performance or disrupt the work environment.
2. Does not overreact to situations.
3. Accepts delays without getting upset (is slow to anger).
4. Performs effectively in crisis of overwhelming situations.
5. Does not become personally involved.

J. Maturity

1. Draws upon life experience to deal with situations.
2. Thinks before acting (e.g., not naive).
3. Sees value in and takes work seriously.
4. Sensible.
5. Recognizes and is not bothered by trivial negative events and circumstances.

K. Integrity

1. Honest and impartial.
2. Maintains confidentiality of information.
3. Refrains from using position for personal gain.

L. Dependability

1. Acts responsibly and reliably in all situations.
2. Willing to accept the consequences of one's decisions and behavior.
3. Is self-disciplined, thorough, accurate, and punctual.

M. Motivation

1. Displays hustle and drive in reaching work goals.
2. Self-motivated.
3. Makes use of "down-time."
4. Recognizes that the job may require additional time and energy.
5. Seeks answers to issues and questions.
6. Keeps trying, even in difficult or adverse situations.

N. Productivity

1. Performs work in an efficient, organized, and timely manner.
2. Performs effectively without constant supervision.

O. Appearance

1. Reports to work presenting a neat, clean, and well-groomed appearance.

V. LEGAL ASPECTS OF PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS

A. Employee selection

1. Hiring practices are regulated by a variety of laws, including but not limited to:
 - a. Title VII of the Civil Rights Act of 1964 (42 USC 2000-2(e)) and the Civil Rights Act of 1991 (42 USC 1981).
 - b. Americans with Disabilities Act of 1990 (42 United States Code 12101 et. seq.).
 - c. California Fair Employment and Housing Act (Government Code Section 12900 et. seq.).
 - d. Non-discrimination in state-supported programs (Government Code Section 11135).
2. Fair employment law sets forth that selection devices:
 - a. Evaluate characteristics that have some rational relationship to job performance.
 - b. Are shown to be necessary to safe and efficient job performance.
3. The employer carries the burden to show that:
 - a. Selection standards are related to job performance.
 - b. Selection devices are validated by professionally accepted standards.
4. Statutory and case law have consistently supported the responsibility of government agencies to be able to swiftly eliminate those applicants *most likely* to commit misconduct and exercise bad judgment.
 - a. It is this “weeding out” process which created the issues of "disparate treatment," "quota," "validation," and "accommodation."

- b. The duty of eliminating the unfit and unqualified requires administrators to utilize as many non-discriminatory, job-related screening instruments as necessary (e.g., substance screening, background investigation, detection of deception examinations, psychological screening, etc.) .
- 5. Courts have also been consistent in applying sanctions where agencies have utilized selection criteria that treats specific applicants differently.
- 6. Problems can be minimized by:
 - a. Validating all hiring/selection standards
 - b. Identifying essential job functions
 - c. Establishing a psychological profile

NOTE: Psychological screening is mandated for peace officer applicants by Government Code Section 1031. At this time, psychological evaluations are not required for public safety dispatcher applicants or other non-peace officer personnel. Many agencies, however, have elected to add this element as a pre-employment screening device.

- d. Utilizing a qualified medical examiner
- e. Regularly re-evaluating and updating polygraph and other truth deception device questions and recording the interview/examination
- f. Conducting a thorough and complete background investigation
- g. Thoroughly documenting each step of the selection process

NOTE: Reasonableness in conducting a background investigation does not absolve an employer from liability for acts committed by its employees within the scope of their employment. However, public employers have a duty to exercise care in hiring persons who, because of the nature of the employment, may present a threat of injury to members of the public.

B. Fair employment definitions

1. An *applicant* is **anyone** who inquires about, applies for, or who is deterred from applying by past practices, for any position within an agency (including application for promotion).
2. An *employee* is anyone, paid or unpaid, who is allowed to perform any function for the employer (e.g., full-time, reserve, independent contractor, explorer, volunteer employees, etc.).
3. *Discrimination* is treating an individual differently based upon a protected classification.
4. A *person with a disability* is a person who:
 - a. has an impairment which substantially interferes with a major *life function* (which includes the ability to obtain or retain a job), or
 - b. has a record of such an impairment, or
 - c. is regarded as having such a disability.
5. *Disparate treatment* is treating a group or individual differently based upon a protected classification.
6. *Protected classification* refers to any area defined by legislation (FEHC, ADA, Title VII, Age Discrimination in Employment Act and California legislation) to be protected. These include, but are not limited to:
 - a. Race
 - b. Religious or non-religious affiliation
 - c. Color
 - d. National origin
 - e. Ancestry
 - f. Gender
 - g. Physical or mental disability
 - h. Marital status

- i. Sexual orientation
 - j. Age
 - k. Pregnancy
 - l. Filing of worker's compensation claims
 - m. Political affiliation
 - n. Bankruptcy
7. *Americans with Disabilities Act of 1990 (ADA)* refers to a body of law which prohibits discrimination based upon actual or perceived disabilities.
8. *Conditional offer of employment*, simply stated, refers to an offer of employment after the applicant has been found otherwise qualified for the position applied for up to that point in the hiring process.

NOTE: The POST document *The Americans with Disabilities Act: Questions and Answers (1995)* contains a more comprehensive description:

"A conditional offer of employment is a legitimate, bona fide job offer that deems the individual qualified on all assessments conducted to that point. The offer should be in writing, and should detail the remaining steps in the process, as well as provide an estimate of how long it may take to be placed on the job should the candidate meet the remaining eligibility requirements.

To be considered bona fide, a conditional offer should not be extended until after the candidate has been judged as qualified on all selection steps that do not include medical or other pre-offer inquiries prohibited by the ADA."

9. *Pre-offer inquiry* refers to any inquiry made prior to the extension of a conditional offer of employment.
10. *Post-offer inquiry* refers to any inquiry made after the extension of a conditional offer of employment.
11. *Essential job functions* refers to those tasks which are absolutely necessary to perform the job with or without reasonable accommodation.

12. *Reasonable accommodation* is anything which is reasonably necessary to accommodate an applicant or employee's ability to perform an essential job function. (Reference Government Code Section 19231)
13. *Job dimensions*, for the purpose of this curricula, refer to the 15 peace officer job dimensions identified and validated by POST. The job dimensions are identified in Section 1 in this document and in Appendix 1 of the POST document *Peace Officer Background Investigation Manual: Guidelines for the Investigator*.
14. *Job traits*, for the purpose of this curricula, refer to the 15 personal characteristics identified by POST for Public Safety Dispatcher applicants in the document *Public Safety Dispatcher Job Analysis of 1991*.
15. *Medical examinations* are procedures or tests that seek information about the existence, nature, or severity of an individual's physical or mental impairment, or that seek information regarding an individual's physical or psychological health. This typically includes physical and psychological examinations.

C. Regulatory agencies involved in fair employment practices and enforcement.

1. Equal Employment Opportunity Commission (EEOC)
 - a. Federal agency responsible for investigating discriminatory practices
 - b. The EEOC can bring an action against a governmental agency for unfair labor practices
 - c. The EEOC can issue cease and desist orders
2. Department of Fair Employment and Housing (DFEH)
 - a. California equivalent to EEOC which is also responsible for the investigation of discriminatory practices. Used to be known as Fair Employment and Housing Commission (FEHC)
 - b. DFEH can also bring an action against a governmental agency for unfair labor practices
 - c. DFEH can also issue cease and desist orders

3. Department of Justice (DOJ) refers to both the State and Federal agencies which could bring legal action for violation of the Americans with Disabilities Act or other civil rights violations
4. Local Human Rights, Civil Rights, or Affirmative Action Boards and Commissions may also have jurisdiction over the employment practices of the law enforcement agency

D. Pre-employment inquiry areas

NOTE: Problems have resulted for employers when inquiries into certain background areas were proven to be unrelated to the job. As a result, EEOC, DFEH, and other regulatory bodies have adopted laws and regulations which may impact inquiry into any of the following areas. It is imperative that instructors become conversant with the extent to which inquiries into these areas may be lawfully initiated.

1. Name
2. Residence
3. Age
4. Place of birth
5. National origin
6. Gender, sexual orientation, marital status, and family
7. Race and color
8. Physical descriptions and photographs
9. Physical conditions and disabilities
10. Religious and political affiliations
11. Arrests and criminal records
12. Bondability
13. Organizations and activities
14. References

15. Notices in the case of emergencies

E. Minimum standards for appointment

1. Entry-level and lateral peace officer applicants

a. Citizenship requirement

- (1) For most peace officer applicants, is a United States citizen or meets criteria identified in Government Code Sections 1031(a) and 1031.5 (resident aliens who are eligible for and are in the specified process of applying for citizenship)
- (2) For California Highway Patrol applicants, meets the requirements of Vehicle Code Section 2267 (must be a United States citizen)
- (3) For Deputy Sheriff, Deputy Marshal, and Deputy Constable applicants, meets the requirements of Government Code Section 24103 (must be a "*citizen of the State*")

NOTE: "*Citizen of the State*" includes: "[a]ll persons born in the State and residing within it..." and "all persons born out of the State who are citizens of the United States and residing within the State." (Government Code Section 241(a) and (b))

b. Is at least 18 years of age (Government Code Section 1031(b))

c. Has never been convicted of a felony or certain specified misdemeanors (Government Code 1029 and Penal Code Section 12021 and Title 18 USC 922(d))

d. Is of good moral character as determined by a thorough background investigation (Government Code Section 1031(d))

NOTE: Although the minimum standards identified above are a matter of law, from the practical standpoint, reference should be made to the applicable job dimensions. For example, it is insufficient to conclude that an applicant was "not of good moral character." Rather, the background investigator should link the information discovered to applicable dimensions such as "integrity" or "credibility as a witness in a court of law."

- e. Meets the minimum educational requirement as specified in Government Code Section 1031(e) and CCR 1002(a)(6)
 - (1) Graduation from an accredited U.S. high school
 - (2) Satisfactory completion of the General Education and Development Test (GED) or possession of a Certificate of High School Proficiency
 - (3) Possession of a two or four-year degree from an accredited college or university
 - f. Is free from physical, emotional, or mental condition which might adversely affect the exercise of the powers of a peace officer (Government Code Section 1031(f) and Welfare and Institutions Code Section 8103(f))
2. Additional requirements for lateral peace officer applicants
- a. Lateral (or reinstated officers), regardless of rank, must meet all current standards for appointment (CCR Section 1002(b))
 - b. Lateral officers must also meet the training standards prescribed by POST, such as:
 - (1) Possession of a valid Basic POST Certificate (Penal Code Section 832.4)
 - (2) Currency of basic training (e.g., satisfaction of the "Three Year Rule" as described in POST Commission Procedure D-11-12)
3. Reserve peace officer applicants
- a. Reserve peace officer applicants must meet similar standards for appointment as regular peace officers (CCR Section 1007)
 - b. Level III reserve officers (limited service reserve officers) have a different psychological screening standard
 - c. All reserve officer levels have a slightly different educational requirement regarding minimum GED scores

NOTE: Many law enforcement agencies have elected to apply the exact same screening standards to reserve officers as to their regular officers.

4. Public safety dispatcher applicants
 - a. Minimum requirements for public safety dispatchers are not detailed in law in the same fashion as the minimum standards for peace officers.
 - b. The following requirements are identified by POST in CCR 1018(c) for those agencies participating in the POST Public Safety Dispatcher Program:
 - (1) Public safety dispatcher applicants must be subjected to a thorough background investigation before hire "to verify the absence of past behavior indicative of unsuitability to perform public safety dispatcher duties."
 - (2) Public safety dispatcher applicants must be subjected to a medical examination before hire "to verify the absence of any medical condition which would preclude the safe and efficient performance of dispatcher duties..."
 - (3) Public safety dispatcher applicants must demonstrate that they possess adequate oral communication skills necessary to perform the job.
5. Other criminal justice/public safety positions
 - a. California Code of Regulations, Title 15, Article 2, § 131(a) provides "[I]n addition to the requirements set forth in Section 830 et. seq. of the Penal Code and Section 1029 et. seq. of the Government Code, the standards set forth below shall apply. These standards for **entry probation officer** positions, **entry juvenile counselor** positions, and **entry corrections officer** positions shall include but are not limited to the following: ..." (Specific exemptions are listed in the body of this Section)
 - b. Except as otherwise provided (e.g., by California Department of Corrections regulations, California Board of Corrections regulations, requirements of local hiring authorities, etc.), there are

few definitive pre-employment background standards for other positions or classifications of employees within criminal justice/public safety agencies.

- c. Positions such as community services officers, desk operations officers, etc., are not statutorily required to be backgrounded.
- d. Criminal Offender Records Information (CORI) requirements, however, prescribe that any employee with access to CORI records be fingerprinted and have their driving record checked (CLETS Operating Manager's Policies Section 1.7.3 et. seq.).
- e. The department's legal advisor should be consulted regarding the depth and appropriate levels of inquiry for backgrounds conducted on other public safety employees.

F. Valid disqualifiers for peace officer applicants

- 1. Inability to lawfully possess a firearm (Penal Code Section 12021, Welfare and Institutions Code Section 8103(f), and Title 18 USC 922(d))
- 2. Convicted of a felony (Government Code Section 1029)

NOTE: Instructors should emphasize that sentencing pursuant to Penal Code Section 17 (re: convictions for felonies sentenced as misdemeanors) does not apply to peace officers.

- 3. Does not meet the citizenship requirement (or fails to meet the criteria identified in Government Code Sections 1031(a), 1031.5 and 24103 and Vehicle Code Section 2267)
- 4. Is under 18 years of age (Government Code Section 1031(b))

NOTE: Many law enforcement agencies impose a higher minimum age standard for peace officers.

- 5. "Adjudged addicted or in danger of being addicted to narcotics, convicted, and committed to a state institution" (Section 3051 of the Welfare and Institutions Code)
- 6. Have been found "not guilty" by reason of insanity for any criminal offense
- 7. Have been designated as a mentally-disordered sex offender (MDSO)

8. Failure to meet any other valid, job-related published standard (e.g., fails to meet a higher educational standard imposed by the employer, etc.)

G. Americans With Disabilities Act (ADA)

1. Title 1 of the Americans with Disabilities Act of 1990 forbids discrimination against persons who are disabled or who are perceived to be disabled and who are otherwise qualified for the position sought.
2. The ADA prohibits an employer from making any inquiries which may reveal information regarding any real or perceived disability until the applicant is determined to be otherwise qualified.
 - a. The spirit of the ADA is to ensure that persons with disabilities are given a fair opportunity to compete for a job for which they are qualified.
 - b. The ADA does not require an employer to hire persons who are unable to perform essential job functions or meet minimum qualifications, with or without reasonable accommodation.
3. In order to comply with the provisions of the ADA, a "conditional job offer" is made **after** the background investigator has completed inquiries into all non-medically-related areas which can legally and practically be obtained.

NOTE: Instructors should address those areas into which inquiries can legitimately be made before the conditional job offer (e.g., unlawful possession of controlled substances, extent of "current" illegal drug use, etc.) Instructors should also become conversant with schedules I through V of the Uniform Controlled Substances Act.

4. Following a conditional job offer, the applicant can be medically and psychologically evaluated.
5. The background investigation can continue after the conditional job offer.

EXAMPLES:

 - When applicants indicate that contact with a present employer could jeopardize their current positions, the background investigation can be continued after a conditional job offer is made.

When discrepancies are identified during the post-offer phase of the hiring process (e.g., the applicant provided inconsistent information on illegal drug use to different examiners) the background investigation can be continued after a conditional job offer is made.

6. Truth deception examinations (i.e., Polygraph, Voice Stress Analysis, Deceptograph, etc.), if conducted before a conditional job offer, cannot address medically-related issues.
7. Examples of prohibited types of employment discrimination under the ADA:
 - a. Actions that limit, segregate, or classify a job applicant or an employee in a manner that adversely affects the individual's status or opportunities because of a disability.
 - b. Participation in an arrangement (contractual or otherwise) or a relationship that subjects qualified disabled applicants or employees to unlawful discrimination.
 - c. The use of standards, criteria, or methods that either:
 - (1) have a discriminatory effect against disabled individuals, or
 - (2) perpetuate the discrimination of others who are subject to common administrative control.
 - d. Excluding or denying equal jobs or benefits to a qualified individual because of the known disability of another individual with whom he or she has a relationship or an association.
 - e. Failing to make reasonable accommodations for the individual's physical or mental impairments where required or denying employment opportunities to a qualified job applicant or employee based on the need to make reasonable accommodations to the individual's physical or mental impairments.
 - f. The use of qualification standards, tests or other selection criteria that tends to screen out one or more individuals with disabilities, unless the standards, tests or other criteria are shown to be job-related for the position and are justified by business necessity.

- g. Failing to select and administer employment tests in the most effective manner to ensure that the results accurately reflect the skills, aptitude, or other factors that the test purports to measure. Such tests should not simply reflect any impairment of sensory, manual or speaking skills of employees or applicants, except where such skills are the factors that the test measures.

NOTE: Additional information concerning the application of the ADA and issues associated with medical inquiries are described in the POST publication *Americans with Disabilities Act: Questions and Answers (May 1995)* and the EEOC documents *Enforcement Guidance Publication 915.002 (May 19, 1994)* and the March 1995 and October 1995 addenda to this same document.

H. Fair Employment Issues

1. Civil Rights Act of 1964 (Title VII)

a. Prohibits discrimination based on:

- (1) Race
- (2) Color
- (3) Religion
- (4) Sex
- (5) National origin

b. Applies to all employment practices to include:

- (1) Hiring
- (2) Promotion
- (3) Firing
- (4) Compensation and other terms, privileges, and conditions of employment

c. Title VII only applies to employers in the public sector who employed 15 or more employees for 20 weeks or more within a calendar year.

- d. This act also establishes that an unlawful employment practice exists when the complaining party demonstrates that race, color, religion, sex, or national origin were motivating factors for the practice, even though other factors also motivated it.
 - e. Also shifts the burden of proof back to the employer to prove that a challenged practice is job-related for the position in question, and consistent with business necessity, once the complaining party demonstrates that the employer uses a particular practice that causes a disparate impact.
2. The EEOC Act of 1972 subjected state and local governments to Title VII, which allowed:
- a. Employees of state and local governments to file complaints of job discrimination with the EEOC. Previously the EEOC handled only private employment cases.
 - b. Complainants were also allowed to file discrimination suits in federal court under Title VII, but were previously forced to file under the less specific Civil Rights Acts of 1866 and 1871, as well as under Fourteenth Amendment to the Constitution.

I. Legal issues associated with medical and psychological screening

- 1. Government agencies have a responsibility to swiftly eliminate those applicants who are most likely to commit misconduct or exercise bad judgment. Individuals cannot allege that they have a constitutional right to employment as peace officers or other government employment.
- 2. In California, Government Code Section 1031(f) **requires** both a medical and psychological evaluation of peace officer candidates and states in pertinent part:

"Each class of public officers or employees declared to be peace officers shall meet all the following minimum standards:

(f) be found to be free from any physical, emotional or mental condition which might adversely affect the exercise of the powers of a peace officer... Emotional and mental condition shall be evaluated by...."

