

Santa Clara Police Department  
Background Investigation (16 Hours)  
CCN:3360-30340

**I. INTRODUCTION TO THE PRE-EMPLOYMENT BACKGROUND INVESTIGATION PROCESS**

Statement of Purpose:

- a. The purpose of this course is to equip students with the knowledge and skills to conduct pre-employment background investigations.

2. Course Objectives:

- a. Upon completion of this course students will know and demonstrate an understanding of how to conduct pre-employment background investigations as specified by the Department's Professional Standards Unit.
- b. Students will be able to describe State and Federal law, POST regulations and Department policy as it relates to background investigations.
- c. Students will demonstrate their ability to interview an applicant and the applicant's associates to discover information that may make an applicant unfit for the position.
- d. Student's will demonstrate their ability to access proper forms and assemble a background packet to the standard outlined by the Department's Professional Standards Unit.

3. Testing Procedures:

1. Written test about law, regulations, and policy
2. Rated mock interview with applicant and applicant's associate
3. Rated practical exercise to retrieve forms and assemble a background packet

4. Guest Presenters

1. Current SCPD Background Investigators
2. POST Region 6 Consultant

**5. Module 1 – The Big Picture**

1. This module will outline the overarching strategies and philosophies that should guide the background investigation process.
2. Strategic Goals of the Hiring Process
  - a. What are we trying to accomplish?
  - b. The ideal candidate

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- c. Protecting the agency
- 3. Overall Philosophy for Background Investigations
  - a. Thorough
    - 1. Where feasible, most interviews
  - b. Timely
    - 1. Perfect world goal is 8 weeks but that is dependent on several factors.
  - c. Uniform
    - 1. Finished product is read by the Command Staff.
    - 2. Finished product is used by other professionals involved in the hiring process (e.g. psychologist)
    - 3. Finished product is reviewed by CA POST Area Consultant during periodic audits.
    - 4. To promote clarity and efficiency, all background packets will conform to the standards set forth by the Department's Professional Standards Unit.
  - d. Differences and Similarities Between Different Types of Background Investigations
    - 1. Entry Level Police Officer
    - 2. Lateral Police Officer
    - 3. Special Events Officer
    - 4. Reserve Officer
    - 5. Public Safety Dispatcher I
    - 6. Public Safety Dispatcher II (lateral)
    - 7. Community Service Officer
    - 8. Records Specialist
    - 9. Other
  - e. Background investigation process overview
    - 1. Prior to accepting assignment, investigators will ensure they have the requisite materials:
      - a. Folder
      - b. Tabs
      - c. Stamps
      - d. Envelopes
      - e. Self-addressed SCPD envelopes
    - 2. Hiring Sergeant assigns applicant to investigator
    - 3. Investigator receives PHS and accompanying forms
    - 4. Investigator contacts applicant and schedules preliminary interview
    - 5. Preliminary interview is conducted
      - a. Components of preliminary interview
        - 1. Review of PHS
        - 2. Investigator has applicant initial each page of the PHS attesting to its accuracy

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3. Applicant signs waivers
6. Concurrent action steps
  - a. Follow up interviews are conducted with applicants associates
  - b. Investigator mails out waivers and records check request to law enforcement agencies and local courts.
  - c. Investigator secures needed documents (e.g. birth certificate) from applicant
  - d. Investigator contacts Hiring Sergeant with preliminary assessment and as needed to notify him/her of any significant concerns (e.g., any information that may make the candidate ineligible or not ideal for hire.)
  - e. Hiring and Recruiting Unit is responsible for:
    1. Criminal History Check
    2. Driving History Check
    3. Credit History Check
    4. Fingerprints

## 6. Module 2 – The Rules

1. This module will describe the rules that background investigators must abide by when conducting background investigations. Note there are other rules governing record retention and the sharing of background information but what follows are laws that each investigator must know.
2. Federal and State Law
  - a. Every peace officer candidate shall be the subject of a thorough background investigation to verify good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer.<sup>1 2</sup>
  - b. Applicants must be found free of any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.<sup>3</sup>
  - c. SCPD has the option of adopting higher standards than those imposed by law.<sup>4</sup>