3. The California Code of Rules and Regulations, Title 11, Division 2, Article 1 § 1018 **requires** a pre-employment medical examination of public safety dispatcher applicants. A psychological evaluation is discretionary.
4. Recency of the evaluations
 - a. Peace officer medical and psychological evaluations must be conducted within one year prior to appointment of the applicant (California Code of Rules and Regulations, Title 11, Division 2, Article 1, § 1002(a)(7) and POST Commission Procedure C-2).
 - b. Public safety dispatcher medical evaluations must be conducted "before hire" (California Code of Rules and Regulations Section 1018(c)(2))
5. Pre-employment psychological evaluations, medical histories, and physical examinations are medical inquiries under the ADA.
6. Rejections and appeals
 - a. Any rejection based on a medical or psychological evaluation which results in the withdrawal of a conditional job offer or in the re-ranking of the applicant pool, requires the employer to notify the applicant of the reason(s) therefore (42 United States Code 12112(b)(6)).

NOTE: Under the law, notification of applicants as to the reason for their rejection minimally means notification that they were determined to be medically or psychologically unsuitable for the position (e.g., that they do not fit the psychological profile of the hiring agency or that they do not meet the medical standards adopted by the hiring agency). At this stage, the law does not require that the applicant be provided with specific details as to how the examiners arrived at their conclusion.

- b. Under the ADA, an applicant has the right to appeal a rejection which was based upon a determination of medical or psychological unsuitability (42 United States Code 12102(a)(3)). Any appeal is directed to the hiring entity and is governed by prevailing personnel rules. This is an area which requires careful consultation with the agency's legal counsel.

NOTE: Only the medical or mental health examiners should interpret or discuss the contents of their reports.

- c. In a formal appeal, the medical or mental health examiners may be required to reveal the reasons they determined unsuitability for appointment.

J. Civil and Criminal Liability Issues

1. Background investigators and their agencies can be held liable for defamation, harassment, or other violations of a person's civil rights.
2. Employers can be held liable for negligent appointment, negligent entrustment, and negligent assignment.

NOTE: Instructors should use current case examples to illustrate these issues.

K. Release of information

1. Waivers
 - a. A background investigator will need a legally adequate waiver in order to obtain information.
 - b. Depending upon the source of information, a waiver may need to be specifically constructed. Examples include:
 - (1) Records associated with present or former peace officers will require particular language indicating that the applicant is knowingly releasing information which is otherwise protected from disclosure. (Penal Code Sections 832.7 and 832.8, Evidence Code Section 1043)
 - (2) Credit information (Title 15 USC 1681, Section 604(b))
 - (a) Must be a separate waiver
 - (b) Employer must provide a free copy of the report to the applicant
 - (c) Before an adverse decision, the applicant must be advised of his/her rights under the Fair Credit Reporting Reform Act (FCRA)

- (3) Educational records (Public Law 93-380) - prohibit the unauthorized transmission of educational records
- (4) Military records (5 United States Code 552(a)(e)(3))
- (5) Records sealed by mutual agreement of employers and employees

NOTE: Examples of several types of waivers are included in the supporting materials section of this document.

- c. Statutory and case law both afford protection to individuals who voluntarily release information for mandated background investigations concerning an applicant's ability to perform the functions of the job.

NOTE: This protection applies to *any* mandated background investigation

- d. Notarization of waivers

- (1) Many entities are requiring that waivers be notarized. Whereas this is not always a requirement of law, it is a good practice for the background investigator to have all waivers notarized.
- (2) To invoke the mandatory release of information pursuant to Government Code Section 1031.1, the waiver must be notarized.

- e. Mandatory release of information pursuant to Government Code Section 1031.1

- (1) Government Code Section 1031.1 was enacted to compel the release of background information to law enforcement agencies conducting background investigations on peace officer applicants. This law was necessary due to the increasing reluctance of employers to provide information for fear of civil liability.
- (2) The section requires employers to release background information if all of the following conditions are met:
 - (a) The request is made in writing.

- (b) The request is accompanied by a notarized authorization by the applicant releasing the employer of liability.
- (c) The request and the authorization are presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency.

NOTE: Some employers have interpreted this section to mean that they are only obligated to release information to the first law enforcement agency requesting it. One criminal justice agency, however, may share the employment information with another. An employer may also charge the law enforcement agency a "reasonable fee" to cover the actual costs incurred in furnishing documents.

- (3) Any employer who discloses information, without malice or fraud, in accordance with the provisions of this section is exempt from civil liability.

NOTE: Government Code Section 1031.1 applies to applicants who are "*not currently employed*" as peace officers. This can create the misconception that this section applies only to first-time applicants, which is incorrect. For example, 1031.1 does apply in the case of an applicant who worked as a peace officer and left the job to go on to "greener pastures" in the private sector or who took a retirement from one peace officer position and applies for another. These instances will present a dual waiver issue, however, since a lateral waiver will be necessary to obtain information from a prior law enforcement employer and a regular waiver will be needed to obtain information from other sources.

2. Confidentiality of information

a. Unwarranted invasion of privacy

- (1) Under California law, all persons are protected from unwarranted invasions of their privacy (Article I, Section 1 of the California Constitution).
- (2) Privacy rights are also inferred by the United States Constitution by the First, Fourth, and Fourteenth Amendments.

- b. Case law has recognized that there is an absolute privilege, and in fact a duty, for citizens to communicate openly and freely with an investigating officer seeking background information on a peace officer candidate for employment with a public law enforcement agency. The privilege under these circumstances is a necessary element of the need for law enforcement to hire persons who are qualified to protect the public (O'Shea v. General Telephone Co. of California, 193 Cal.App.3d 1040 (1987); Bardin v. Lockheed Aeronautical Systems, 70 Cal. App. 4th 494 (1999)).
- c. Unauthorized disclosure of confidential information subjects the investigator and/or agency to civil, and possibly criminal, sanctions. Examples:
 - (1) An investigator inappropriately discloses that an applicant was a prior rape victim. This could constitute a criminal violation under prevailing federal civil rights legislation and state law (Penal Code Section 293(d)).
 - (2) The disclosure of information regarding detention not amounting to a conviction to a private employer is a crime (Penal Code Section 13302 and Labor Code Section 432.7).
 - (3) Unauthorized disclosure of information may also constitute "conduct unbecoming of an officer" under prevailing agency rules and regulations.
- d. Medical and psychological information
 - (1) There are numerous state and federal laws which protect persons from the unauthorized disclosure of medical information (e.g., California Civil Code Section 56.20).
 - (2) Background investigators should be cautioned that federal law prohibits the release of any confidential medical information (either physical or psychological) to any unauthorized third person. For example, it is unlawful for one law enforcement agency to disclose to another that an applicant was determined to be psychologically unsuitable for appointment. (42 United States Code Sections 12112(d)(3)(B),(4)(C)).
 - (3) These statutes do not prohibit an applicant from truly volunteering medical information.

L. Obtaining information related to criminal conduct

1. Arrest records

- a. California Labor Code Section 432.7 authorizes, with regard to peace officer applicants, use of arrest and detention information, without any accompanying conviction.
- b. Investigators should look carefully at the facts associated with any detention or any arrest which has not led to a conviction. The mere fact that an applicant has been detained or has been arrested, but not convicted, should not be the sole consideration in making an employment decision.
- c. For other non-criminal justice public safety positions (e.g., firefighters) arrests not resulting in a conviction cannot be considered by the prospective employer. In fact, it is unlawful to inquire about any such arrest.

2. Convictions

- a. In accordance with California state law (Government Code Section 1029), a felony conviction automatically disqualifies an individual from becoming a peace officer.
- b. Misdemeanor convictions can be utilized as a basis for determining an applicant's suitability for employment.
 - (1) In some cases, the nature of the misdemeanor will specifically prohibit employment as a peace officer (Penal Code Section 12021 Welfare and Institutions Code Section 8103(f), and Title 18 USC 922(d)).
 - (2) Local agency policy will determine the impact of other misdemeanor convictions regarding an applicant's suitability for employment (e.g., elimination of applicants with multiple driving under the influence convictions, petty theft convictions, sex offenses, etc.).

3. Undetected criminal conduct

- a. Investigators should carefully weigh information associated with an applicant's involvement in prior criminal acts, including those which were unreported and/or unprosecuted.

b. Applicants who are currently employed in a criminal justice agency and are discovered to be involved in illegal conduct during that employment raise special concerns (e.g., the responsibility to notify the current employer of the criminal activity and/or other mandatory reporting issues).

(1) There is no current **legal** duty on the part of a background investigator to disclose to a third party the applicant's participation in undetected criminal acts except where an investigation triggers a mandatory reporting requirement (e.g., child abuse, elder abuse, domestic violence, etc.)

(2) Many organizations have lateral applicants sign a waiver indicating that any unlawful activity discovered during the background investigation will be disclosed to their current employer.

NOTE: Instructors may wish to discuss the ethical obligation of reporting lateral applicants' unlawful acts to their employer, in view of the dicta in O'Shea v. General Telephone, supra, that any person who has information that bears on a peace officer applicant's ability has an affirmative duty to come forward, whether asked or not. The discovery of unlawful acts committed by any other applicant may not be revealed to anyone except a law enforcement agency of jurisdiction.

c. Substance use and abuse

(1) Any agency that receives any federal monies falls under the Drug Free Workplace Act of 1988 (42 United States Code 701-707). This act makes it mandatory for employers to keep the workplace free of illegal drug use.

(2) The Americans with Disabilities Act (ADA) does not protect individuals who are current users of illegal substances.

(3) The ADA specifically states that *illegal substance abuse* cannot be used as a shield for substandard performance or misconduct.

(4) Agency drug policies should be linked directly to applicable job dimensions and job traits.

4. Probation and Diversion
 - a. Questions regarding an applicant's placement on court probation and/or into a diversion program are acceptable inquiries for peace officer applicants.
 - b. Investigators should carefully review the circumstances regarding an applicant's placement on probation and its impact on an applicant's suitability for appointment.

5. Conduct as a juvenile

- a. Investigators may ask applicants about offenses committed as juveniles. Access to verifying records, however, may require a court order.

NOTE: Juveniles whose records have been sealed or expunged may lawfully declare that they have never been arrested.

- b. Questions regarding an applicant's placement on juvenile court probation are acceptable inquiries.
- c. Investigators should carefully review the circumstances regarding an applicant's placement on juvenile probation and its impact on an applicant's suitability for appointment.
- d. The impact of a juvenile's involvement in status offenses (e.g., runaway, curfew violations, etc.) is a matter of local agency policy.
- e. Investigators should carefully weigh factors such as the recency or severity of the conduct when assessing the job-relatedness of juvenile offenses.

6. Other inquiries

- a. There are a variety of non-criminal events (e.g., history as a missing person, civil restraining orders, driving records, other litigation, etc.) which should be evaluated for impact on an applicant's suitability for appointment.

7. Restoration of rights following arrest and/or conviction

NOTE: Investigators should be encouraged to consult with their legal advisors regarding issues associated with the restoration of rights. This area of law is frequently subject to legislative amendment and court interpretation.

- a. Release from penalties and disabilities
 - (1) Diversion (Penal Code Section 1000.5)
 - (2) Release from penalties et. al. (Penal Code Section 1203.4a - Misdemeanors)
 - (3) Release from penalties et. al. (Penal Code Section 1203.4 - Felonies)
 - (4) Persons subject to the Youth Authority (Welfare and Institutions Code Sections 1179 and 1772)

- b. Sealed records
 - (1) Certain misdemeanor convictions; sealing of records (Penal Code Section 1203.45)
 - (2) Petition to seal court records by a person arrested for a misdemeanor while a minor (Penal Code Section 851.7)
 - (3) Sealing and destroying arrest records; determination of factual innocence (Penal Code Section 851.8)

- c. Expungement
 - (1) Destruction of arrest and conviction records for certain applicable offenses (Health and Safety Code Section 11361.5 and 11351.7)

- d. Pardons
 - (1) Procedural restoration of rights (Penal Code Section 4852 et. seq.)
 - (2) Restoration of rights, privileges and franchises; effect of full pardon (Penal Code Section 4853)

e. Rehabilitation

(1) Federal Youth Corrections Act

- (a) Under this act, conviction for a federal felony as a juvenile may not be an automatic disqualifier for a peace officer position. (California Attorney General Opinion 87-1203, dated June 6, 1988)
- (b) The individual will be provided with a formal Certificate of Rehabilitation.
- (c) Investigators should carefully examine the specific circumstances surrounding the event.

(2) Substance abuse

- (a) California Labor Code Sections 1025-1028 set forth public policy regarding substance abuse rehabilitation. This law provides for the person to be able to be returned to the workplace following rehabilitation.
- (b) The Americans with Disabilities Act provides for substance abuse rehabilitation; however, it recognizes that there is a distinction regarding the performance of law enforcement activities. As a result, law enforcement employers can consider the public safety when evaluating an applicant who has a history of substance abuse.

M. Civil court actions

- 1. Investigators may inquire as to the applicant's involvement, as a plaintiff or defendant, in any civil court action.
- 2. As with other inquiries, investigators should carefully evaluate the specific circumstances surrounding the underlying event leading to the litigation.

N. Non-selection of applicants

- 1. The reasons for non-selection must be thoroughly documented.

2. Applicants found unsuitable for employment should be informed in writing at the time of the decision as to the reason(s) for their non-selection.
3. Local agency policies will govern any subsequent appeals process.
4. The Fair Credit Reporting Act (FCRA) requires written notification to the applicant where their rejection is based solely, or in part, upon credit information.

NOTE: The background investigator may or may not be involved with the disposition of the applicant or any subsequent appeals process. The process varies significantly among agencies based upon local regulations and the interpretation and direction of the agency's legal advisor.

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VI. AREAS OF INQUIRY

A. Mandatory areas of investigation

1. POST Commission Procedure C-1 (Section 1-5 (a) through (l)), identifies 12 specific areas which must be investigated during the conduct of a **peace officer** background investigation.
2. According to POST Commission Procedure C-1:

"The investigation shall include an inquiry into the following sources of information for the purpose indicated:

- (a) *The State Department of Motor Vehicles, Division of Driver's Licenses -- to determine the candidate's driving record*
- (b) *High school and all higher educational institutions that the candidate attended -- to determine the school record, character, and career potential of the applicant.*
- (c) *Appropriate official documents - - to verify birth and age records. In the case of foreign born, appropriate federal or local records.*
- (d) *All police files in jurisdictions where the candidate has frequently visited, lived or worked -- to determine if any criminal record exists.*
- (e) *Criminal records of the California Bureau of Investigation and Identification (through a fingerprint check). A copy of the return shall be retained in the candidate's personnel record.*
- (f) *The Federal Bureau of Investigation records (through a fingerprint check). A copy of the return shall be retained in the candidate's personnel records.*
- (g) *Previous employers within the past ten years -- to determine the quality of the candidate's work record.*
- (h) *Within practical limits, references supplied by the candidate, and other references supplied by them, if any --*

to determine whether or not the candidate has exhibited behavior which would or would not be compatible with the position sought.

- (i) The candidate's present neighborhood and where practical, neighborhoods where the candidate may have previously resided -- to determine whether or not the candidate has exhibited behavior which would or would not be compatible with the position sought.*
- (j) The candidate's credit records -- to determine his/her credit standing with banks, department stores and other commercial establishments that would tend to give a clear indication of the candidate's reliability and integrity.*
- (k) When appropriate, military records in the service of the United States, jurisdictions therein, or foreign government -- to determine the quality of the candidate's service.*

NOTE: While POST regulations mandate inquiries into the areas identified above, the regulations do not specify the *manner* in which these inquiries are to be conducted. Instructors should stress to students that individual agency policies and resources influence the manner in which these are accomplished.

B. The POST Personal History Statement (PHS)

NOTE: The following areas are listed in the order in which they appear on the POST Personal History Statement (PHS) - POST Form 2-251 - revised 5/94. This document is undergoing further revision.

- 1. Personal Identifying Information
 - a. Name (Last, First, Middle)
 - b. Other names
 - c. Contact address
 - d. Contact phone number
 - e. Contact hours
 - f. Birth Date

- g. Citizenship
- h. Social Security Number
- i. Height*
- j. Weight*
- k. Hair color*
- l. Eye Color*
- m. Scars, tattoos, or other distinguishing marks*

* The PHS contains the disclaimer that these items are requested only for the purposes of identification.

NOTE: Agencies should omit reference to scars as this may reveal the existence of a hidden disability prompting inappropriate and protected inquiry at this point in the selection process. POST will be removing this term in future revisions of the PHS.

2. Relatives and References

a. Persons to be contacted:

- (1) Parents, Step -Parents, or Guardian
- (2) In-Laws
- (3) Former Spouse(s)
- (4) Current Spouse

(a) Benefits of a separate interview

- 1) Spouse may be more candid in providing background investigator with information
- 2) Provides an atmosphere lacking in intimidation or apprehension
- 3) Provides opportunity for spouse to ask questions of applicant's potential employer

- (5) Children
 - (6) Siblings
 - (7) Persons with whom the applicant has resided
 - (8) Other persons with whom the applicant has a close personal relationship
 - (9) Primary references listed by applicant
 - (10) Secondary references developed by background investigator
 - (11) Peer references
 - (12) Professional references
- b. Areas of inquiry for the background investigator must be related to the 15 job dimensions for peace officers or the job traits for public safety dispatchers. If the investigator is doing a background on any other criminal justice/public safety employee, areas of inquiry will be dictated by local policy, procedures, and applicable laws.
- c. The background investigator should contact those people who are likely to have knowledge of the applicant.
- (1) POST Commission Procedure C-1(h) specifies that, within practical limits, the background investigator is obligated to contact references identified by the applicant.
 - (2) Contact includes prior spouses and persons with whom the applicant has resided.
- d. Contacts with relatives and references should address:
- (1) Period of association
 - (2) Frequency of contact
 - (3) Type of relationship (e.g., social, fraternal, familial, co-worker, supervisor)
 - (4) Evidence of bias or prejudice against any people or group.

- (5) Applicant's integrity, maturity, interest in people, interpersonal sensitivity, problem-solving ability, communication skills, judgment, willingness to confront problems, credibility as a witness in a court of law, and other specific areas as defined by Job Dimensions or public safety dispatcher traits.
- (6) Applicant's temperament or propensity for violence

3. Education

NOTE: Inquiries into the applicant's educational background can lead to information concerning the applicant's integrity, learning ability, and desire for self-improvement. The most productive sources of information from the educational setting will be from the high school and post-secondary school levels. Generally, no inquiries (either through records or through interviews) should be made at the grammar school level since these experiences are too remote to be relevant. The exception would be an interview with someone (such as a grammar school teacher) who has maintained continued contact with the applicant.

a. High School Education

- (1) Verification of high school graduation or equivalency
 - (a) Graduation from a United States high school accredited in the state in which it is located, including United States Department of Defense schools located overseas.
 - (b) Satisfactory completion of the General Education Development test (GED)
 - (i) GED scores should be verified through the state Department of Education and must comply with POST Regulation 1002(a)(6)
 - (ii) When the GED is used, a minimum overall score of not less than 45, and a standard score of not less than 35 on any section of the test, as established by the American Council on Education, shall be attained
 - (c) Acquisition of a high school Certificate of Proficiency

NOTE: Acquisition of a two-or four-year degree from an accredited college or university can substitute for the above requirement.

- (2) Verify dates of attendance
- (3) Interviews with counselors or teachers, if applicable
- (4) Check for suspensions or expulsions or other disciplinary actions
- (5) Verify attendance record

b. Post-Secondary Education

- (1) Verify dates of attendance
- (2) Verify graduation, completion of units, and/or course of study by reviewing certified copies of college transcripts

NOTE: Transcripts should be sent from the institution to the background investigator

- (3) Verify accreditation of institution
- (4) Interview counselors or instructors as applicable, to determine applicant's:
 - (a) Learning ability
 - (b) Communication skills
- (5) Check for suspensions, expulsions, or other disciplinary actions
- (6) Check with campus police for any record of contact with the applicant

c. Professional Training

- (1) Technical schools attended
- (2) Diplomas awarded

NOTE: Obtain appropriate certificates or other evidence of the applicant's training attendance.

4. Residence
 - a. Checking residences
 - (1) Whenever practical, visit current residence for in-home check.
 - (2) Verify location and periods of occupancy of past residences
 - b. Neighborhood checks
 - (1) Check close-by neighbors (e.g., neighbors to the rear, both sides, and to the front of the applicant's residence), if applicable.
 - (2) Determine frequency and type of contact with applicant.
 - (3) Determine what observations, if any, the neighbors have made regarding the people who visit or associate with the applicant as well as how the applicant interacts with others in the neighborhood.
 - c. Landlord checks
 - (1) Determine if rent was paid in a timely manner
 - (2) Determine how the applicant cared for the premises
 - (3) Check rental applications for additional investigative leads and verify information on the PHS
5. Experience and Employment
 - a. Entry-Level Applicants
 - (1) Contact past employers from the past ten years
 - (2) Review personnel files
 - (a) Check for disciplinary actions

- (b) Complaints of misconduct
 - (c) General issues of performance
 - (d) Review personnel documents for consistency with information contained on the PHS
- (3) Interview current and past supervisors
 - (4) Interview co-workers
 - (5) Review work attendance record

NOTE: Inquiries about sick leave usage are restricted by ADA and may have to be evaluated after the conditional job offer has been tendered. Inquiries at this stage should deal only with overall attendance.

- (6) Verify reasons for leaving employment
- (7) Verify employment dates and compensation
- (8) Inquire about applications made to other law enforcement agencies
 - (a) The background investigator should inquire into the reasons an applicant was not successful at other law enforcement agencies as this may provide investigative leads.
 - (b) Background investigators must independently verify all negative information.
 - (c) Background investigators should not inquire as to psychological or medical disqualifications.

NOTE: Students should be instructed that an applicant's unsuccessful application with an agency is not grounds for automatic disqualification from employment.

- b. Additional considerations for lateral applicants (regardless of rank)
 - (1) Government Code Section 1031.1 may not apply

- (2) Special waivers are required (e.g., Evidence Code Section 1043 and/or sealing agreements)
 - (3) Reports of citizens' complaints per PC 832.5
 - (4) Check ***all*** agency personnel records as defined under PC 832.7 (e.g., training records, field training reports, etc.)
 - (5) Peace officer training profile available from POST (POST P-101 printout)
- c. Applicants for non-peace officer positions
- (1) Government Code Section 1031.1 does not apply
 - (2) There is currently no POST regulation addressing the depth of employment inquiries as there is for peace officer positions.

6. Military

a. Verification of Selective Service Registration

NOTE: Males born between April 15, 1957 and January 15, 1960 were not required to register for Selective Service. Others must have registered within 30 days of their 18th birthday.

b. Military Separation Documents

- (1) DD 214 (long form)
 - (a) Type of discharge
 - (b) Re-enlistment eligibility and separation code
 - (c) Record of lost time
- (2) Other separation documents (e.g., certificate of discharge)

c. Service Record

- (1) Record of disciplinary action
 - (a) Non-judicial

(b) Judicial

7. Financial

a. Credit reports

- (1) Credit reports should be verified for accuracy
- (2) The circumstances surrounding any negative information should be evaluated on their own merits.

NOTE: Title 18 USC 1681 Section 604(b), effective September 30, 1997, supercedes the provisions of the California Civil Code regarding an employer's use of credit information. Applicants must be notified that a prospective employer may consider credit history in evaluating suitability for appointment. Under the law, applicants are entitled to free copies of the credit report and must be informed of their rights under the Fair Credit Reporting Reform Act (FCRA) before any adverse decision can be made. A sample credit data advisement form is included in the supporting materials section of this document.

b. Verification of compliance with local, state, and federal tax laws (e.g., tax payments, license fees, etc.)

c. Bankruptcy documents (if applicable)

- (1) Determine type of bankruptcy filing
 - (a) Chapter 7 (liquidation)
 - (b) Chapter 11 (business rehabilitation)
 - (c) Chapter 13 (individual rehabilitation)
- (2) Check with federal court clerks for bankruptcies.

d. Garnishments

- (1) Child or family support

NOTE: some counties automatically garnish wages to satisfy child or family support obligations. This is not necessarily a negative reflection upon the applicant's payment history.

- (2) Civil actions
 - (3) Alimony or separate maintenance payments
 - e. The background investigator should verify and correlate relationship between income and expenditures to determine applicant's overall behavior concerning financial responsibilities
- 8. Legal
 - a. Criminal history checks
 - (1) California Department of Justice (DOJ), Bureau of Identification (BID) fingerprint verification
 - (2) FBI fingerprint verification (submitted through DOJ)
 - (3) Local record checks
 - (a) Contact law enforcement agencies and courts in areas where the applicant has lived, worked, or frequently visited (e.g., has attended school, been assigned in the military, etc.)
 - (b) Check files for any record of contact.
 - (4) Interpol
 - b. Criminal conduct
 - (1) Self-admitted criminal conduct
 - (2) Current illegal substance use

NOTE: There is currently no formal legal definition of the term "current" with respect to illegal drug use. EEOC guidelines have alluded to several different standards as being current; however, interpretation varies substantially among agencies and depends upon the specific direction provided by an agency's legal counsel. The ADA defines illegal drugs as those substances specifically identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812).

- c. Civil actions

- (1) The background investigator should attempt to obtain court documents
- (2) Check with county and federal court clerks in jurisdictions in which the applicant has either worked, resided, or frequently visited (e.g., has attended school, been assigned in the military, etc.)
- (3) Verify existence of and compliance with court orders (e.g., restraining orders, child custody, child support)

9. Motor Vehicle Operation

a. Department of Motor Vehicles (DMV) Driver Record Requests

- (1) Review DL 414 (California DMV driver record) or any other state driver record(s) for suspensions, revocations, and probationary status of license
- (2) Under prevailing DOJ policy, California Law Enforcement Telecommunications Systems (CLETS) subscribing agencies may access DMV records via CLETS for their applicants.

NOTE: Students should be instructed to closely examine the applicant's history of moving violations and accidents and evaluate them based on the local agency's policy.

b. DMV Vehicle Registration Request (for all vehicles registered to the applicant)

c. Verification of current automobile insurance (if applicable)

- (1) Individuals are only required to carry automobile liability insurance if they own a vehicle which is operated upon a public roadway.
- (2) If an applicant is required to carry automobile liability insurance but is discovered to be uninsured, the background investigator should inquire why.

NOTE: Students should inquire as to the local agency's policy requiring valid California driver's license at time of employment.

10. General Topics

a. Licenses to carry concealed weapon

- (1) Determine if the applicant has ever been refused an application to carry a concealed weapon, if applicable.
- (2) The issue of importance to the background investigator is the reason(s) for refusal which may speak to the applicant's suitability for appointment.

b. Insurance

- (1) Determine if the applicant has been denied insurance or a bond for misstatement or falsification of a policy application or claim
- (2) Determine if the applicant has had insurance or a bond canceled or denied for any non-medically related reason

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VII. INFORMATION SOURCES

A. Major Sources of Information (The three "Ps" of information: people, paper, and personal observation)

1. People (interviews)

- a. In-person interviews can yield more reliable information than telephonic or written communications.
- b. Interviews with primary references can produce valuable information and create further investigative leads.
- c. Interviews with secondary and tertiary references developed by the background investigator often result in information which provides a more accurate picture of the applicant.
- d. All inquiries should be related to the appropriate job dimensions and consistent with local policy, state, and federal law.
- e. Developed information from these sources must be corroborated. Unsubstantiated rumors, innuendo, and gossip should not be considered or reported.

2. Paper (documents)

a. Potential sources of information

(1) Federal government

- (a) Military and selective service records
- (b) FBI criminal history
- (c) Citizenship
- (d) Passport information
- (e) Bankruptcy records

(2) State government

- (a) Records of birth, death, marriage, and dissolution

- (b) Records of incorporation
 - (c) Professional licensing
 - (d) Driver's licensing and history
 - (e) Criminal history
- (3) County government
- (a) Property ownership records
 - (b) Property tax records
 - (c) Court records
 - (d) Voter registration records
 - (e) Utility records
 - (f) Business licenses
 - (g) Restraining orders
 - (h) Public boards, commissions, or councils
 - (i) Libraries
- (4) Local governments
- (a) Law enforcement contacts
 - (b) Utility records
 - (c) Business licenses
 - (d) Public boards, commissions, or councils
- (5) Commercial sources
- (a) Insurance reporting services
 - (b) News clipping services

- (c) Private investigative organizations
 - (d) Credit reporting services
 - (e) Rental agencies
 - (f) Real estate rental agencies
 - (g) Financial institutions
- (6) Professional/law enforcement-related organizations
- (7) Directories
- (a) Telephone directories
 - (b) Reverse phone and address directories
 - (c) Commercial background investigations guides
- (8) Educational institutions
- (a) Records of academic achievement
 - (b) Records of attendance
 - (c) Records of disciplinary actions
- (9) Other information resources
- (a) International Association of Chiefs of Police (department names, addresses, executive name, and title, etc.)
 - (b) National Sheriffs' Association (department names, addresses, executive name and title, etc.)
 - (c) California Department of Justice Criminal Offender Records Information (CORI) Recipient Directory (includes CORI regulations, entities eligible to receive CORI information)
 - (d) California Department of Justice Roster of California Police Chiefs and Sheriffs'

- (e) POST Employment Data for California Law Enforcement (Law Enforcement Agency Addresses)
- (f) POST Administrative Manual (State laws, POST regulations, and appointment-related forms)
- (g) There are also a variety of commercial publications available for purchase which provide expanded resource information such as case law updates, locations of records repositories, educational institutions, etc.

3. Personal Observation

- a. The background investigator should pay particular attention to the applicant's demeanor, ability, willingness, and timeliness in following directions, and communication skills during personal contacts with the applicant.
- b. The background investigator should be attentive to the willingness of references to cooperate and respond to inquiries.

NOTE: The results of pre-offer and post-offer truth deception examinations, if applicable, and the results of psychological evaluations and medical examinations can produce further investigative leads.

B. Automated Information Systems

- 1. Internet resources, include but are not limited to:
 - a. POST Website (Access to POST forms and hyperlinks to a wide variety of criminal justice sites)
 - b. Specified Military Record Information (e.g., enlistment codes)
 - c. Selective Service System registration verification
 - d. Social Security Number verification
 - e. Real Estate Records (e.g., property searches)
 - f. Income Tax Records (verification of payment, existence of liens, etc.)

- g. Registry of plaintiff or defendant in any criminal or civil actions
 - h. Registry of temporary restraining orders
 - i. Professional licensing information
 - j. Access to reverse directories
 - k. On-line name checks (e.g., to obtain E-mail addresses, web addresses, etc.)
 - l. Credit Checks (via on-line contract services)
2. Criminal justice information systems
- a. Wanted Person Systems (Local, State, and National)
 - b. Department of Motor Vehicles (Driver History, Vehicles Registered, etc.)
 - c. Intra-County Local Criminal History Information
 - d. Cal Gangs Computer System
 - e. WSIN (Western States Intelligence Network)
 - f. INTERPOL (Accessible via DOJ - permits a local criminal history check from a foreign jurisdiction). Automated information systems are rapidly developing information sources for background investigators.

NOTE: There are also a variety of subscription information services currently available. Instructors should avoid endorsing specific systems.

C. Document Evaluation

- 1. Original or certified documents obtained by the investigator are the most reliable source of information.
 - a. Documentation should support all the information contained on the Personal History Statement.
 - b. Documents should be sent directly by the originating source to the background investigator.

2. The original documents or certified copies of documents should be incorporated into the completed background investigation package.
3. Common problems with documents
 - a. Personal History Statement
 - (1) Incomplete or inaccurate information
 - (a) Incomplete legal names or use of nicknames
 - (b) Addresses missing street names or zip codes
 - (c) Telephone numbers missing area codes
 - (d) Failure to list all educational institutions attended
 - (e) Incomplete or inaccurate employment history
 - (f) Failure to list true reasons for leaving employment
 - (g) Failure to accurately list co-workers & supervisors
 - (h) Failure to list type of discharge received
 - (i) Incomplete listing of financial obligations
 - (j) Inaccurate accounting of assets
 - 1) Face value of bonds and insurance versus actual cash value
 - 2) Inflating the value of real estate and other personal property
 - (k) Failure to list other monthly cost of living expenses
 - (l) Failure to properly disclose arrest information
 - (m) Failure to list civil court actions
 - 1) Family law matters
 - 2) Restraining orders

- 3) Lawsuits
 - (n) Failure to list traffic citations or accidents
- (2) Missing blocks of time
 - (a) Inconsistent dates
 - (b) Missing time in residential listings
 - (c) Discrepancies in dates of employment
- (3) Failure to date and sign Personal History Statement
- b. Birth Certificates
 - (1) Date of birth altered
 - (2) Use of unofficial birth records (i.e., hospital or baptismal records)
 - (3) Submission of a notice of registration, rather than an actual birth certificate
- c. Educational Transcripts
 - (1) Name altered
 - (2) Lack of registrar's signature and seal
 - (3) Additions or deletions to educational achievements
 - (4) Pages missing
- d. Diplomas and Training Certificates
 - (1) Name altered
 - (2) Forged document
 - (3) Lack of verifiable signatures

e. POST Certificates

- (1) Name altered
- (2) Altering certificate level
- (3) Forged certificate

f. Military Documents

- (1) Forged or altered DD-214s reflecting change in discharge or re-enlistment eligibility status
- (2) Forged or altered awards documents falsely recognizing the applicant's achievements
- (3) Forged or altered military orders

NOTE: The use of color copiers and computerized optical scanning equipment has made the detection of altered or forged documents, certificates, and professional licenses more difficult. Background investigators should be encouraged to verify the validity of all documents, certificates, and professional licenses with the issuing institution or agency.

VIII. PRE-EMPLOYMENT INTERVIEWING

A. Introduction to interviewing

1. Interviewing is how we gain information from others.
2. Interviewing is the main tool of the background investigator.
3. Interviewing is a dialogue, not a monologue.
4. Pre-employment interviewing is different from criminal interviews
 - a. Voluntary
 - b. Non-custodial
 - c. Conversational in tone

B. Standard interview technique

1. Establish rapport.
 - a. Build trust.
 - b. Foster open communication.
 - c. Evaluate interviewee.
 - d. Explain why you are there.
 - e. Discuss method(s) of recording the interview.
 - (1) Notes
 - (2) Interview questionnaires and worksheets
 - (3) Tape recording
2. Free narrative
 - a. Ask open-ended questions.
 - b. Prompt narrative, uninterrupted responses.

- c. Do not interrupt interviewee, however:
 - (1) Keep them focused on topic.
 - (2) Ensure areas of inquiry are adequately covered.
- 3. Initial inquiries
 - a. Ask general questions to clarify issues raised during the free narrative.
 - b. Ask questions to cover areas not explored during the free narrative.
- 4. Clarification
 - a. Ask narrowly focused questions to clarify issues.
 - b. Questions should be designed to address discrepancies.
- 5. Closing
 - a. Always thank the interviewee for their time.
 - b. Leave open the possibility of additional contact by the interviewer or other investigators.
- C. Interview preparation
 - 1. Setting
 - a. Use no more than one interviewer.
 - b. Must be a comfortable setting.
 - c. Ensure privacy.
 - 2. Proper preparation for the interview
 - a. Review background materials.
 - b. Decide what you want to learn from the interviewee.

- c. Outline your information goals; however, do not script the interview as it inhibits the flow of information.
 - d. Allow adequate time for the interview.
- D. Tools for the interviewer
- 1. Questions are the principal tool of the interviewer.
 - a. Formulating the proper question is critical.
 - b. You must be able to adjust your questions to fit your interviewee.
 - 2. Questions have two meanings
 - a. That which is asked
 - b. The way it is asked
 - 3. Types of questions
 - a. Open-ended questions
 - (1) Encourages a free narrative
 - (2) Requires more than a “yes” or “no” response.
 - (3) Used most frequently in interviewing.
 - b. Closed-ended questions
 - (1) Generally requires “yes” or “no” answers.
 - (2) Will inhibit a free narrative.
 - c. Leading questions
 - (1) Leads interviewee towards an answer
 - d. Discerning questions
 - (1) Used to get the subject to admit some knowledge of subject matter.

4. Question composition

a. Questions are composed in such a way as to answer:

- (1) Who?
- (2) What?
- (3) Where?
- (4) When?
- (5) Which?
- (6) Why?
- (7) How?

5. Question sequencing

- a. Progress from general to specific.
- b. Focus on one issue at a time.
- c. Apply the “KISS” principle (“Keep it Short and Simple”)

E. The Five Steps of Interviewing

1. Rapport building

- a. Perhaps the most critical step in interviewing.
- b. First impressions are lasting impressions. The first minute of contact is critical as it “makes or breaks you.”
- c. Find something of common interest to discuss or comment on with the interviewee.
- d. Build trust. (Professional salespersons are masters at this.)

2. Free narrative

- a. Ask open-ended questions.

- b. Give subjects opportunities to discuss what they are willing to share with you.
 - c. Keep the interviewee on track.
 - d. Practice active listening skills.
 - (1) Remain attentive.
 - (2) Provide positive reinforcement with a nod of the head and appropriate verbal reinforcements.
3. Initial inquiry
- a. Used to “fill in the blanks.”
 - b.. Used to obtain new information
 - c. Makes sure all your points are covered.
4. Clarification
- a. Exploratory questioning to test the accuracy of previously supplied information.
 - b. Determining the completeness of information.
 - c. Making sure all your points are covered.
5. Closing
- a. Restating understanding of what was said.
 - b. Asking if there is anything else the interviewee thinks you need to know about the applicant.
 - c. Getting a commitment from the interviewee that all of the information given is accurate and complete.
 - d. Obtaining commitments from the interviewees to call you if they later recall something of importance.
 - e. Leaving an opening for a later contact, if necessary.

- f. Ending the interview on a positive note.
- g. Thanking the interviewee for their time.
- h. Not committing to whether the applicant is going to be hired or disqualified, based on what information the interviewee has disclosed.