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<sup>1</sup> [California Code of Regulations \(CCR\) 1953\(a\)1](#)

<sup>2</sup> [CA Government Code 1031\(d\)](#)

<sup>3</sup> [CA Government Code 1031\(f\)](#)

<sup>4</sup> [California Code of Regulations \(CCR\) 1953\(d\)](#)

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- d. SCPD pre-employment background investigations will be conducted in a manner consistent with the rules and regulations outlined by CA POST.
  - e. The POST *Background Investigation Manual: Guidelines for the Investigator (2018)* aids in conducting background investigations. The use of the manual is discretionary; except the POST Background Investigation Dimensions described below shall be considered in the conduct of every peace officer background investigation:<sup>5</sup>
    - 1. Integrity,
    - 2. Impulse Control/Attention to Safety,
    - 3. Substance Abuse and Other Risk-Taking Behavior,
    - 4. Stress Tolerance,
    - 5. Confronting and Overcoming Problems, Obstacles, and Adversity,
    - 6. Conscientiousness,
    - 7. Interpersonal Skills,
    - 8. Decision-Making and Judgment,
    - 9. Learning Ability,
    - 10. Communication Skills.
3. The parameters for a background investigation for police officers are codified in California Code of Regulations 1953:
- 1. Personal History Statement
  - 2. personal identifying information,
  - 3. relatives and references contact information,
  - 4. education history,
  - 5. residence history,
  - 6. experience and employment history,
  - 7. military history,
  - 8. financial history,
  - 9. legal history,
  - 10. driving history,
  - 11. other topics related to moral character.
- b. Citizenship verification
    - 1. Every applicant shall be either a United States citizen or a permanent resident alien who is eligible for and has applied for citizenship on or within three years before the date of appointment as a peace officer.<sup>6 7</sup>

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<sup>5</sup> [California Code of Regulations \(CCR\) 1953\(b\)](#)

<sup>6</sup> [California Code of Regulations \(CCR\) 1953\(e\)1a](#)

<sup>7</sup> [California Government Code 1031\(a\)](#)

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2. Proof of U.S. citizenship shall consist of either: <sup>8</sup>
  - a. an official government-issued birth certificate,
  - b. naturalization documentation,
  - c. or other citizenship documentation deemed acceptable by POST.
  - d. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed.
- c. Pre and Post Conditional Offers of Employment
  1. Nonmedical or non-psychological background information may be collected after a conditional offer of employment (COE) is issued if it could not have reasonably been collected prior to the COE.<sup>9</sup>
    - a. This may include:
      1. Official documents that cannot be obtained and evaluated in a timely manner during the pre-offer period, and
      2. Information derived from contacts and interviews with references.
  - d. Review of Social Media sites
    1. Investigators are prohibited from require or even requesting an applicant to do any of the following:<sup>10</sup>
      - a. Disclose a username or password for the purpose of accessing personal social media.
      - b. Access personal social media in the presence of the employer.
      - c. Divulge any personal social media.
    2. In order to comply with the law, investigators are prohibited from asking the applicants themselves but there is no legal prohibition against asking the applicant's associates about the applicant's social media use. SCPD Policy 1000 authorizes a third-party to review social media sites and investigators would fall into that category.
      - a. Investigators should proactively ask an applicant's associates about the applicant's social media activity.
  - e. Criminal Record and Fingerprints Checks <sup>11</sup>

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<sup>8</sup> [California Code of Regulations \(CCR\) 1953\(e\)1c](#)

<sup>9</sup> [California Code of Regulations \(CCR\) 1953\(d\)1](#)

<sup>10</sup> [Labor Code 980 / SCPD Policy 1000.5.4.](#)

<sup>11</sup> [CA Code of Regulations 1953](#)