F. Other considerations for the Interviewer

- 1. Professional appearance
 - a. Business attire
 - b. Clean, shined shoes
 - c. Personal hygiene (hair, breath, body odor, etc.)
- 2. Demeanor
 - a. Practice active listening skills.
 - b. Maintain positive eye contact.
 - c. Be attentive.
 - d. Be courteous.
 - e. Be direct, but tactful.
- 3. Recording and memorialization
 - a. Note taking
 - (1) Do not let it distract the interviewee.
 - (2) Consider using interview worksheets.
 - b. Use of recording instruments
 - (1) Privacy laws may apply when interviewing references and others.
 - (a) No surreptitious recording

- (b) Obtain permission to record and have it on tape.
- (c) If permission to record is denied, do not press the issue. Take copious notes.

NOTE: Applicant interviews can legally be recorded because they are not considered to be confidential communications. When feasible, an applicant's interview should be videotaped for later review, for detection of deception, or for use by the mental health examiner, if desired.

(2) Background interviews are not criminal interviews.

- 4. Professional impressions
 - a. Background investigators represent their agencies and should govern themselves accordingly.

G. Potential indicators of deception include, but are not limited to:

- 1. Body language
 - a. Movement with hands
 - b. Uneasiness and shifting
 - c. Avoiding eye contact
 - d. Closed posture
- 2. Word choice
 - a. Avoiding answering questions directly
 - b. Declining to make a commitment

H. When deception is suspected

- 1. Consider confronting the interviewee
 - a. Use tact
 - b. Avoid antagonizing the interviewee.

2. Stress the need for truth.
3. Be polite but firm.

I. Applicant Discrepancy Interviews

1. Ensure that preparations for the discrepancy interview are completed.
2. All discrepancy interviews should be recorded.
3. The applicant should provide a written explanation of each discrepancy.
 - a. This prevents misinterpretation or misrepresentation of what was said.
 - b. Also gives the applicant the opportunity to provide a complete explanation.
4. Interviewers should not make a commitment as to the outcome of the background investigation process.

IX. PRE-EMPLOYMENT PSYCHOLOGICAL EVALUATIONS

A. Legal requirements

1. EEOC Notices #915.002 (dated 5/94 and 10/95) specify that under the Americans with Disabilities Act:
 - a. Psychological suitability examinations are medical inquiries.
 - b. Psychological suitability examination must be conducted post-conditional job offer.
2. Peace officer applicants
 - a. Statutory requirement for psychological screening of peace officers (Government Code Section 1031(f)).
 - (1) Each class of public officers or employees declared to be peace officers shall meet the following minimum standards... *"Be found to be free from any physical, emotional, or mental conditions which might adversely affect the exercise of the powers of a peace officer."*
 - (2) Emotional and mental condition must be evaluated by a licensed physician and surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.
 - b. Regulatory requirement for psychological screening of peace officers (POST Regulation 1002(a)(7)).
 - (1) Prescribes that a psychological evaluation on peace officer applicants must be conducted pursuant to Government Code Section 1031(f).
 - (2) References Commission Procedure C-2 regarding physical and psychological suitability examinations.
 - (a) Encourages discretionary use of the *POST Psychological Screening Manual*.
 - (b) Mandates that the psychological evaluation must occur within one year before hire.

- (c) Mandates that the suitability evaluation must be based on psychological test score information which has been interpreted by a qualified professional.
- (d) Mandates that at least two psychological test instruments be used.
- (e) Mandates that one of the tests must be "normed" to identify patterns of abnormal behavior.
- (f) Mandates that one of the tests be oriented toward assessing relevant dimensions of normal behavior.
- (g) Mandates that all final recommendations to disqualify candidates on the basis of psychological unsuitability be based, in part, on a clinical interview conducted by a qualified professional.
- (h) Mandates that a clinical interview be conducted when objective test data is inconclusive.

NOTE: Psychological evaluations are not required for Level 3 Reserve Peace Officers (limited service reserves)

c. Updated psychological suitability examinations

- (1) POST Procedure C-2-9 specifies that when more than one year has passed since the initial examination (either physical or psychological) updates, as opposed to complete new examinations are permissible. Update exams may be conducted on persons who:
 - (a) upgrade within the same agency to reserve peace officer or regularly employed peace officer status;
 - (b) were examined initially in accordance with the provisions of the POST procedure, and the results of such examination are available for review; or
 - (c) have worked continuously for the same agency since the time of initial appointment.

- (2) Each update examination must be conducted by a qualified professional, as defined by Government Code Section 1031(f), and shall include, at a minimum:
 - (a) a review of the previous examination findings;
 - (b) a review and evaluation of the individual's work history and job-relevant life history while with the agency for indicators of potential changes in physical or psychological status and the conduct of more extensive examination and assessment when warranted by the findings of such review; and
 - (c) verification in writing by the qualified professional as to the individual's physical or psychological suitability for appointment as a peace officer.

NOTE: Background investigators should be aware of the fact that many psychologists feel uncomfortable doing a "minimal" assessment. An examiner may insist that a full examination is necessary for them to be able to make a judgment as to the candidate's psychological suitability as required by Government Code Section 1031(f).

3. Public Safety Dispatcher candidates
 - a. No legal requirements at this time
 - b. Agency policy dictates
- B. Considerations for selecting a mental health examiner
 1. Must meet the criteria of Government Code Section 1031(f).
 2. Over and above these minimal qualifications, such a person should have:
 - a. A knowledge of the research literature related to the psychological screening of law enforcement officers;
 - b. A working knowledge of the Uniform Guidelines on Employee Selection Procedures (1978) and the associated fair employment issues;

- c. A thorough, first-hand knowledge of the peace officer's job as performed in the agency;
 - d. An understanding of the 15 *job dimensions* and other job-related criteria the agency is interested in measuring and how it relates to psychological assessment procedures.
 - 3. Examiners should be able to relate effectively to individuals throughout the agency who are involved in the screening process
 - 4. It is worthwhile for the agency to provide training opportunities for the screening examiners including such activities as attending specialized conferences, consulting with experts in law enforcement screening, and participating in relevant agency training activities.
- C. Working relationship of the mental health examiner to the background investigator and/or polygraph examiner
 - 1. Determined by agency policy
 - 2. Information exchange
 - a. Confidentiality
 - (1) No third party dissemination

X. DEVICES FOR THE DETECTION OF DECEPTION

A. There are two main devices used for the detection of deception:

1. Polygraph - a device which measures and records several areas of the autonomic nervous system including breathing, blood pressure, and galvanic skin response
2. CVSA (Computerized Voice Stress Analysis) - a device which measures voice frequency

B. Legal considerations

1. Government agencies are exempt from the Federal Employee Polygraph Protection Act of 1988 (29 USC. 2001 et. seq.) which prohibits most private employers from requiring a polygraph examination as a condition of employment.
2. Government agencies are exempt from California Labor Code 432.2 which prohibits most private employers from requiring a polygraph examination as a condition of employment.

NOTE: The use of a polygraph or other detection of deception device in the selection process is not mandated but is a matter of individual agency policy. A California Department of Justice survey conducted in 1991, however, revealed that 59% of California police and sheriff departments use polygraph as part of the pre-employment selection process.

C. Benefits of detection of deception examinations

1. Detection of deception examinations aid in establishing and confirming background information (e.g., the content of the Personal History Statement)
2. The examinations also aid in uncovering disqualifying information not available from other sources (e.g., self-admissions)
3. Examinations encourage candid responses to lawful inquiries

NOTE: The existence of a detection of deception examination requirement within the hiring process may be a deterrent to those applicants who know they are not qualified for the position or who intend to withhold information which they feel may adversely impact their suitability for the position.

- D. Limitations of detection of deception examinations
 - 1. Cannot predict future behavior
 - 2. Cannot ask about intentions
 - 3. Pre-employment exams are general in nature and cannot deal with specific events (e.g., Were you responsible for the death of John Doe?)
 - 4. Examinations are based on applicant's knowledge and perceptions (e.g., they didn't realize they were "arrested," were not aware of a collection account on their credit report, etc.)

- E. Placement within the selection process
 - 1. Pre-job offer
 - a. Certain areas of inquiry are prohibited (worker's compensation, frequency of use of illegal drugs)
 - b. Examiners are prohibited from asking applicant about medication taken that might affect the outcome of the test
 - c. Cost savings - The examination may be used to eliminate an unsuitable applicant prior to more expensive screening procedures (e.g., background, psychological, medical)
 - 2. Post-job offer
 - a. All job-related inquiries are permissible (medical, injury, workers compensation, and full extent of illegal drug use)
 - b. The examiner may inquire as to whether or not the applicant is under the influence of any drug or medication which might affect the outcome of the examination
 - c. Run the risk of disqualifying information being discovered late in the hiring process
 - 3. Bifurcated exams
 - a. First examination is conducted pre-conditional job offer
 - b. A second examination is conducted post-conditional job offer

NOTE: Although a bifurcated examination process utilizes the advantages of both pre and post job offer tests, it creates an extra step and extra expense in the hiring process.

F. Reports

1. Summary of all relevant information reported during the examination.
2. Indicates one of the following conclusions
 - a. Deception was detected
 - b. No deception was detected
 - c. Reactions were “inconclusive”
 - (1) Health/medical (e.g., taking medication or other health conditions)
 - (2) Countermeasures (e.g., pharmaceuticals, movement, etc.)

NOTE: The “inconclusives” listed above relate specifically to polygraph examinations. There are no known countermeasures.

3. May include examiner’s observations and comments
4. Must be directed to the hiring authority or designee. The background investigator should be privy to the contents of the report.
4. Must be kept confidential
5. All material used in the evaluation process (including forms, analog and/or computer charts, audiotapes, videotapes, etc.) must be maintained by the examiner for two years.

NOTE: Government Code Section 12946 requires that employers retain all “records of application” for a minimum of two years. Additionally, the Business and Professions Code imposes a similar requirement on the examiner.

G. Other issues associated with detection of deception

1. Employers are responsible for all acts of their agents upon whose work the employer relies (employees and contractors) and must ensure that examiners ask only lawful and appropriate job-related questions.

2. In many instances the background investigator will have little or no input as to the selection of examiners, placement of the examination in the selection process, or the specific questions asked.
 3. Audio and/or audio-visual recordings of applicant interviews has specific benefit.
- H. Working relationships among the examiner, background investigator, and psychologist/medical examiner
1. Working relationships among background investigators and support personnel should be one of information exchange to resolve discrepancies.
 2. Background investigators and support personnel should have knowledge of how their particular examiner operates
 3. Background investigators, at their agency's discretion, may wish to monitor detection of deception examinations
 4. Information must be kept confidential

XI. DOCUMENTATION OF BACKGROUND INVESTIGATIONS

A. File organization

1. Students should be instructed to follow individual agency policies regarding the background investigation process and individual file organization as local practices may exceed POST minimum requirements.
2. POST recommends organizing background files in one of the following ways:
 - a. Comprehensive narrative (see *POST Peace Officer Background Investigation Manual*, Appendix 8) with pertinent supporting materials attached; or
 - b. A "Two-Package System" containing:
 - (1) Package A:
 - (a) Summary narrative
 - (b) Public documents
 - (c) Applicant-supplied documents
 - (2) Package B:
 - (a) Confidential narrative (e.g., interviews of references)
 - (b) Letters of reference

NOTE: POST provides tabbed background investigation file sets to law enforcement agencies at no cost. The file sets contain helpful checklists and content recommendations which help to ensure that all required parts of the background investigation have been completed. Use of this system is not mandated.

B. POST-required supporting documents

1. POST Personal History Statement or equivalent
2. Department of Motor Vehicles (DMV) driving record

3. Record review of law enforcement agencies where the applicant has lived or worked (past 10 years minimum)
4. Credit check
5. Documentation of educational attainment (accredited U.S. High School diploma or equivalent)
6. Birth certificate (verification of place and date)
7. Military record review (e.g., DD-214 or Selective Service verification)
8. Dissolution of marriage(s) - verification
9. Evidence of required contacts
 - (a) Previous employers
 - (b) References (Applicant-supplied, primary references and investigator-developed secondary references)
 - (c) Neighbors (past and present)
 - (d) Educational institutions
- C. Fingerprint submissions and returns
 1. Bureau of Identification (BID) - state
 2. Federal Bureau of Investigation (FBI) - federal
- D. Evidence of qualifying medical examination (peace officers and public safety dispatchers)
- E. Evidence of qualifying psychological clearance (peace officer candidates)
- F. Retention of background investigation records
 1. POST Commission Procedure C-1 requires that background files *"shall be retained by the jurisdiction as a source of authenticated information on personnel for present and successive administrators."* In other words, POST requires that an agency

retain background investigation files for as long as the individual remains in the agency's employ.

2. POST requirements do not address the retention of files for persons who are not hired. Retention of these records should be governed by local agency policies in compliance with state (Government Code Sections 12946, 26202, and 34090) and federal law
3. Investigators should become conversant with their individual agency policies concerning the retention of background investigation files.

G. POST compliance inspection requirements

1. POST is required by statute (Penal Code Section 13512) to maintain an inspection mechanism to verify agency compliance with appointment and training standards.
 - a. Compliance inspections are generally conducted annually.
 - b. At a minimum, POST will examine a representative sample of background files for employees hired since the last inspection.
 - c. The purpose of the inspection is to verify that the hiring agency is in compliance with respect to documentation requirements and appointment standards.
2. Submission of a POST Notice of Appointment (Form 2-114) is required within 30 days of appointment.
 - a. State law imposes a requirement for certain categories of peace officers to obtain a POST Basic Certificate within specified time frames to maintain peace officer authority (Penal Code Section 832.4)

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CONTENT GUIDELINES FOR THE BACKGROUND INVESTIGATION UPDATE COURSE

January 1, 1996

I. INSTRUCTIONAL GOALS

The goals of instruction in the **Background Investigation Update Course** are to provide students with:

- A. knowledge of changes to federal and state fair employment laws which impact the pre-employment evaluation, eligibility, and appointment of criminal justice and public safety personnel;
- B. knowledge of changes to POST regulations and procedures regarding appointment eligibility and pre-employment screening of peace officer and public safety dispatcher applicants;
- C. knowledge of interpreted regulations and enforcement guidelines regarding the Americans with Disabilities Act (ADA);
- D. an understanding of legal requirements, liabilities and immunities associated with sources of information, including mandatory disclosure provisions;
- E. an understanding of alternative methods for the preparation, evaluation, packaging, retention, and release of pre-employment background investigation reports and materials;
- F. an understanding of current issues and problems impacting pre-employment eligibility, evaluation, background investigation, and appointment of criminal justice and public safety personnel.

II. RECOMMENDED TOPICS

- A. Review of recent changes and case law interpretations of pre-employment laws, to include:
 - 1. Federal statutes and fair employment regulations
 - 2. State statutes and fair employment regulations

3. Americans with Disabilities Act (ADA)
 4. Criminal and civil liability considerations
 5. Pre-employment inquiry areas
 6. Acquisition of information (Government Code Section 1031.1 et. seq.)
 7. Confidentiality of information
 8. Legal requirements for information releases
 9. Access to peace officer personnel records
 10. Valid disqualifiers
- B. A review of any changes to methods for the identification, acquisition, and verification of pre-employment background information from various sources, such as:
1. The POST Personal History Statement (PHS)
 2. Medical history information
 3. Other sources of information (e.g., military records, DMV information, other government records, etc.)
- C. Review of changes to POST regulations, procedures, and guidelines related to the pre-employment screening of peace officer and public safety dispatcher applicants
- D. Review of alternatives for organizing the background investigation (e.g., file management, packaging alternatives, narrative composition)
- E. Detection of fraudulent documents
- F. Review of contemporary issues impacting pre-employment eligibility, evaluation, background investigation, and appointment of criminal justice and public safety personnel

III. RECOMMENDED STUDENT LEARNING ACTIVITIES

- A. Students shall participate in a facilitated discussion concerning common problems encountered during the conduct of a pre-employment background investigation of criminal justice and public safety personnel. Suggested issues include:
1. Inadvertent discovery of medical information
 2. Difficulties in the acquisition of information from selected information sources
 3. Prior illegal drug use
 4. Use of criminal records related to expungements and diversions

- B. Given one or more examples of pre-employment documents (e.g., transcripts, diplomas, licenses, certificates, etc.), students will individually or collectively evaluate the documents and participate in a facilitated discussion regarding their adequacy.

IV. RECOMMENDED MINIMUM INSTRUCTIONAL TIME: 16 hours

V. ORIGINATION DATE: January 1, 1996

VI. REVISION DATES: March 1, 1999

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BACKGROUND INVESTIGATION UPDATE COURSE CURRICULA

NOTE: This curricula has been specifically designed for training background investigators who have previously attended a core course or its equivalent. Instructional delivery assumes that the student has an operational understanding of basic fair employment laws, background investigation methodologies, POST regulations and procedures concerning the selection, evaluation and appointment of peace officers, public safety dispatchers, and allied criminal justice/public safety personnel.

I. REVIEW OF CHANGES TO FAIR EMPLOYMENT LAWS

- A. Impact of the Americans with Disabilities Act on the pre-employment screening process.
 - 1. Conditional Offers of Employment
 - a. EEOC guidance
 - b. POST guidance
 - 2. Essential Functions
 - a. Pre-offer inquiries
 - (1) Direct questioning
 - (2) Inadvertent disclosure
 - b. Post-offer inquiries
 - 3. Review of recent cases
 - a. ADA Issues
 - b. Hiring Issues
 - c. Retention Issues
- B. Other pertinent law changes

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II. DESIGNING A PROPER WAIVER

A. General principles

B. Legal issues associated with waivers

1. California Government Code Section 1031
2. California Administrative Code Section 1018(c)
3. F.A.R. 107

C. Privileges against disclosure

1. Court and negotiated agreement
2. California Evidence Code Sections 1043 and 1045
3. Memoranda of Understanding
4. Adhesion Contracts
5. California Labor Code Section 432

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III. DOCUMENT ASSESSMENT

- A. Knowing what to look for
- B. Evaluation of specific types of documents
 - 1. Birth certificates
 - 2. Certificates of naturalization
 - 3. Marriage certificates
 - 4. Marriage dissolution orders
 - 5. Transcripts
 - 6. Military separation papers
 - 7. Employment documents
 - 8. Others

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IV. CONSTRUCTING THE BACKGROUND INVESTIGATION NARRATIVE

- A. One-write versus two-write systems
 - 1. Protection of privileged information
 - 2. California Government Code Section 6254.5
 - 3. Two-write systems
 - a. Sanitized narratives
 - b. Executive summaries
- B. Job Dimension Identification

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V. PROBLEM-SOLVING ROUNDTABLE

A. Creative solutions

B. Legislative needs

C. Evaluation and assessment of sample background investigation(s)

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CONTENT GUIDELINES FOR THE ADMINISTRATION OF THE BACKGROUND INVESTIGATION COURSE

January 1, 2001

I. INSTRUCTIONAL GOALS

The goals of instruction in the **Administration of the Background Investigation Process Course** are to provide students with:

- A. knowledge of administrative roles and responsibilities in the pre-employment background investigation process;
- B. knowledge of the roles and responsibilities of background investigators in the pre-employment background investigation process;
- C. an understanding of the value of establishing criteria for the selection of background investigators and other pre-employment examiners;
- D. an understanding of the requirements and application of federal and state fair employment laws which relate to pre-employment evaluation, eligibility, and appointment of criminal justice and public safety personnel;
- E. an understanding of POST regulations, procedures and guidelines regarding appointment eligibility and pre-employment screening of peace officer and public safety dispatcher applicants;
- F. an understanding of the liabilities particular to improper hiring practices and negligent appointment;
- G. an understanding of current and emerging issues as they relate to pre-employment eligibility, evaluation, background investigation, and appointment of criminal justice and public safety personnel.