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1. Every police officer must be fingerprinted for the purposes of search of local, state, and national fingerprint files to disclose a criminal record.<sup>12 13</sup>
2. Every peace officer candidate shall be the subject of a criminal record search at the local, state, and national levels to determine legal eligibility for:
  - a. peace officer employment (no felony convictions).<sup>14</sup>
  - b. eligibility to carry a firearm (disqualifying convictions, restraining orders, dishonorable discharge, mental institution commitment, etc.)<sup>15 16</sup>
  - c. and to assess moral character.<sup>17</sup>
3. Local Checks <sup>18</sup>
  - a. Local searches shall include inquiries with local law enforcement departments where the candidate has lived, worked, attended school, or frequently visited.
  - b. Proof of local searches shall be documented by a letter or other written documentation from each department contacted.
  - c. If a contacted department does not provide written documentation, the request for information shall be noted in the background packet.
4. State Checks <sup>19</sup>
  - a. A State search shall include sending the applicant's fingerprint to CA DOJ to determine eligibility for hire.
  - b. Proof of a state search shall be:
    1. documentation issued by the DOJ consisting of an official clearance return and
    2. an authorization to possess and carry firearms.
  - c. Must be generated no more than one year prior to the date of employment.

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<sup>12</sup> [CA Government Code 1031](#)

<sup>13</sup> [CA Government Code 1031\(c\)](#)

<sup>14</sup> [CA Code of Regulations \(CCR\) 1953\(e\)3](#)

<sup>15</sup> [CA Penal Code 29805](#)

<sup>16</sup> [U.S. Code Title 18, section 922\(d\)\(9\)](#)

<sup>17</sup> [Government Code section 1031\(d\)](#)

<sup>18</sup> [CA Code of Regulations \(CCR\) 1953\(e\)3\(A\)](#)

<sup>19</sup> [CA Code of Regulations \(CCR\) 1953\(e\)3\(B\)](#)

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5. National Checks <sup>20</sup>
  - a. A national search shall include forwarding the candidate's fingerprints to the FBI.
  - b. Proof of a national search shall consist of an official clearance from the FBI.
  - c. Must be generated no more than one year prior to the date of employment.
6. Factors that disqualify an applicant from serving as a police officer in California:<sup>21</sup>
  - a. Felony conviction,
  - b. Convictions in other states which would have been a felony if committed in California.
  - c. Felony charges where the applicant was found mentally incompetent or insane.
  - d. Certain felony convictions that are later reduced to a misdemeanor.
  - e. Conviction of any offense in any other jurisdiction which would have been a felony if committed in this state.
- f. Driving History Check <sup>22</sup>
  1. Applicant's driving history, if any, shall be checked to assess behaviors consistent with the safe and appropriate operation of a motor vehicle and adherence to the law.
  2. Proof of the driving history check shall consist of a written driving record history from the Department of Motor Vehicles or other official driving record.
  3. The record shall be dated no more than one year prior to the date of employment.
- g. Education Verification <sup>23</sup>
  1. State law requires proof the applicant graduated high school or possesses a G.E.D. (Note that Santa Clara PD requires additional college credits in order to be eligible for hire.).
  2. Proof of attaining a two-year, four-year, or advanced degree from an accredited college or university can be submitted instead of proof of high school graduation.
- h. Employment History Checks <sup>24</sup>

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<sup>20</sup> [CA Code of Regulations \(CCR\) 1953\(e\)3\(C\)](#)

<sup>21</sup> [CA Government Code sections 1029\(a\)\(1\)](#)

<sup>22</sup> [CA Code of Regulations \(CCR\) 1953\(e\)4](#)

<sup>23</sup> [CA Code of Regulations 1953\(e\)5](#)

<sup>24</sup> [CA Code of Regulations \(CCR\) 1953\(e\)6](#)