II. RECOMMENDED TOPICS

- A. Reasons for conducting pre-employment background investigations
- B. The roles and responsibilities of the background investigator

- C. *Peace Officer Job Dimensions* and its relationship to the background investigation process
- D. *Public Safety Dispatcher Job Traits* and its relationship to the background investigation process
- E. Factors which determine an *Essential Job Function*
- F. Common roles and responsibilities of command personnel in the pre-employment background investigation process, to include:
 - 1. Selection and management/supervision of background investigators and other pre-employment examiners
 - 2. Setting and maintaining the organizational tone and values
 - 3. Ensuring continuity and quality control of background investigations
 - 4. Budgeting for and managing investigative resources
 - 5. Extension/withdrawal of conditional offers of employment
 - 6. Implementation and enforcement of agency personnel selection policies
 - 7. Making the employment decision
 - 8. Managing the release of information to/debriefing of applicants
 - 9. Managing an appeal process
- G. General legal issues and concepts related to pre-employment screening, to include:
 - 1. Job-relatedness (e.g., what constitutes a valid disqualifier, determining what constitutes a lawful inquiry area, choosing among qualified candidates, etc.)
 - 2. The impact of the Americans with Disabilities Act on pre-employment inquiries
 - 3. Criminal and civil liability considerations
 - 4. Applicant right to privacy (e.g., protection of medical records, psychological reports, etc.)
 - 5. Issues associated with pre-employment drug testing
 - 6. Release of background investigation information to applicants, employees, and allied agencies
 - 7. Fair Credit Reporting Act (F.C.R.A.)
 - 8. Federal and State Domestic Violence Law (re: firearms eligibility issues)
- H. Overview of POST regulations and procedures regarding peace officer and public safety dispatcher selection, to include:
 - 1. Minimum appointment standards
 - 2. Mandated areas of inquiry

3. Background file management, compliance requirements, and records retention

I. Overview of pre-employment screening resources, to include:

1. Devices for the detection of deception
2. Psychological suitability evaluation
3. Medical screening issues
4. Considerations for selecting examiners
5. Internal resources versus private vendors

J. Review of current and emerging issues as they relate to pre-employment eligibility, evaluation, background investigation, and appointment of criminal justice and public safety personnel.

III. RECOMMENDED MINIMUM INSTRUCTIONAL TIME: 8 hours

IV. ORIGINATION DATE: January 1, 1996

V. REVISION/REVIEW DATES: March 1, 1999
January 1, 2001

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ADMINISTRATION OF THE BACKGROUND INVESTIGATION PROCESS COURSE CURRICULA

NOTE: This curricula has been specifically designed for training law enforcement supervisors, managers, executives, and other senior staff members who will be responsible for making decisions regarding the selection and appointment of peace officers, public safety dispatchers, and other allied criminal justice/public safety personnel. Instructional approach assumes that the student has minimal familiarity with fair employment law and POST regulations concerning pre-employment background standards. The course has been configured as a process overview. Students who need comprehensive instruction on fair employment law, POST regulations, and investigative techniques should attend the Background Investigation Core Course. This course also has value for human resource support personnel in understanding the unique requirements associated with public safety personnel appointments.

I. REASONS FOR CONDUCTING PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS

A. Adherence to legal requirements

1. The California Government Code identifies a number of specific requirements regarding the eligibility and screening of peace officers (e.g., cannot have been convicted of a felony, must be determined to be physically and psychologically suitable, etc.).
2. The California Commission on Peace Officer Standards and Training (POST) also has statutory responsibility for setting minimum employment standards for peace officers and public safety dispatchers. A number of specific requirements are articulated in its regulations (e.g., educational requirements, age minimums, etc.).

B. Agency-specific considerations

1. All agency-specific policies should be developed and reviewed with the department's legal advisor.
2. The content of this course focuses on issues impacting law enforcement agencies under prevailing law and POST regulations.
3. It is the agency's responsibility to communicate agency personnel policies to staff. This will include:

- a. What the agency has identified as "Essential Job Functions"
- b. The agency's policy regarding any deception by applicant (e.g., the "You Lie - You're Out" policy)
- c. Other agency-determined disqualifiers (e.g., applicant's prior involvement in criminal activity, the applicant's history of prior illegal drug use, residency requirements, etc.)
- d. Agency requirements above the POST minimum standards or other statutory minimums (e.g., higher education standard, minimum age, etc.)
- e. Use of discretionary screening processes (e.g., polygraph, drug testing, etc.)

NOTE: Certain policies (e.g., an ADA appeals policy and a non-discrimination policy) are required by law. It is also advisable, however, for individual agencies to promulgate legally sufficient written policies which address other aspects of the pre-employment screening process (e.g., Drug Free Workplace Act considerations, etc.)

4. Responsible staff must become conversant with the opinions, interpretations, and recommendations of their agency legal advisor(s).

NOTE: Instructors should emphasize to students the importance of adhering to agency personnel policies.

C. Mitigation of Liability (negligent hiring)

1. Hiring decisions are among the most important decisions made by an agency.
2. Responsible staff manages risks associated with the pre-employment screening process. Incomplete, or improperly conducted pre-employment screening processes can result in:
 - a. Potential for criminal or civil liability
 - b. Negative impact on the employing agency
 - c. Negative impact upon the community

II. PRE-EMPLOYMENT SCREENING OF PEACE OFFICERS AND PUBLIC SAFETY DISPATCHERS

- A. The background investigation must verify the applicant's appointment eligibility.
1. POST Regulation 1002 addresses minimum requirements for the selection of peace officers (e.g., completion of a fingerprint check, satisfaction of citizenship requirement, etc.).
 2. POST Regulation 1007 contains parallel requirements for reserve officers.
 3. POST Regulation 1018 addresses minimum requirements for the selection of public safety dispatchers.

NOTE: These requirements are discussed in greater detail in the Background Investigation Core Course. The instructor should, however, emphasize that there are significant differences in the legal mandates between peace officer and public safety dispatcher selection standards.

- B. The background investigation must appropriately document the results of the investigation.
1. Schemes for background file organization will vary among agencies but must satisfy minimum content standards as required by POST. These include:
 - a. Investigative results reduced to writing (e.g., factual summary narrative)
 - b. Inclusion of all required documents (e.g, Personal History Statement, verification of psychological screening, fingerprint return, etc.)
- C. The background investigation records must be retained as required by federal, state, and local regulations, and/or policies.
1. POST Commission Procedure C-1 requires that background files *"shall be retained by the jurisdiction as a source of authenticated information on personnel for present and successive administrators."*
 2. In other words, POST requires retention of background investigation files for as long as the individual remains in an agency's employ.

- D. POST is required by statute to maintain an inspection mechanism to verify agency compliance with appointment and training standards.
1. Compliance inspections are generally conducted annually.
 2. At a minimum, POST will examine a representative sample of background files for employees hired since the last inspection.
 3. The purpose of the inspection is to verify that the hiring agency has met minimum POST standards.

NOTE: Students should also be reminded that a POST Notice of Appointment (Form 2-114) is required within 30 days of appointment.

III. PEACE OFFICER JOB DIMENSIONS AND PUBLIC SAFETY DISPATCHER JOB TRAITS

A. Peace Officer Job Dimensions

1. Job dimensions describe attributes and abilities which are directly related to the effective performance of peace officer duties. POST has identified 15 distinct dimensions. Examples include: credibility as a witness in a court of law, integrity, dependability, interpersonal sensitivity and operation of a motor vehicle.

NOTE: The Peace Officer Job Dimensions are described in detail in the Background Investigation Core Course Curricula.

2. The job dimensions have been validated by comprehensive job-task analysis research conducted by the California Commission on Peace Officer Standards and Training (POST).
3. The dimensions are particularly useful to the background investigator for identifying applicant behaviors which would be inconsistent with or disqualifying for a peace officer position. The background investigation should focus on the job dimensions and must avoid inquiries into areas which are not job relevant.

NOTE: Students should be reminded that these job dimensions were introduced prior to the implementation of the Americans with Disabilities Act. As a result, instructors should discuss the impact of this law as it relates to certain dimensions.

B. Public Safety Dispatcher Job Traits

1. The 15 Public Safety Dispatcher Job Traits were identified by POST during its task analysis research for the job of Public Safety Dispatcher
2. Although instructive in providing general indicators of job-related skills, they are not validated job requirements. Individual traits may be helpful, however, in assessing an applicant's overall suitability for appointment.
3. The traits describe desirable personal qualities and abilities. Examples include: tolerance of stress, emotional control, and tolerance of unpleasant work environment.

NOTE: The Public Safety Dispatcher Job Traits are described in detail in the Background Investigation Core Course Curricula.

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IV. ADMINISTRATIVE ROLES AND RESPONSIBILITIES IN THE PRE-EMPLOYMENT SCREENING PROCESS

A. Agency administrators and their administrative staff have responsibility for articulating organizational values, principles, and the agency mission to:

1. Background investigators
2. Pre-employment examiners
3. Contract background investigators
4. Other support staff

B. The administrative staff is ultimately responsible for selection and training of background investigators and other pre-employment examiners.

1. Qualifications and experience

- a. There are specific laws and regulations which prescribe minimum qualifications for certain pre-employment examiners (e.g., minimum standards for medical and mental health care examiners pursuant to Government Code Section 1031(f)).

NOTE: These requirements are described in detail in the Background Investigation Core Course Curricula.

- b. There are no specific legal standards or guidelines for selecting internal pre-employment background investigators. Outside contractual vendors, however, must be licensed as private investigators pursuant to the requirements of the California Department of Consumer Affairs (Business and Professions Code Section 7520).

2. Training of background investigators

- a. Completion of a Background Investigation Core Course is highly desirable but is not legally mandated.
- b. The temptation to temporarily staff the background investigation function with untrained or inexperienced persons should be resisted. Similarly, it should be recognized that personnel investigations are significantly different than other investigations.

3. Relevant personal characteristics
 - a. All persons involved in the pre-employment screening process should be selected based on their ability to represent the agency in a positive, professional, and ethical manner.
 - b. Personnel should also be selected based upon a genuine willingness to embrace the responsibilities of the assignment.
- C. The administrative staff is responsible for managing the pre-employment screening process
 1. Administrative personnel responsible for the pre-employment screening process should have thorough knowledge of:
 - a. Agency personnel policies and practices
 - b. Applicable fair employment laws and statutes
 - c. What steps comprise the agency's pre-employment screening process and their sequence
 - d. Appeal rights and processes for candidates who are non-selected
 - e. POST compliance requirements
 2. Administrative personnel responsible for the pre-employment screening process should also have an understanding of:
 - a. Essential job functions
 - b. Concept of "reasonable accommodation"
 - (1) *Reasonable Accommodation* refers to anything which is reasonably necessary to accommodate an applicant's (or employee's) ability to perform an essential job function. (Reference Government Code Section 19231)
 - (2) What constitutes reasonable accommodation is highly situational and constantly evolving.
 - (3) The ADA requires employers to make reasonable accommodation to the "known physical or mental

limitations of an otherwise qualified individual with a disability" (42 USC 12112(b)(5)(A)).

- c. Drug testing considerations
 - (1) The ADA permits drug testing at any point in the pre-employment selection process.
 - (2) Drug testing is not a medical inquiry under the ADA as long as the testing is non-invasive and screens only for illegal drugs.

- 3. Other responsibilities of administrative staff responsible for the pre-employment background investigation process generally include:
 - a. Ensuring continuity, consistency, and overall quality control of background investigations
 - b. Budgeting for and managing investigative resources
 - c. Enforcing agency personnel selection policies
 - d. Monitoring appropriately to verify ongoing compliance with legal requirements and professional practices by polygraph examiners, mental health examiners, etc.
 - e. Evaluating/tracking successful and unsuccessful employees may reveal strengths and deficiencies in the overall pre-employment selection and training process (e.g., probationary releases, disciplinary histories, terminations, or resignations)

D. Responsibility for employment decisions.

- 1. Administrative personnel accountable for managing the pre-employment screening process will ultimately have the responsibility of determining if an applicant is "otherwise qualified" for the job.
 - a. "Otherwise qualified" means that a non-medical determination has been made that an applicant appears to meet the bona fide occupational qualifications for a job.
 - b. This will generally be followed by a conditional offer of employment, assuming that a vacancy exists or is reasonably anticipated to exist.

c. If the applicant has been determined to be otherwise not qualified at this stage of the process:

(1) Applicants may be entitled to a specific reason (e.g., job dimension) for their non-selection.

NOTE: Legal opinions differ regarding whether or not an applicant must be given a **specific reason** for non-selection at this point in the process. Students should be instructed to check with their legal counsel regarding this issue.

(2) The local agency appeals process governs the specific responses.

2. Administrative personnel accountable for managing the pre-employment screening process will also usually have the responsibility for extending a conditional job offer.

a. A "conditional job offer" or "conditional offer of employment" may be extended after all non-medical information, which was legal and practical have been obtained, has been evaluated.

b. A bona fide conditional offer of employment must contain the terms of the contract to be made (e.g., what additional examinations the applicant must successfully complete).

c. Following extension of a conditional job offer, medical inquiries (medical examination and psychological suitability assessments) can be made to further determine the applicant's overall suitability for employment.

3. Administrative personnel accountable for managing the pre-employment screening process may also have the responsibility for withdrawing a conditional job offer.

a. A conditional job offer can be withdrawn if an applicant fails to meet the conditions of the job offer.

b. If the reason for non-selection was medically related, the ADA requires that the applicant be informed of that fact and the reason must be job related and consistent with business necessity (42 USC 12112(b)(6)).

- c. Under the ADA, an applicant has the right to appeal a rejection which was based upon a determination of medical or psychological unsuitability (42 USC 12102(a)(3)).
4. Administrative personnel accountable for managing the pre-employment screening process may also have the responsibility of conducting an "appointing authority" pre-hire interview with applicants.
- a. POST regulations require an applicant interview prior to the appointment of peace officer applicants.
 - b. A pre-hire interview is not **required** for non-peace officer positions but is a common practice.
 - c. The exact placement of the appointing authority pre-hire interview in the selection process may vary among agencies (e.g., pre-versus post-conditional job offer).

5. Final File Review

- a. Prior to the final hiring decision, administrative personnel accountable for managing the pre-employment screening process should review (or cause to be reviewed) both pre-and post-offer background information for:
 - (1) Completeness
 - (2) Consistency
 - (3) Compliance with agency standards, POST regulations, and all applicable fair employment laws
- b. Before a final recommendation for hire, the pre-employment file must be checked for compliance with mandated areas of inquiry and required supporting documents.

NOTE: What comprises "mandated areas of inquiry" varies depending upon job classification. Specific detail on the mandated areas of inquiry is contained in the Background Investigation Core Course curricula.

- c. Appropriate notices of appointment must be generated (e.g., loyalty oaths, POST Notice of Appointment, etc.)

E. Responsibility for the control of pre-employment information

1. Pre-employment background investigation information is highly confidential, sometimes legally privileged, and must be tightly controlled.
 - a. Medical information, including the results of any pre-employment medical or psychological assessment, obtained in the course of a post-offer medical examination or inquiry, **cannot be released except as provided by law** (42 USC 12112 (d) (3) (B),(4)(C)). Medical information can only be released to:
 - (1) Supervisors and managers, regarding necessary restrictions on work or duty and necessary accommodations
 - (2) First aid and safety personnel, if the disability might require emergency treatment
 - (3) Government officials investigating compliance with the ADA
 - (4) Worker's Compensation carriers
 - (5) Insurers

NOTE: It is important to note that the employer "may not request, persuade, coerce, or otherwise pressure the individual to disclose such information." (EEOC Enforcement Notice 915.002,VI, D)

- b. Pre-employment background information must not be released to any third party, including any other prospective law enforcement employer, without presentation of a valid waiver.
- c. Pre-employment background information obtained by confidential waiver is privileged communication (California Civil Code 47) and should be protected.
 - (1) Local agency policy dictates the conditions under which such information should be shared with others.
- d. To minimize the potential of a liberty interest ("blackballing") claim, a non-disclosure agreement should be considered.

- (1) This is an agreement, in writing, between the agency releasing the information and the person to whom the information is being released, pursuant to a valid waiver.
- (2) A non-disclosure agreement requires the recipient of the information to:
 - (a) Not disclose the information to a third party, and
 - (b) Independently verify the information

NOTE: Additional information concerning confidentiality of pre-employment information is contained within the Background Investigation Core Course curricula.

2. Completed background investigations should be maintained in a separate and highly controlled area.
3. Various federal, state, and local laws regulate the retention periods for pre-employment background investigation information and the general destruction of records.
4. Additional considerations for lateral applicants
 - a. It may be advisable for lateral applicants (e.g., incumbent peace officers or public safety dispatchers) to be asked to sign a waiver which specifically indicates that their present employers will be notified if the background investigation reveals that they are involved in illegal activity or otherwise discloses non-medical information which directly reflects upon their suitability to continue their employment.
 - b. It is the responsibility of the applicant's current employer to independently follow-up on any adverse information lawfully released to them about the employee if they elect to pursue the situation.

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V. PRE-EMPLOYMENT EXAMINERS AND SUPPORT SERVICES

- A. Most agencies enter into contractual relationships with one or more private vendors to assist them in pre-employment screening. Some agencies utilize internal resources for these functions. These functions may include:
 - 1. Detection of deception examinations (e.g., polygraph, forensic statement analysis, voice stress)
 - 2. Medical examiners
 - 3. Mental health care examiners
 - 4. Contract background investigators
 - 5. Other professional services (e.g., credit reporting services, document verifying services, research database services)
- B. Accountability of the employer
 - 1. The courts have held that public employers are also liable for acts of misconduct committed by private vendors they use to assist in the pre-employment screening process
 - 2. The ADA specifically details that an employer may not enter into a contractual relationship to avoid prohibitions of the Act (42 USC 12112(b)(2)).
- C. Selecting private vendors
 - 1. Agencies may not have the internal resources to provide all the services needed for the pre-employment process.
 - 2. Cost effectiveness of "internal" versus "private" vendors should be evaluated.
 - a. Budgetary constraints of the agency
 - b. Competitive bid requirements
 - c. Value of services received
 - d. The factual cost and availability of trained and qualified "internal" personnel

3. "Political fallout" for using "outside consultants" may be an issue.
4. Adequate day-to-day supervision and "control" over the product of outside vendors requires time from management personnel.
5. Vendor qualifications
 - a. The law sets minimum standards for certain (not all) individuals providing such services.
 - (1) Medical and mental health care professionals providing peace officer medical and psychological assessments are prescribed by law (Reference Government Code Section 1031(f)).
 - (2) Contract background investigators must be licensed by the California Department of Consumer Affairs (Reference Business and Professions Code Section 7520 et seq.).
 - b. Risk management may require minimum levels of insurability for outside vendors to address:
 - (1) Errors and omissions (professional liability)
 - (2) General liability
 - (3) Worker's Compensation
 - (4) Indemnification
 - c. The professional standing of individual vendors must be considered
 - (1) Certification by professional associations
 - (2) Formal training
 - (3) Prior history of complaints or litigation
 - (4) General reputation (references)
 - (5) Conflict of interest

- d. The ability of the vendor to meet the agency's needs must be considered
 - (1) Volume of work required
 - (2) Timeliness
 - (3) Continuing availability
 - (4) Compatibility to the agency, its mission, values, and principles

D. Control of Information

- 1. Issues over the physical control of information provided by private vendors must be resolved
 - a. Medical and mental health care records:
 - (1) Are specifically protected (42 USC 12112(d)(3)(B))
 - (2) May be more "secure" in the possession of the vendor than in the possession of the agency (e.g., requirements for a "special master" to supervise inspection)
 - b. Private background investigators are excluded from receiving criminal history information
 - c. Unscrupulous vendors may seek to sell applicant information
 - d. Some private vendors retain proprietary interest in the information/services being "purchased"

E. Issues associated with detection of deception examinations

- 1. The use of detection of deception examinations (e.g., polygraph, voice stress analysis, and forensic statement analysis) in the pre-employment screening process is discretionary. A 1991 survey by the California Department of Justice, however, revealed that 59% of police and sheriffs departments use pre-employment polygraphs.

2. Purpose of the examination
 - a. Detection of deception examinations aid in establishing and confirming background information (e.g., the content of the Personal History Statement)
 - b. The examinations also aid in uncovering disqualifying information not available from other sources (e.g., self-admissions)
 - c. Examinations encourage candid responses to lawful inquiries

NOTE: The existence of a detection of deception examination requirement within the hiring process may be a deterrent to those applicants who know they are not qualified for the position or who intend to withhold information which they feel may adversely impact their suitability for the position.

3. Placement of the examination(s) within the hiring process.
 - a. If a detection of deception examination is conducted pre-conditional job offer, all medical inquiries are prohibited.
 - (1) The examiner may ask what illegal drugs have been used in the past and may inquire about the recency of illegal drug use, but may only ask about the frequency of current illegal drug use.
 - (2) The examiner may ask questions about alcohol-related crimes. Questions about frequency or degree of consumption, however, are prohibited both pre- and post-conditional job offer.
 - b. A detection of deception evaluation conducted post-conditional job offer affords the opportunity to confirm information discovered in the course of the background investigation as well as permitting inquiry into job-relevant medical areas.
 - c. A third option is to do both a pre- and post-conditional job offer examination. Although this is the most expensive option, it embraces the advantages of both.

NOTE: Additional information regarding detection of deception examinations is contained in the Background Investigation Core Course Curricula.

F. Issues associated with pre-employment psychological evaluations

NOTE: Comprehensive information regarding pre-employment psychological evaluations is contained in the Background Investigation Core Course Curricula.

1. Few individuals have a greater impact on the outcome of the pre-employment selection process than does the agency's psychological examiner.
 - a. Government Code Section 1031(f) establishes minimum qualifications for the selection of pre-employment mental health examiners
 - b. Over and above these qualifications, the examiner should have thorough, first-hand knowledge of the employee's job as performed in the agency, and be thoroughly conversant with job dimensions and job traits.
 - c. It is fundamental that the examiner and the agency agree on a valid psychological profile for each classification of employment being screened.
2. Pre-employment psychological examinations **are medical inquiries** under the ADA.
3. Pre-employment psychological evaluations of peace officers are required by Government Code Section 1031(f) but are discretionary for other employees such as public safety dispatchers.

NOTE: The student should be reminded that information from psychological assessments must not be shared with anyone (e.g., field training officers, supervisors, etc.) except as expressly provided by ADA.

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VI. CURRENT AND EMERGING ISSUES IN PRE-EMPLOYMENT SCREENING

- A. The purpose of this block is to afford the opportunity for instructors to discuss current issues and emerging trends related to pre-employment eligibility, applicant evaluation, background investigation, and appointment standards for criminal justice and public safety personnel.
- B. Discussion should be driven by individual student needs and interests.

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SUPPORTING MATERIALS AND REFERENCES

- I. GLOSSARY OF TERMS
- II. SAMPLE ADVISEMENT TO APPLICANTS REGARDING FALSE STATEMENTS
- III. SAMPLE AUTHORIZATION/ADVISEMENT TO CONDUCT A PRE-EMPLOYMENT BACKGROUND INVESTIGATION
- IV. SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR ENTRY-LEVEL PEACE OFFICER APPLICANTS
- V. SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR LATERAL PEACE OFFICER APPLICANTS
- VI. SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR PUBLIC SAFETY DISPATCHER APPLICANTS
- VII. SAMPLE AUTHORIZATION TO RELEASE INFORMATION FOR OTHER NON-SWORN APPLICANTS
- VIII. SAMPLE NOTIFICATION OF APPLICANT PROCESSING PROCEDURE
- IX. SAMPLE NOTIFICATION OF A CONDITIONAL JOB OFFER
- X. SAMPLE DETECTION OF DECEPTION WAIVER
- XI. SAMPLE CERTIFICATION OF PSYCHOLOGICAL SCREENING
- XII. SAMPLE ADVISEMENT REGARDING AN EMPLOYER'S USE OF CONSUMER CREDIT DATA
- XIII. SAMPLE ADVISEMENT TO PEACE OFFICER SEEKING LATERAL PLACEMENT
- XIV. SAMPLE ADVISEMENT TO PUBLIC SAFETY DISPATCHERS SEEKING LATERAL PLACEMENT
- XV. SAMPLE BACKGROUND INVESTIGATION DOCUMENT CHECKLIST
- XVI. POST BACKGROUND INVESTIGATION COMPLIANCE CHECKLIST
- XVII. POST RESTORATION OF RIGHTS FOLLOWING ARREST AND/OR CONVICTION INFORMATION CHART
- XVIII. POST NOTICE OF APPOINTMENT/TERMINATION FORM (POST 2-114)
- XIX.. OPTIONAL CURRICULA: STRATEGIES FOR EFFECTIVE CONTACTS WITH CULTURAL GROUPS DURING THE BACKGROUND INVESTIGATION PROCESS
- XX. BACKGROUND INFORMATION RESOURCE DIRECTORY/CHECKLIST

XXI. SAMPLE CORE COURSE HOURLY DISTRIBUTION

XXII. POST BACKGROUND INVESTIGATION FILE TAB SET SAMPLE

I. GLOSSARY OF TERMS

ACCEPTABLE COLLEGE

EDUCATION: As defined by POST regulations, means (1) Courses or degrees provided by a community college, college or university which has been accredited by the department of education of the state in which the community college, college or university is located, or (2) Courses or degrees provided by a community college, college or university as defined by recognized national or regional accrediting body, or (3) Until January 1, 1998, educational courses or degrees provided by a non-accredited, state-approved college that offers programs exclusively in criminal justice.

AMERICANS WITH DISABILITIES

ACT of 1990 (ADA): Refers to a body of law which prohibits discrimination based upon actual or perceived disabilities.

APPLICANT: An "applicant" is **anyone** who inquires about, applies for, or who is deterred from applying by past practices, for any position within an agency (including application for promotion).

COMMISSION: Refers to the California Commission on Peace Officer Standards and Training (POST).

CONDITIONAL OFFER OF

EMPLOYMENT: Simply stated, refers to an offer of employment after the applicant has been found otherwise qualified for the

position applied for up to that point in the hiring process. The POST document *The Americans with Disabilities Act: Questions and Answers (1995)* contains a more comprehensive description:

"A conditional offer of employment is a legitimate, bona fide job offer that deems the individual qualified on all assessments conducted to that point. The offer should be in writing, and should detail the remaining steps in the process, as well as provide an estimate of how long it may take to be placed on the job should the candidate meet the remaining eligibility requirements.

To be considered bona fide, a conditional offer should not be extended until after the candidate has been judged as qualified on all selection steps that do not include medical or other pre-offer inquiries prohibited by the ADA."

CURRENT ILLEGAL DRUG USE: There is currently no formal legal definition of the term "current" with respect to illegal drug use. EEOC guidelines have alluded to various definitions of current; however, interpretation varies substantially among agencies and depends upon the specific direction provided by an agency's legal counsel. The ADA defines illegal drugs as those substances specifically identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812).

DISABILITY: Anything that substantially interferes with a major *life function*, including the ability to obtain or retain a job. (Also see "Person with a Disability")

DISCRIMINATION: Treating an individual differently based upon a protected classification.

DISPARATE TREATMENT: Treating an individual or group differently based upon a protected classification.

EMPLOYEE: Anyone, paid or unpaid, who is allowed to perform any function for the employer (e.g., full-time employee, reserve, independent contractor, explorer, volunteer, etc.)

ESSENTIAL JOB FUNCTIONS: Refers to those tasks which are absolutely necessary to perform the job with or without reasonable accommodation.

HIGH SCHOOL: As defined by POST, is a school accredited as a high school by the department of education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accredited body, or a school accredited as a high school by the state university of the state in which the high school is located.

JOB DIMENSIONS: For the purpose of this curricula, refers to the 15 peace officer job dimensions identified and validated by POST. The job dimensions are identified in Section 1 in this document and in Appendix 1 of the POST document *Peace Officer Background Investigation Manual: Guidelines for the Investigator*.

JOB TRAITS: Refers to the 15 personal characteristics identified by POST for Public Safety Dispatcher applicants in the document *Public Safety Dispatcher Job Analysis of 1991*.

LATERAL ENTRY: As defined by POST, refers to a hiring practice which may exempt an individual from established hiring procedures in a jurisdiction, and the individual's prior experience, level of responsibility, and/or prior training are taken into consideration in such an appointment. Many agencies, however, use the term "lateral" to refer specifically to peace officer applicants who possess a valid POST Basic Certificate.

MEDICAL EXAMINATION: As defined by EEOC is a procedure that seeks information about an individual's physical or mental impairment, or physical or psychological health. (EEOC Enforcement Bulletin 915.002)

PERSON WITH A DISABILITY: A "person with a disability" is a person who: (1) has an impairment which substantially interferes with a major *life function* (which includes the ability to obtain or retain a job), or, (2) has a record of such an impairment, or (3) is regarded as having such a disability.

PHS: Is an acronym referring to the Personal History Statement form (either POST form 2-251 or a local agency equivalent) which is completed by an applicant before a background is begun. The PHS is the central information document upon which the investigation is based.

POST: Refers to the California Commission on Peace Officer Standards and Training.

POST ADMINISTRATIVE MANUAL (PAM): Refers to a document containing Commission Regulations and Procedures, and Guidelines which implement the regulations.

POST-OFFER INQUIRY: Refers to any inquiry made after the extension of a conditional offer of employment.

PRE-OFFER INQUIRY: Refers to any inquiry made prior to the extension of a conditional offer of employment.

PRIOR ILLEGAL DRUG USE: Includes illegal drug use which is not "current."

PROTECTED CLASSIFICATION: Refers to any area defined by legislation (FEHC, ADA, Title VII, and California legislation) to be protected. These include race, religious or non-religious affiliation, color, national origin, ancestry, gender, physical or mental disability, marital status, sexual orientation, age, political affiliation, pregnancy, and bankruptcy.

PUBLIC SAFETY DISPATCHER: As defined by POST, is a non-peace officer who is employed full-time or part-time to perform duties which include receiving emergency calls for law enforcement service and/or dispatching law enforcement personnel.

REASONABLE ACCOMMODATION: Refers to "anything which is reasonably necessary to accommodate an applicant or employee's ability to perform an essential job function." (Reference G. C. Section 19231)

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II. SAMPLE ADVISEMENT TO APPLICANTS REGARDING FALSE STATEMENTS

ADVISEMENT TO APPLICANTS

The purpose of the pre-employment background investigation, for all intents and purposes, is to verify that the application you have submitted 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 which 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.

Dated: _____ Signature: _____

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**III. SAMPLE AUTHORIZATION/ADVISEMENT
TO CONDUCT A PRE-EMPLOYMENT
BACKGROUND INVESTIGATION**

INFORMED CONSENT RELEASE AND
HOLD HARMLESS FOR CONFIDENTIALITY
OF PRE-EMPLOYMENT BACKGROUND INVESTIGATION DATA

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 has both a legal and a moral obligation to make every reasonable effort to ensure that any person employed by them as a peace officer will conform to the very highest standards.

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 further understand that this background investigation includes a credit check and that negative credit information may be considered as part of this process. I understand that under the law I am entitled to a copy of the credit report. 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.

I further recognize that although some of the information contained in this report is a matter of public record, or would otherwise be accessible to me, this information will be inextricably interwoven with other confidential data to which I otherwise would not be privy. I have also been informed that because this background investigation is either mandated by law or department practice, responses from persons contacted, whether solicited or unsolicited, may enjoy absolute privilege under California Civil Code Section 47.

Therefore, I exonerate, release and discharge both my prospective employer, their officers, agents, or assigns, from any claim or damages, whether in law or in equity, on behalf of myself, my heirs, agents, or assigns, for their refusal to make available any and all information contained in this pre-employment investigation declared confidential pursuant to law, 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.

I have had adequate time to review this form, I understand its meaning and purpose and have been furnished a copy of it pursuant to California Labor Code Section 432.

Dated this _____ day of _____, 20____, in the County of _____, State of California. (This release is valid for 120 days from the date of signature).

Signature of Applicant

Signature of Witness

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**IV. SAMPLE AUTHORIZATION
TO RELEASE INFORMATION FOR
ENTRY-LEVEL PEACE OFFICER APPLICANTS**

AGENCY LETTERHEAD

AUTHORIZATION TO RELEASE INFORMATION
(ENTRY-LEVEL PEACE OFFICER APPLICANTS)

California Government Code § 1031, subsection (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."

Truthful responses to inquiries are protected, even if unsolicited, by the absolute privilege of California Civil Code § 47, subsections (b) and (c), and California Government Code § 1031.1.

As an applicant for a position with the _____ Police Department, I am required to furnish information for use in determining my qualifications. For this purpose, I authorize release of any and all information you may have concerning me, including but not limited to, information of a confidential or privileged nature, or any data or materials which have been sealed or agreed to be withheld pursuant to any prior agreement or court proceeding involving disciplinary matters.

I understand that I will not receive the contents of *confidential reports* received and understand that these reports are privileged.

I hereby release, discharge, and exonerate any agency, their agents, representatives and/or any persons furnishing information, from liability arising out of the furnishing and/or inspection or records and/or other *truthful*, even though embarrassing, information.

This release shall be binding on my legal representatives, heirs, and assigns.

This release shall expire 120 days from the date signed.

(Signature)

(Date)

NOTARIZATION REQUIRED

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**V. SAMPLE AUTHORIZATION
TO RELEASE INFORMATION FOR
LATERAL PEACE OFFICER APPLICANTS**

AGENCY LETTERHEAD

California Government Code § 1031, subsection (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."

Truthful responses to inquiries are protected, even if unsolicited, by the absolute privilege of California Civil Code § 47, subsections (b) and (c).

As an applicant for a position with the _____ Police Department, I am required to furnish information for use in determining my qualifications. For this purpose, I authorize release of any and all information you may have concerning me, including but not limited to, information of a confidential or privileged nature, or any data or materials which have been sealed or agreed to be withheld pursuant to any prior agreement or court proceeding involving disciplinary matters.

I hereby acknowledge that I have been advised that the records or information contained therein may be considered confidential under California Penal Code § 832.7, and therefore subject to discovery or disclosure only pursuant to a noticed motion under California Evidence Code § 1043. By signing this authorization I hereby waive any and all rights to have any record or records or information contained therein discovered or disclosed only by noticed motion pursuant to California Evidence Code § 1043, and hereby authorize the disclosure of all records to which, as an employee, the undersigned would have or did have access.

I hereby release, discharge, and exonerate the agency, its agents, representatives and/or any person furnishing information, from liability arising out of the furnishing and/or inspection of records and/or other *truthful*, even though embarrassing, information.

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 will be forwarded to my current law enforcement employer.

This release shall be binding on my legal representatives, heirs, and assigns.

This release shall expire 120 days from the date signed.

Signed: _____ Date: _____

(NOTARIZATION RECOMMENDED)

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**VI. SAMPLE AUTHORIZATION
TO RELEASE INFORMATION FOR
PUBLIC SAFETY DISPATCHER APPLICANTS**

AGENCY LETTERHEAD

AUTHORIZATION TO RELEASE INFORMATION
(PUBLIC SAFETY DISPATCHER)

TO WHOM IT MAY CONCERN:

I am an applicant for the position of **Public Safety Dispatcher** with the _____
_____ Department. Under California law (Code of Regulations Section
1018[c], enacted pursuant to Penal Code Section 13510[c]), my prospective employer is
required to conduct an investigation into my personal, medical, and psychological fitness to
serve in this capacity.

I hereby direct you, your organization, its Custodian of Records, and/or persons in your employ
to 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,
character reference information, educational records and transcripts (pursuant to Public Law 93-
380), medical, surgical, psychological, and dental records if I am offered employment with this
agency (pursuant to the Medical Information Act, Civil Code Section 56 et. seq. and C.F.R.
1630), credit and financial information (pursuant to the Banking Privacy and Fair Credit
Reporting Acts), local criminal history information (pursuant to Penal Code Section
13300[b][10]), and/or any other information that you possess.

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.

Because this background investigation is mandated by law, your responses enjoy absolute
privilege under California Civil Code Section 47.

This release expires 120 days from the date of signature.

Signed: _____

Date: _____

(NOTARIZATION RECOMMENDED)

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**VII. SAMPLE AUTHORIZATION
TO RELEASE INFORMATION FOR OTHER
NON-SWORN APPLICANTS**

AGENCY LETTERHEAD

AUTHORIZATION TO RELEASE INFORMATION
(NON-SWORN APPLICANT)

TO WHOM IT MAY CONCERN:

I am an applicant for the position of _____ **(IDENTIFY JOB TITLE)** _____ with the _____ Department. As a matter of department policy, my prospective employer is required to conduct an investigation into my personal, medical, and psychological fitness to serve in this capacity.

I hereby direct you, your organization, its Custodian of Records, and/or persons in your employ to 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, character reference information, educational records and transcripts (pursuant to Public Law 93-380), medical, surgical, psychological and dental records if I am offered employment with this agency (pursuant to the Medical Information Act, Civil Code Section 56 et. seq. and C.F.R. 1630), credit and financial information (pursuant to the Banking Privacy and Fair Credit Reporting Acts), local criminal history information (pursuant to Penal Code Section 13300[b][10]), and/or any other information that you possess.

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.

This release expires 120 days from the date of signature.

Signed: _____

Date: _____

(NOTARIZATION RECOMMENDED)

NOTE: The information requested in this particular sample waiver form authorizes the release of a very broad range of information, not all of which is appropriate in every non-sworn background. This sample waiver should be modified, as needed, based on input from the agency's legal advisor, to accommodate specific job classifications.

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VIII. SAMPLE NOTIFICATION OF APPLICANT PROCESSING PROCEDURE

NOTICE OF APPLICANT PROCESSING PROCEDURE

This is not an offer of employment and is intended only to inform you of the steps to be taken in determining that you are "otherwise qualified" for the position of _____. DO NOT GIVE NOTICE, QUIT YOUR PRESENT JOB, OR RELOCATE TO THE _____ AREA.