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1. All of the applicant's past and current employers over a period of at least ten years, will be contacted.
  2. Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted.
  3. All information requests shall be documented.
- i. Relatives/Personal References Checks
1. Applicant's relatives, including former spouses, personal reference, and additional references identified through interviews shall be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought.
  2. Sufficient information shall be collected and reviewed to determine candidate suitability
  3. Proof of reference checks shall be documented and shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact.
  4. All requests for information shall be documented.
- j. Dissolution of Marriage Check <sup>25</sup>
1. Where applicable, the investigator will review court issued dissolution documents and legal separation decrees for indications of personal integrity, financial responsibility, and other relevant aspects of the applicant's suitability.
- k. Neighborhood Check <sup>26</sup>
1. The applicant's current and, where practicable, previous neighbors will be contacted to determine whether the candidate has exhibited behavior incompatible with the position sought.
  2. Proof of neighborhood checks shall be documented by written information showing the identity of each neighbor contacted, the neighbor's relationship to the candidate, and an account of the information provided by the individual.
  3. All requests for information shall be documented.
- l. Military History Check <sup>27</sup>

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<sup>25</sup> [CA Code of Regulations 1953\(e\)8](#)

<sup>26</sup> [CA Code of Regulations 1953\(e\)9](#)

<sup>27</sup> [CA Code of Regulations 1953\(e\)10](#)



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1. When applicable, the applicant shall be required to present proof of Selective Service registration or military service records.
  2. Proof of a military history check shall consist of written verification of:
    - a. Selective Service registration, except for women or any man born prior to January 1, 1960. or
    - b. for any candidate who indicates military history on the personal history statement, proof shall consist of an official copy of their DD-214 long form or equivalent documentation of foreign military service, if available.
- m. Credit History Check <sup>28</sup>
1. Every peace officer candidate shall be the subject of a credit record search with a bona fide credit reporting agency (i.e., Experian, TransUnion, Equifax) to determine the candidate's credit standing with lenders, as an indication of the candidate's dependability and integrity.
  2. Proof of a credit record check shall be documented by an official credit report returned by one of the bona fide credit reporting agencies.
  3. The report shall have been created no more than one year prior to the date of employment.
- n. Background Investigation Update <sup>29</sup>
1. An alternative to a full background investigation
  2. Update investigations are rare for SCPD but there are circumstances where they are permitted by law. See Code for details.
- o. Narrative Report <sup>30</sup>
1. The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment.
  2. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file.

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<sup>28</sup> [CA Code of Regulations 1953\(e\)11](#)

<sup>29</sup> [CA Code of Regulations 1953\(f\)](#)

<sup>30</sup> [CA Code of Regulations 1953\(g\)1](#)

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3. The supporting documents shall be originals or true, current, and accurate copies as attested to by the background investigator.
4. CA POST Rules and Regulations
  1. POST regulations are generally based on California law (See above).
5. Department policy and protocol
  - a. Department Policy #1000 – Recruiting and Selection
    1. The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.<sup>31</sup>
  - b. Must be at least 20 years of age at time of application filing and 21 years of age at time of job appointment.<sup>32</sup>

**7. Module 3 – Interviewing**

1. This module will identify methods to conduct interviews that are designed to elicit information while avoiding problematic conventional interview techniques.
2. Rapport Building
  - a. Rapport is a different thing than trust. Trust is long term whereas rapport can be established in the short term.
3. Concepts for Rapport building
  - a. Connection and not perfection
  - b. Synchronizing
    1. People like people who are like them
  - c. Voice tone
    1. “What were you thinking?” (accusatory) vs. “What were you thinking (interested and wanting to be enlightened)
  - d. Vibe
  - e. Mirroring gestures
  - f. Touch
  - g. Advocate not adversary
  - h. Finding a solution for their challenges
  - i. Repeat and Rephrase
  - j. Finding their need and fulfilling it
4. T.E.D.S.