The process will include:

A background investigation conducted according to guidelines established by _____ (AGENCY NAME) _____ to comply with the provisions set forth in California Government code Section 1029 and 1031 and in accordance with the guidelines of the California Commission on Peace Officer Standards and Training. This background investigation will include a polygraph examination and may include a blood or urine examination to determine current use of illegal substances.

Any significant discrepancies in the information contained in the Personal History Statement (PHS) and/or information supplied by you to the background investigator and/or current use of illegal substances may be the basis for removing your name from the eligibility list.

If you successfully complete the background investigation you will be placed in a pool of qualified applicants for future hire as vacancies occur. This pool of qualified applicants will be utilized for hiring until the list expires.

When a vacancy does occur and you have been determined to be the best qualified candidate among the existing pool of qualified candidates, a "Conditional Offer of Employment" will be made which shall be contingent upon you successfully passing:

A psychological screening to determine job suitability conducted and interpreted by a licensed physician and surgeon or licensed psychologist as set forth in Government Code Section 1031(f) and guidelines established by the California Commission on Peace Officer Standards and Training.

A comprehensive medical examination, conducted by a licensed physician and surgeon, administered according to guidelines established by _____ (AGENCY NAME) _____ in accordance with the provisions of Government Code Sections 1031, 12940 and the California Commission on Peace Officer Standards and Training.

Your successful completion of the above will result in your being hired for the position of _____.

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IX. SAMPLE NOTIFICATION OF CONDITIONAL JOB OFFER

DEPARTMENT LETTERHEAD

DATE:

TO:

FROM:

SUBJ: **Conditional Offer of Employment**

Having evaluated all non-medical information available and finding that you possess the minimum qualifications necessary for the position of _____, we hereby extend to you an offer of employment, conditioned on your successful completion of the following:

1. A psychological screening to determine job suitability conducted and interpreted by a licensed physician and surgeon or licensed psychologist as set forth in California Government Code Section 1031(f), and guidelines established by the California Commission on Peace Officer Standards and Training;
2. A comprehensive medical examination, conducted by a licensed physician and surgeon, administered according to guidelines established by the (AGENCY NAME) in accordance with the provisions of Government Code Sections 1031, 12940 and the California Commission on Peace Officer Standards and Training.

Should you be unsuccessful in either of the above medical evaluations this job offer is revoked.

DO NOT GIVE NOTICE, QUIT YOUR PRESENT EMPLOYMENT OR RELOCATE UNTIL YOU HAVE BEEN OFFICIALLY NOTIFIED THAT YOU HAVE SUCCESSFULLY COMPLETED THE MEDICAL EXAMINATION AND YOUR HIRE DATE HAS BEEN CONFIRMED.

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X. SAMPLE DETECTION OF DECEPTION WAIVER

(EXAMINER'S LETTERHEAD)

I, _____ have had explained to me and understand that the administration of a detection of deception examination is to:

- (1) verify information in my application for employment;
- (2) clear any discrepancies which may reflect on my honesty and truthfulness;
and,
- (3) assess my qualifications for the position sought.

I understand that public entities are entitled to conduct pre-employment detection of deception examinations pursuant to California Labor Code Section 432.2 and the Federal Employee Polygraph Protection Act of 1988 (29 USC 2001 et. seq). I have had explained and understand that no questions will be asked concerning my race, nationality, sexual preference, political, and/or religious affiliation.

I further have had explained and understand that any questions asked concerning sexual activity shall only concern whether I have engaged in "illegal" activity and shall not be construed as an invasion of my personal privacy.

I also understand that any questions concerning affiliation with any organization shall concern that organization's advocacy of the use of violence to gain its objectives; overthrow the duly elected government of any city, county, state or the United States; or any other political subdivision thereof, or the use of violence against any other group or individual because of race, nationality, sex, sexual preference, political and/or religious affiliation, of the group and/or individual, except as authorized by law.

I also understand and acknowledge that any information secured, pursuant to this detection of deception examination, which would negatively affect my current fitness to be a peace officer shall be forwarded to my current employer if I am currently employed as a peace officer, and/or shared with any law enforcement agency who, pursuant to law, is or may be conducting a background investigation for the purpose of employing me as a peace officer.

I hereby release, discharge, and exonerate _____ (AGENCY NAME) _____, its agents and representatives from liability arising out of this detection of deception examination.

Dated this _____ day of _____, 20____, in the County of _____, State of California.

Signature of Applicant

Signature of Witness

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XI. SAMPLE CERTIFICATION OF PSYCHOLOGICAL SCREENING

(PSYCHOLOGIST'S LETTERHEAD)

This California POST required document certifies that:

has completed a POST pre-employment psychological evaluation. This evaluation included a clinical interview, extensive objective personality testing, a mental status examination, a discussion of numerous background areas, as well as a review of the applicant's compliance with required POST job dimensions and/or similar job-related standards.

I certify that this screening meets and exceeds both Government Code Section 1031(f) and POST Regulation 1002(a)(7) requirements for law enforcement pre-employment psychological screening.

This examination complies with all psychological reporting requirements as established by the Americans with Disabilities Act (42 USC 12102 et. seq.) as well as EEOC Notice No. 915.022.

I certify that this psychological evaluation does not violate the Federal Rehabilitation Act (20 U.S.C. 504, 706(6)), California Government Code Section 12940 and California Labor Code Section 1102.1 (discrimination based on marital status, pregnancy, or sexual orientation).

I certify that my professional licenses, specialized training, years of mandated experience conducting psychological diagnostic evaluations and my knowledge of law enforcement exceeds California Government Code requirements and POST recommendations currently required of individuals that conduct evaluations as directed by California Government Code Section 1031(f).

NAME/TITLE

DATE

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XII. SAMPLE ADVISEMENT REGARDING AN EMPLOYER'S USE OF CONSUMER CREDIT DATA

ADVISEMENT TO APPLICANTS REGARDING THE USE OF CREDIT INFORMATION FOR EMPLOYMENT PURPOSES

The U.S. Fair Credit Reporting Act (FCRA) of 1996 (15 U.S. Code 1681, Section 604(b) and California's Information Practices Act (Civil Code Section 1785.20.5) require that you be notified separately of your rights before any prospective employer may use credit data as part of an employment decision. In some cases, an evaluation of your financial history is mandated by law (California Code of Regulations Section 1002(a), POST Commission Procedure C-1, 1-5(j)), or by policy of your prospective employer.

You are hereby notified that your prospective employer intends to use credit data as **part** of its decision-making process for the position for which you have applied. The **Credit Reporting Agency** which will furnish this data will be _____ located at _____. Their telephone number is _____. You will automatically be furnished a copy of this report, but before any adverse actions are taken as a result of this document, you are advised of the following:

1. Access to your file is limited to persons recognized by the FCRA;
2. Your consent is required for reports that are provided to employers or that contain medical information;
3. You can find out what is in your file, although some information, such as "risk sources" or "credit cores" may be lawfully withheld;
4. You have been informed of the name, address, and telephone number of the Credit Reporting Agency which is furnishing this data;
5. You can dispute inaccurate information with the Credit Reporting Agency;
6. Inaccurate information must be corrected or deleted;
7. Outdated information may not be reported (seven years for most information, ten years for bankruptcies);
8. You may choose to exclude your name from the C.R.A. list for unsolicited credit and insurance offers;
9. You may seek damages from violators, and;
10. The complete text of this act may be found on the Internet at <http://www.ftc.gov>.

CERTIFICATION: I certify that _____ has my consent to obtain a copy of my credit report for the limited purpose of my pre-employment background investigation; that I have been furnished with the name, address, and telephone number of the Credit Reporting Agency, I have been informed that I will receive a copy of my credit report and that I have been informed in summary form of my rights under the FCRA.

Dated: _____ Signed: _____

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**XIII. ADVISEMENT TO PEACE OFFICERS
SEEKING LATERAL PLACEMENT**

**ADVISEMENT TO PEACE OFFICERS
SEEKING LATERAL PLACEMENT**

California Government Code Section 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.

Dated: _____

Signature of Applicant

Applicant's Printed Name

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XIV. SAMPLE ADVISEMENT TO PUBLIC SAFETY DISPATCHERS SEEKING LATERAL PLACEMENT

ADVISEMENT TO PUBLIC SAFETY DISPATCHERS SEEKING LATERAL PLACEMENT

California Code of Rules and Regulations Section 1018(c) [enacted pursuant to *California Penal Code Section 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.

Dated: _____

Signature of Applicant

Applicant's Printed Name

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XV. SAMPLE BACKGROUND INVESTIGATION DOCUMENT CHECKLIST

DOCUMENT	DATE RECEIVED
PROOF OF BIRTH*	
MARRIAGE CERTIFICATE**	
DIVORCE DECREE(S)**	
BANKRUPTCY RECORD(S) AND JUDGMENT(S)	
CIVIL SUIT(S) AND FINAL JUDGMENT(S)	
PROOF OF SELECTIVE SERVICE REGISTRATION	
DD214 (LONG VERSION)	
MILITARY TRAINING CERTIFICATES	
HIGH SCHOOL DIPLOMA/GED. CERTIFICATION	
HIGH SCHOOL TRANSCRIPTS ***	
COLLEGE DEGREE(S)	
COLLEGE TRANSCRIPTS ***	
PROOF OF AUTOMOBILE LIABILITY INSURANCE	
SOCIAL SECURITY CARD	
CALIFORNIA DRIVER'S LICENSE	
COPY OF ANY CRIME REPORT(S) IN WHICH THE APPLICANT IS A SUSPECT OR WAS ARRESTED	
COPY OF ANY TRAFFIC COLLISION REPORT(S) IN WHICH THE APPLICANT WAS A NAMED DRIVER OR INVOLVED PARTY IN THE PAST THREE YEARS	

* Acceptable examples include a certified record of birth from a county, a valid foreign passport, valid (or expired) U.S. passport, a certificate of naturalization and/or other verification of citizenship bearing the date of birth or other government-issued proof of birth. Hospital commemorative certificates are not acceptable.

** **SHOULD** be certified copies from a County Recorder's Office

*** **SHOULD** be mailed directly from the educational institution to the background investigator

LAW ENFORCEMENT TRAINING RECORDS

POST RECORDS (e.g., POST P-101 form)	
AGENCY TRAINING RECORDS	
COLLEGE-ACCREDITED TRAINING	
SPECIALIZED TRAINING COURSE CERTIFICATES	

LATERAL APPLICANT DOCUMENTS

INTERNAL AFFAIRS INVESTIGATIONS	
PERFORMANCE EVALUATIONS	
POLICE REPORT WRITING SAMPLES (MINIMUM OF 5)	

The above lists may be easily converted to a detailed applicant instruction sheet. The following language can be included on such a form to facilitate document return:

INSTRUCTIONS TO APPLICANT

"These documents are necessary to complete your background investigation. In certain cases, documents are required by Federal or State laws. You are responsible for any expenses incurred in securing the documents.

It is imperative that you begin to gather the documents immediately. Do not wait to get all documents before you submit them. Submit them as you find them."

A certification statement can also be included to ensure that the applicant comprehends their responsibilities regarding document acquisition.

APPLICANT'S ACKNOWLEDGMENT

"I certify that I have received a copy of the document requirement list. I understand that it is my responsibility to provide these documents to my background investigator. I understand that if I fail to provide these documents on a timely basis, my background investigation may be delayed or not completed. I understand that these documents will not be returned to me at the conclusion of the background.

XVI. POST BACKGROUND INVESTIGATION COMPLIANCE CHECKLIST (POST Staff Use)

State of California

COMPLIANCE INSPECTION CHECKLIST

POST 1-284 PAGE 1 OF 2 (4/2/99)

Department of Justice
Commission on Peace Officer Standards and Training
1601 Alhambra Boulevard
Sacramento, California 95816-7083

DEPARTMENT	PERSONS INTERVIEWED	AREA CONSULTANT	DATE													
NAME (Officer whose employment files were examined)			R G M	R F S	D I S P	DATE OF HIRE	DATE ENROLLED (or completed Basic)	OR CERT HELD?								
1																
2																
3																
4																
5																
6																
7																
8																
9																
10																
PERSONNEL FILE INSPECTION *(Bold text highlights minimums for dispatchers - All items apply to P.O.'s)						#	1	2	3	4	5	6	7	8	9	10
a. Results of background investigation reduced to writing and retained. *						3										
b. POST personal history statement or equivalent. *						4										
c. BID record check (fingerprint returns) in file. * (+ firearms clearance for P.O.s)						5										
d. FBI record check (fingerprint returns) in file. *						6										
e. DMV driving record. *						7										
f. Record review of law enforcement agencies where applicant has lived or worked. *						8										
g. Credit check						9										
h. Documentation of educational attainment (H.S. diploma or equivalent) - must include official transcripts						10										
i. Birth, verification of place and date (certified birth certificate, naturalization, passport)						11										
j. Military record review (e.g., DD-214) or Selective Service registration						12										
k. Dissolution of marriage - verification (if remarried)						13										
l. Contact with previous employers						14										
m. Contact with references						15										
n. Contact with neighbors, past/present						16										
o. Contact with educational institutions (basic academy, high school, college, etc.)						17										
p. Medical exam - verification * (written evidence of qualifying pre-employment exam)						19										
q. Psychological exam - verification (written evidence of qualifying pre-employment exam)						20										
r. Reading/writing requirements met - Dispatcher skill testing met *						21										
Comments:						LEGEND: ✓ = Satisfactory O = Deficient										

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XVII. RESTORATION OF RIGHTS FOLLOWING ARREST AND/OR CONVICTION

RESTORATION OF RIGHTS FOLLOWING ARREST AND/OR CONVICTION

Method	Applicant Must Respond to Inquiries	Applicant's Ability to Carry a Firearm	Applicant's Employability	Impeachability Solely on the Basis of a Prior Conviction	Appearance of DOJ "Rap" Sheet
Release per P.C. 1203.4a (misdemeanor)	Yes	Yes	Yes	No	Release per P.C. 1203.4a
Release per P.C. 1203.4 (felony) W&I 3200	Yes	No	No	No ³	Release per P.C. 1203.4
Sealed Record per P.C. 1203.45 (misdemeanor)	No	Yes	Yes	No	No reference
Expunged Record per H&S Code 11361.5(a) and 11361.7	No if at least 2 years have passed from date of arrest or conviction	Yes	Yes	No	No reference
Expunged Record per H&S Code 11361.5(b)(1) and 11361.7 (misdemeanor)	No if at least 2 years have passed from date of arrest or conviction	Yes	Yes	No	No reference
Pardon per P.C. 4852.17 and 4853	Yes	Yes ¹	No ²	No ³	Pardon per P.C. 4852.17
Reduced per P.C. 17(b) (misdemeanor)	Yes	Yes	Yes	No	Reduced to misdemeanor per P.C. 17(b)
Successful completion of a diversion program based upon an arrest pursuant to P.C. 1000.5, 1000.91, 1001.9, 1001.33, 1001.55, or 1001.75	Yes for arrests within the last 5 years	Yes	Yes	No	Diversion successfully completed, case dismissed [or] Diversion terminated, case dismissed [or] Diversion terminated, criminal proceedings reinstated

¹ Unless crime of which he/she was convicted involved the use of a dangerous weapon.

² Unless the applicant is applying for the position of parole officer with the Department of Corrections or the Department of the Youth Authority (see Government Code Section 1029(b)).

³ Unless he/she is the defendant in a criminal proceeding.

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XVIII. POST NOTICE OF APPOINTMENT (POST Form 2-114)

State of California
NOTICE OF APPOINTMENT/TERMINATION
 POST 2-114 (Rev. 1/2000)

Department of Justice
 Commission on Peace Officer Standards and Training
 1601 Alhambra Boulevard
 Sacramento, CA 95816-7083

Pursuant to the Federal Privacy Act (Public Law 93-579) and the Information Practices Act (IPA) of 1977 (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information. Failure to provide all or any part of the requested information may delay processing of this form, or result in an incomplete record. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual for whom personal information is collected has the right to inspect that information in any record maintained by POST. Inquiries may be directed to the POST Information Practices Act Coordinator at the address listed above. Contact the POST Information Services Bureau for instructions on requesting records.

INSTRUCTIONS

- Completion of this Notice form is required for peace officers, reserve peace officers, dispatchers, and records supervisors.
- Use this Notice to report new appointments, promotions, demotions, appointment status changes, corrections (including name changes), and terminations.
- Complete the IDENTIFICATION INFORMATION section, and as appropriate, either the APPOINTMENT or TERMINATION section.
- Please type or legibly print (in ink) all required information.
- Mail this Notice to POST at the above address within 30 days of such actions, as required by Regulation 1003 in the POST Administrative Manual.