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<sup>31</sup> [SCPD Policy 1000.2](#)

<sup>32</sup> This age requirement is not codified in law nor written policy but is rather a practice used by SCPD. Source: Peter Castellino. City of Santa Clara Human Resources Technician, 4/28/21

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- a. T.E.D.S. is a memory aid designed to give the interviewer open ended questions to ask an interviewee that are designed to produce more information.
  1. Tell me
  2. Explain to me
  3. Describe for me
  4. Show me
- b. Example 1 (negative example):
  1. Background Investigator: "How does Joe the applicant act when he is mad?"
  2. Applicant's Ex-Girlfriend: "He's normal."
  3. Background Investigator: "What do you mean by normal."
  4. Applicant's Ex-Girlfriend: "He gets mad and then he gets over it. He's normal."
  5. Background Investigator: "He signed a waiver and it's really important you tell me."
  6. Applicant's Ex-Girlfriend: "I don't know. He just acts normal."
- c. Example 2 (positive example):
  1. Background Investigator: "How does Joe the applicant act when he is mad?"
  2. Applicant's Ex-Girlfriend: "He's normal."
  3. Background Investigator:
    - a. "**Tell me** what normal means to you."
    - b. "**Explain to me** the time he got really mad. **Explain** what you were feeling when you saw that."
    - c. "**Describe** Joe's body language and when he was mad."
    - d. "Can you **show me** how his body language looked?"
5. Beware of Conventional Interview and Interrogation Training: You Are Not a Human Lie Detector
  - a. Numerous controlled studies have shown that people generally are not good intuitive judges of truth and deception.<sup>33</sup>
  - b. Controlled studies have also shown that even investigators and other supposed experts who routinely evaluate deceptive behaviors are highly prone to error.<sup>34</sup>
  - c. Nervousness, fear, confusion, hostility, a story that changes or contradicts itself may indicate to you that an applicant is lying. Unfortunately, those factors are also signs of a human being in

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<sup>33</sup> Deceptive Communication, Miller and Stiff, 1993

<sup>34</sup> Ekman and O'Sullivan (1991), Vrij (1994), Ekman, O'Sullivan and Frank (1999)

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- a high state of stress so be cautious about interpreting body language and statements.<sup>35</sup>
- d. Conventional police interrogation training teaches factors such as gaze aversion is a sign of deception. Yet, no empirical scientific evidence exists that such factors are unique to deception.<sup>36</sup>
  - e. Nonverbal behaviors such as rigid posture, grooming, covering the mouth while speaking, and averting gaze may very well betray a state of anxiety or distress, but there is no solid empirical basis for the proposition that these same cues reliably discriminate between truthfulness and deception.<sup>37</sup>
- 6. Conducting in-person interviews
    - a.
  - 7. Learning Activity: Students will be divided in Group A and Group B. Each Group A student will pair up with a Group B student. Group A student will be instructed to only answer the question they are asked. Group B students will then be instructed to use T.E.D.S. to elicit information from the Group A student regarding a given topic. Afterwards the pair will switch and repeat the process.

#### **8. Module 4 – The Background Packet**

- 1. Packet Components
  - a. Checklist
  - b. POST tabs
  - c. Forms
  - d. Supervisor Review Form
- 2. Forms and Tabs
  - a. The only acceptable forms to be used will be those provided by the Department's Professional Standards Unit via a file sharing folder.
  - b. The only acceptable tabs are those provided by CA POST.
- 3. Procedures
  - a. When the investigation has assembled the final draft of the packet, the investigator will deliver the packet to a Hiring and Recruiting Sergeant for review.
  - b. Following the same procedure used during a POST audit, the Hiring and Recruiting Sergeant will check the packet for accuracy and completeness.

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<sup>35</sup> David Simon, (1991: 219)

<sup>36</sup> Mann, Vrij and Bull , Detecting True Lies: Police Officers' Ability to Detect Suspects' Lies, Journal of Applied Psychology (March 2004)

<sup>37</sup> Kassin and Fong, 1999; 511-512

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- c. The investigator's background investigation will be considered complete when the Hiring and Recruiting Sergeant signs the Supervisor Review form.
- d. Learning Activity: Students will access the file sharing folder and download the requisite forms. They will be provided POST tabs and directed to assemble a background packet.