IDENTIFICATION INFORMATION

1. SOCIAL SECURITY NUMBER	2. NAME (LAST) (FIRST) (MIDDLE)	3. BIRTH DATE Month Day Four-Digit Year
4. GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female	5. ALSO KNOWN AS (LAST) (FIRST) (MIDDLE)	FOR POST USE ONLY
6. RACE/ETHNICITY (Mark the box that best describes the appointees' race/ethnicity. See the reverse for definitions.)		
<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Asian <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> Black or African American <input type="checkbox"/> White <input type="checkbox"/> Filipino <input type="checkbox"/> Other		
7. RANK / CLASSIFICATION (Select and enter the POST Code from the list on the reverse.)		8. DEPARTMENT NAME

APPOINTMENT

9. APPOINTMENT DATE Month Day Four-Digit Year	11. APPOINTMENT STATUS (Mark the appropriate status box. Selection requirements may be found in the indicated Commission Regulation.)	
10. APPOINTMENT TYPE (Refer to Regulation 1003.) <input type="checkbox"/> New <input type="checkbox"/> Promotion <input type="checkbox"/> Demotion <input type="checkbox"/> Appointment Status Change (e.g., reserve to peace officer, or dispatcher to reserve, etc.) <input type="checkbox"/> Correction to Record (highlight correction/s)	<input type="checkbox"/> Peace Officer (Regulation 1002) <input type="checkbox"/> Dispatcher (go to box 13) (Regulation 1018) <input type="checkbox"/> Reserve Peace Officer (Regulation 1007) Also check the appropriate Reserve level <input type="checkbox"/> Level I - Peace officer authority 24 hours a day <input type="checkbox"/> Level II <input type="checkbox"/> Level I - Peace officer authority for duration of assignment only <input type="checkbox"/> Level III	<input type="checkbox"/> Records Supervisor (go to box 13) (Regulation 1001 - definition only)
	12. PEACE OFFICER AUTHORITY (Complete this item for Peace Officer or Reserve Peace Officer status only. Enter the complete Penal Code Section, including any subsections, which describes the peace officer authority of the above-named appointee.) Penal Code Section 830. _____	
	13. TIME BASE <input type="checkbox"/> Full Time (Regulation 1001.(e)) <input type="checkbox"/> Part Time <input type="checkbox"/> Seasonal Full Time <input type="checkbox"/> Seasonal Part Time	14. PAY STATUS <input type="checkbox"/> Paid <input type="checkbox"/> Unpaid

TERMINATION

15. TERMINATION DATE Month Day Four-Digit Year	16. REASON FOR TERMINATION <input type="checkbox"/> Resigned <input type="checkbox"/> Discharged <input type="checkbox"/> Retired <input type="checkbox"/> Deceased <input type="checkbox"/> Felony/Serious Crime Conviction <input type="checkbox"/> Other		
17. ATTESTATION OF REPORTING OFFICIA. <i>I attest that the information provided on this form is true and correct and is based on my personal knowledge or inquiry. The personnel records of this agency substantiate the information on this form.</i>			

SIGNATURE OF DEPARTMENT HEAD OR AUTHORIZED DESIGNEE _____ FULL NAME AND TITLE (type or print legibly) _____ DATE _____

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OPTIONAL CURRICULA

- I. STRATEGIES FOR EFFECTIVE CONTACTS WITH CULTURAL GROUPS DURING THE BACKGROUND INVESTIGATION PROCESS
 - A. The most reliable strategy for successful cultural contacts is to treat all individuals and groups with dignity and respect
 - B. Effective communication techniques must be employed during any public contact. These include:
 1. Patience
 2. Effective listening
 3. A clear, concise message
 4. Testing for understanding
 5. Effective nonverbal communication
 - C. Verbal communications factors which contribute to a negative response from the public must be avoided. Examples include:
 1. Profanity
 - a. Not to be used
 - b. Negative effect on the professional image of the officer
 2. Derogatory language
 - a. Detracts from professional effectiveness
 - b. Generates complaints
 - c. Makes people reluctant to cooperate
 3. Ethnically-offensive terminology
 - a. "Turns people off"
 - b. Demonstrates a lack of ethnic awareness
 - c. Demonstrates a lack of sensitivity for the feelings of others
 4. Use of police jargon
 - a. Any use of jargon with the public is inappropriate
 - b. The public does not understand jargon

- c. Use of jargon can confuse and demean
- D. Nonverbal communication factors which contribute to a negative response from the public must be avoided. Examples include:
- 1. Official and oppressive manner
 - a. Overbearing demeanor
 - b. Using the badge to accomplish tasks
 - c. Discouraging feedback
 - 2. Disrespectful attitude
 - a. Lack of understanding
 - b. Lack of sympathy
 - c. No cultural awareness
 - d. Personal bias/prejudice
 - 3. Official tone of voice
 - a. Not necessary
 - b. May be manifestation of insecurity or immaturity
 - 4. Inappropriate body language
 - a. Nonverbal cues
 - b. Failing to establish a positive first impression
 - c. General demeanor
 - d. Inappropriate body distance

NOTE: Although negative aspects are listed on the previous page, the instructor may wish to point out the positive aspects of effective nonverbal communications.

- E. Effective contacts with cultural groups
- 1. The potential for a successful cultural contact is enhanced by the background investigator's level of knowledge concerning the following information:
 - a. History of the group
 - b. Group customs
 - c. Religious conventions

- d. Core values
 - e. Language
 - f. Group's attitude toward law enforcement
2. Effective cultural contacts cannot be reduced to a "recipe style" approach for the following reasons:
- a. Generalizations can be proven erroneous
 - b. Varying dimensions of diversity can exist among members of the same cultural group. These can include:
 - (1) Generational differences (first, second, third generation)
 - (2) Economic differences
 - (3) Educational differences
 - (4) Religious differences
 - (5) Work background differences
 - (6) Age differences (younger-older)
 - (7) Disabilities (physical or developmental)
3. It will be valuable for the background investigator to understand how law enforcement and individual peace officers are perceived by the cultural group
- a. Law enforcement may be viewed as being repressive or brutal.
 - b. Law enforcement may be viewed as being corrupt or unprofessional.
 - c. Law enforcement may be viewed as being responsive and protective.
 - d. A career in law enforcement may be viewed as being undesirable.
4. It will be valuable for the background investigator to recognize any personal preconceptions that exist regarding a cultural contact or a particular cultural group. These may include:
- a. Varying levels of apprehension concerning the contact
 - b. Personal prejudices
 - c. Differing levels of experience in dealing with the cultural group
 - d. Amount of prior training
 - e. The investigator's past negative experiences

- (1) Prior prolonged assignment to a high crime minority area
 - (a) Gang area
 - (b) High drug trafficking area
 - (c) Personal danger level/tension
 - (d) Economically depressed/poverty area
 - (5) Experiences within a jail environment
- (2) Having been personally assaulted by a member of a particular cultural group
- (3) Impact of negative locker room talk or negative interpersonal relationships with peers
- (4) Negative stereotypes
- f. Prior positive experiences of the investigator:
 - (1) Positive association(s) with a co-worker who belongs to a given cultural group
 - (2) Successful work with a community group
 - (3) Positive peer communication (e.g., sharing a positive experience)
 - (4) Positive characterizations
- 5. It is valuable for the background investigator to understand that cultural groups will differ in opinions as to the "legality" of specific acts and behaviors or the authority of law enforcement to intervene. Examples could include:
 - a. A given cultural group may believe that (substantive) corporal punishment to a child is a permissible and appropriate form of parental discipline.
 - b. A given cultural group may believe that criminal victimization should not be reported to the police but should be handled strictly "within the group" or as a "family matter."
- 6. Stereotyping must be avoided
- 7. Background investigators should capitalize on the availability of language lines and translator services
- 8. Background investigators should also capitalize on opportunities to interrelate with cultural groups in a non-law enforcement capacity by:
 - a. Spending time in the community getting to know the people
 - b. Establishing cultural **building blocks**

9. Fluency in the language of a given cultural group is an obvious advantage in prompting a successful contact
10. Participation in training opportunities (e.g., instruction regarding group history, customs, religious conventions, core values, and perceptions of law enforcement), if available, will also prove beneficial

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Background Information Resource Directory

INTERNET RESOURCES	(*Membership fees may be required or access may be limited by law):	WEB ADDRESS
POST Website (Access to POST forms and hyperlinks to a wide variety of criminal justice sites)		post.ca.gov
Specified Military Record Information (e.g., Enlistment Codes)		members.aol.com/usregistry/warlib25.htm
Selective Service Registration Verification		sss.gov
Social Security Number Verification		
Real Estate Records (e.g., Property Searches)		
Income Tax Records (Verification of Payment, Existence of Liens, etc.)		
Registry of Plaintiff or Defendant in any Criminal or Civil Action		
Registry of Temporary Restraining Orders		
Professional Licensing*		
Reverse Directory Checks (including neighbors)		lycos.com
Name Checks (e.g., E-mail addresses, web addresses, etc.)		
Credit Checks*		
National Registry of Sex Offenders		
Registry of Child Support		
Immigration Information		
Private Search Systems (e.g., Lexus-Nexus, WestLaw, InfoTek which often include newspaper articles as well as some of the info detailed above)*		(Subscription Service)
California Codes Site (includes up-to-date statutes, Attorney General opinions, limited case law updates, etc.)		leginfo.ca.gov
CRIMINAL JUSTICE INFORMATION SYSTEMS		
Wanted Person Systems (Local, State, and National)		
Department of Motor Vehicles (Driver History, Vehicles Registered, etc.)		
Intra-County Local Criminal History Information		
Cal Gangs Computer System		
WSIN (Western States Intelligence Network)		
INTERPOL (Accessible via DOJ - permits a local criminal history check from a foreign jurisdiction)		

STATE AND NATIONAL FINGERPRINT CHECKS

DOJ Submission (LiveScan or Hard Card) NOTE: LiveScan Peace Officer Firearms Eligibility is still a manual search. Return comes separately by mail and must be properly stamped to satisfy POST requirements.

FBI Submission (LiveScan or Hard Card)

REFERENCE PUBLICATIONS:*

International Association of Chiefs of Police (department names, addresses, executive name and title, etc.)

National Sheriff's Association (department names, addresses, executive name and title, etc.)

California Department of Justice Criminal Offender Records Information (CORI) Recipient Directory (includes CORI regulations, entities eligible to receive CORI information)

California Department of Justice Roster of California Police Chiefs and Sheriffs

POST Employment Data for California Law Enforcement (Law Enforcement Agency Addresses)

POST Administrative Manual (State laws, POST regulations, and appointment-related forms)

*NOTE: There are a also a variety of commercial publications available for purchase which provide expanded resource information such as case law updates, locations of records repositories, educational institutions, etc.

OTHER RESOURCES:

California State Superintendent of Public Instruction (e.g., verification of GED, lists of accredited high schools and post-secondary institutions, etc.)

POST Training Records (e.g., Peace Officer Training Summaries for Lateral Applicants)

Out-of-State POST or equivalent peace officer standards agency

National Personnel Records Centers (military and civilian federal government employee records)

County Government records (e.g., County Recorder, Assessor's Office, Registrar of Voters, Court Clerk, Business Licensing Office, Utility Records, etc.)

Social Security Administration (listing of previous employers, excluding periods of self-employment, etc.)

BACKGROUND INVESTIGATION CORE COURSE

Recommended Instructional Sequencing (32-40 Hour Program)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<p>0800 - 0900 Registration, Review of Course Goals, Optional Pre-test</p> <p>.....</p> <p>0900-1000 Overview of the Background Investigation Process, Roles and Responsibilities of the Background Investigator</p> <p>.....</p> <p>1000-1100 Reasons for Conducting a Background Investigation (POST Requirements and Govt. Code Requirements)</p> <p>.....</p> <p>1100-1200 Peace Officer Job Dimensions and PSD Job Traits</p>	<p>0800 - 1200 Legal Aspects of BGI Process:</p> <ul style="list-style-type: none"> - Laws Regulating Hiring Practices - Fair Employment Terminology and Definitions - Regulatory Agencies Involved in Fair Employment and Hiring Practices - <i>Pre-employment</i> Areas of Inquiry - Minimum standards for Appointment (PO and PSD) - Valid Disqualifiers for Peace Officer Applicants 	<p>0800 - 1200 Overview of Detection of Deception Devices</p> <p><u>LEARNING ACTIVITY #2:</u> Detection of Deception Report Review</p> <p>Overview of the pre-employment psychological examination process</p> <p>Information Sources:</p> <p>Major Sources of Information (People, Paper, Personal Observation)</p> <p>Automated Information Systems and On-Line Information (Internet)</p>	<p>0800 - 1200 Pre-Employment Interviewing</p> <p>Fundamentals of Background Interviewing</p> <p>Effective Interviewing Techniques</p> <p>Initial Applicant Interviews</p> <p>Interviews of Information Sources</p> <p>Discrepancy Interviews</p> <p><u>LEARNING ACTIVITY #5</u> Preparing for the Discrepancy Interview</p>	<p style="text-align: center;">OPTIONAL</p> <p>UP TO EIGHT ADDITIONAL HOURS MAY BE ADDED, TO ADDRESS AGENCY-SPECIFIC TRAINING ISSUES, INCORPORATE ADDITIONAL TOPICS, CONDUCT PRACTICAL EXERCISES, OR EXPAND ON ANY OF THE AFOREMENTIONED TOPIC AREAS</p>
<p>LUNCH 1200 - 1300</p> <p>1300 - 1700 Mandatory Areas of Investigation (POST PHS)</p> <p>Areas of Inquiry (PO):</p> <ul style="list-style-type: none"> - Verifying Personal Information - Relatives and References - Education - Residences - Experience/Employment - Military/Selective Service - Financial - Legal (Criminal & Civil) - Motor Vehicle Operation - General Topics <p><u>LEARNING ACTIVITY#1:</u> PHS Review</p>	<p>LUNCH 1200 - 1300</p> <p>1300 - 1700 Legal Aspects of the BGI Process (Continued)</p> <ul style="list-style-type: none"> - Americans with Disabilities Act - Fair Employment Issues - Legal Issues Associated with Medical and Psychological Screening - Civil/Criminal Liability - Release of Information (e.g., Mandatory Disclosures) - Obtaining Information Related to Criminal Conduct - Civil Court Actions - Non-Selection of Applicants 	<p>LUNCH 1200 - 1300</p> <p>1300 - 1700 Information Sources (Continued)</p> <p>Document Collection and Analysis</p> <p><u>LEARNING ACTIVITY #3:</u> Document Analysis</p> <p><u>LEARNING ACTIVITY #4:</u> Credit Report Review</p> <p>Construction of the Background Investigation Narrative</p>	<p>LUNCH (1200-1300)</p> <p>1300 -1600 Assembling the Background Investigation Package</p> <p>The POST Compliance Inspection Process</p> <p>POST Notice of Appointment</p> <p>POST Compliance Inspection Checklist</p> <p>.....</p> <p>1600- 1700 Course Final Examination and Evaluation</p>	<p style="text-align: center;">OPTIONAL</p>

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BACKGROUND INVESTIGATION REPORT

Agency

Applicant

Commission on Peace Officer Standards and Training

HIRING PROGRESSION CHECKLIST

- ✓ **JOB ADVERTISEMENT** - Provide clear job specifications and details of testing process to all applicants.
- ✓ **WRITTEN EXAMS** - Entry level exam for peace officer positions available to agencies in POST Program.
- ✓ **PANEL INTERVIEWS** - Recommend add pre-background investigation interview: Review Personal History Statement with applicant to ensure process understood (*No ADA Protected Questions*).
- ✓ **PHYSICAL PERFORMANCE TESTING** - This process is sometimes done by agencies prior to the written exam or panel interviews.
- ✓ **PRE-EMPLOYMENT DRUG TESTING** - Agencies that utilize this process periodically change its timing during the hiring cycle (*Pre-Conditional Job Offer*) to avoid compromise of the tests.
- ✓ **BACKGROUND INVESTIGATION** - To be as complete as possible prior to Conditional Job Offer to applicant.

Upon Completion of the above process, a **Conditional Job Offer** is normally made. It is "**CONDITIONED**" upon successful completion of the following that are prohibited from pre-offer assessment by The American Disabilities Act (ADA):

- ▶ **POLYGRAPH** - Usually requires medically related questions to start the test process due to physiological based instruments. Other exam questions are often ADA protected until job offer.
- ▶ **PSYCHOLOGICAL TESTING** - Some *Limited* testing may be allowed prior to Conditional Job Offer if not protected under the ADA (*Protected - "Mental disorder/impairment or general psychological health." vs. Non-protected - Aptitude, honesty, etc.*)
- ▶ **MEDICAL EXAMINATION** - Provide medical doctors with clear job specification, all physical tasks, and environmental/other working conditions. (**Medical records must be kept separate from background investigation - CLEARANCE FORM ONLY IN BI FILE.**)

Based on new information developed in the testing/examination processes (or protected until **after the Conditional Job Offer**, it will be necessary to revisit the background investigation (Worker's Comp Fraud, Illegal Drug Use/Dependency, Polygraph discrepancy questions raised, Sick Leave abuse, etc.)

- ✓ **JOB HIRE** - Upon successful completion of department's probationary period peace officer employees (under PC 830.1(a) and other peace officers in the POST program) are required to obtain a POST Basic Certificate (see PC 832.4 / CCR 1010(b) 3-5). **PLEASE INSERT A PHOTOCOPY OF THIS CERTIFICATE IN THE BACKGROUND INVESTIGATION FILE.**

*** IMPORTANT NOTE:** Peace officers under PC 830.1(a) must obtain the Basic Certificate "To continue to exercise the power of a peace officer after the expiration of the probationary period and a 24 month period after hire" (see PC 832.4).

I. SUMMARY REPORTS

A. BACKGROUND INVESTIGATION CHECKLIST (Inside front cover right side)

- To be filled out by investigator to ensure all processes are followed in a timely manner.
- When complete list should show reasonable mix of letter, phone, and personal contacts.

B. EXECUTIVE SUMMARY

- Utilize "15 Job Dimensions" as the focus of all categorical information:
 1. *Communication Skills*
 2. *Problem Solving Ability*
 3. *Learning Ability*
 4. *Judgment Under Pressure*
 5. *Observational Skills*
 6. *Willingness to Confront Problems*
 7. *Interest in People*
 8. *Desire for Self-Improvement*
 9. *Appearance*
 10. *Dependability*
 11. *Physical Ability*
 12. *Integrity*
 13. *Interpersonal Sensitivity*
 14. *Operation of a Motor Vehicle*
 15. *Credibility as a Witness in a Court of Law*

C. BACKGROUND INVESTIGATION REPORT

Cover all primary categories identified in the POST Personal History Statement:

- **PERSONAL**
- **RELATIVES**
- **REFERENCES**
- **EDUCATION**
- **RESIDENCY**
- **EXPERIENCE & EMPLOYMENT**
- **MILITARY SERVICE**
- **FINANCIAL**
- **LEGAL**
- **MOTOR VEHICLE OPERATION**
- **GENERAL INFORMATION**

- ✘ See POST Background Investigation Manual for detailed information and sample investigation report/formats.

II. VERIFICATION DOCUMENTS/LICENSES

- *FBI (Federal Criminal History Check)*
- *CII (California Criminal History Check)*
- *DMV (Drivers License Status/History)*
- *Local Police/Sheriff Agency check return letter(s)*
- *Credit Check*
- *High School Transcript or GED Equivalent (45 + Pts. Avg.)*
- *Official Birth Certificate*
- *Selective Service (Males born after 1/1/60)*
- *Military (DD-214)*
- *Dissolution of Marriage(s)*
- *Academy Graduation Document (Upon completion insert)*
- *Medical Clearance Letter (Only after job contract)*
- *Psychological Clearance Letter (Only after job contract)*
- *Reading/Writing Test Clearance (POST or equivalent)*
- *Requalification Certificate (If more than three years since academy, or completion of probation with POST Basic Certificate, etc.)*
- *Department Specific Requirements (Swim Test, BA Degree, EMT, Pilot's License, etc.)*

✘ NOTE: Local law enforcement checks should be initiated by letters and documented in the background file. **Cover last ten years where applicant has lived or worked.** Remember authority pursuant to Penal Code Section 13300 (k) to review all arrest, detentions, regardless of disposition for lateral transfer peace officers. Furthermore, **all applicants** for law enforcement agency positions are subject to inquiry/disclosure of **all arrests with or without conviction** (exemption to Labor Code Section 432.7)

III. REFERENCE CHECKS

- ▶ DOCUMENT ALL INTERVIEWS AND RETAIN QUESTIONNAIRES
- ▶ PAST AND PRESENT TO COVER 10 YEAR PERIOD (15 YRS. OLD +)
- ▶ ALWAYS IMPORTANT TO CONTACT SECONDARY REFERENCES - THOSE BEYOND WHOM THE APPLICANT HAS LISTED/PROVIDED
- ▶ SEPARATE INTO TWO GROUPINGS:
 - A. Employers/Co-workers/Neighbors/Educational
 - B. Relatives/Friends/Others
- ✘ **NOTE:** Even phone or in-person interviews should be documented on the standardized questionnaires to maintain continuity and provide for administrative review at a later date.

IV. MISCELLANEOUS

GENERAL INVESTIGATION DOCUMENTS AND PROCESSING INFORMATION

(Discrepancy interview, application documents, performance test, drug test, polygraph summary, applicant correspondence, etc.)

IV. MISCELLANEOUS

V. NOTES

THIS SECTION FOR GENERAL INVESTIGATION NOTES

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V. NOTES

UPDATE COURSE

BGI PROCESS ADMIN.

**SUPPORTING MATERIALS
AND REFERENCES**