

**MARIN COUNTY SHERIFF'S OFFICE
ADMINISTRATION DIVISION POLICY AND PROCEDURES MANUAL**

**CHAPTER 2 – Personnel
ADM-02-01
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**DATE
August 2, 2012**

BACKGROUND INVESTIGATIONS

POLICY

It shall be the policy of the Marin County Sheriff's Office to conduct an accurate and thorough personal history investigation on all applicants who have applied for any position within the Marin County Sheriff's Office, whether sworn, non-sworn, paid or volunteer.

DEFINITIONS

- **Applicant** — A person applying for employment with the Marin County Sheriff's Office whose application has been certified by Human Resources; or an auxiliary applicant who has been approved by the Sheriff for background investigation.
- **ADA** — Americans with Disabilities Act
- **Background Investigator** — A person designated by the Sheriff to conduct an investigation into an applicant's personal history to determine suitability for employment/appointment with/to the Marin County Sheriff's Office.
- **Background Investigation** — An in-depth inquiry into the personal history of an applicant that includes but not limited to criminal records, financial records, personal references, employer references, personnel records, neighborhood / residential inquiries, academic history, civil actions, judgments, and other pre-employment conduct.
- **Computer Voice Stress Analysis** — An investigative method using the authorized Computer Voice Stress Analyzer by a NITV (National Institute for Truth Verification) examiner. The results of the CVSA examination are an investigative tool only and the results will not be the sole basis for employment or disqualification. The applicant will sign all MCSO waivers, be fingerprinted and photographed.
- **Polygraph Examination** — An investigative method using a four channel polygraph by a licensed polygraph examiner to verify the truthfulness of the applicant's personal history disclosures. The polygraph examination is an investigative tool only and the results will not be the sole basis for employment or disqualification.
- **POST** — Commission on Peace Officer's Standards and Training
- **Pre-Background Screening** — Interview(s) conducted by the Professional Standards Unit to determine if the applicant is suitable for employment/appointment with/to the Marin County Sheriff's Office. The background investigation process is fully explained to the applicant and they are told they will be contacted at a later date to complete a Personal History Statement, which is either sent via email or through the US Mail.
- **Profile (Psychological)** — Criteria that the Marin County Sheriff's Office has determined to be important in the task grouping areas such as: arrest and detain, work ethic, investigative skills, etc.

- **Psychopathology (Psychological)**— Psychological disorders as cataloged by the Diagnostic and Statistical Manual that preclude the applicant from performing the functions of Deputy Sheriff or Communications Dispatcher.
- **Vendor**— A private professional individual or organization employed by the Marin County Sheriff's Office to conduct a personal history investigation, polygraph examination, psychological evaluation, or medical evaluation.
- **Waiver**— Any document signed by an applicant that specifically authorizes and directs the applicant's current and previous employers to release any and all information concerning the applicant which may be of a confidential nature, including but not limited to employment information, official employment performance data, character reference information, educational records and transcripts, post-employment medical, surgical, psychological and dental records if the applicant is offered employment with this agency.

PURPOSE

The Marin County Sheriff's Office shall conduct these investigations in accordance with the guidelines and regulations established by the Commission on Peace Officer Standards and Training, and in compliance with applicable County, State, and Federal statutes.

The Marin County Sheriff's Office shall guard and keep confidential all information gleaned during the personal history investigation.

The Marin County Sheriff's Office shall inform all parties interviewed in the course of the personal history investigation that their responses enjoy absolute privilege pursuant to Civil code Section 47; notwithstanding disclosures required by law for the purpose of protecting the public safety.

The Marin County Sheriff's Office shall immediately disqualify from consideration for employment or appointment, any applicant who is deceptive, deceitful, not truthful, or uncooperative during any portion of the personal history investigation.

The Marin County Sheriff's Office prohibits applicants who have been disqualified for lack of credibility, to reapply for any position for a period of 3 years.

The Marin County Sheriff's Office prohibits an applicant from reapplying for the same position for a period of 3 years, if the disqualification is due to the applicant's inability to meet all of the job traits, dimensions, duties, and responsibilities. Every applicant will undergo a rigorous examination of pre-employment conduct as it pertains to job traits, dimensions, duties, and responsibilities.

The Marin County Sheriff's Office prohibits applicants from reapplying for the same position for a period of two years if the disqualification is due to the pre-employment psychological evaluation. Disqualification is due to job relevant psychopathology or unsuitable psychological profile.

Responsibilities:

Background Investigations shall be the responsibility of the Professional Standards Unit, Administration and Support Services Bureau. The primary responsibility for conducting background investigations shall rest with the Deputies assigned to the Professional Standards Unit.

- ***Sheriff*** — The Sheriff shall be the final determining authority for all appointments.
- ***Commander, Administration and Support Services Bureau*** — The Commander has the overall responsibility for overseeing all background investigations.

- **Administrative Lieutenant** — The Administrative Lieutenant shall be responsible for insuring that background investigations are conducted in accordance with policy, procedure, County, State, and Federal statutes.
- **Background Investigation Sergeant** — The Sergeant shall be responsible for conducting background investigations; assigning background investigations; supervising background investigations; and ensuring that background investigations are conducted in a timely fashion in accordance with statute and departmental policy.
- **Background Investigator** — The Background Investigator shall be responsible for conducting background investigations.
- **Applicant** --- The applicant shall be responsible for promptly complying with all requests made by the background investigator. The applicant shall answer all questions truthfully when presented to them. The applicant shall keep all scheduled appointments. The applicant shall be responsible for completing all required documents and phases of the background investigation.

PRE-BACKGROUND SCREENING:

The applicant shall be instructed in the proper completion of all waivers and documents pertaining to the background investigation.

The applicant will be instructed as to the date by which documents are due.

Whenever possible, a truth verification interview (CVSA / Polygraph) will be scheduled for the applicant at the time of the pre-background screening interview.

The applicant will be photographed.

The applicant will be fingerprinted (DOJ and FBI).

The applicant will review the “Pre-Employment Drug Use Guidelines” and sign the document stating that they are in compliance with the policy (The guideline is attached to this general order).

CONDUCTING THE BACKGROUND INVESTIGATION:

The background investigator shall conduct the appropriate level of background investigation. The levels are defined as:

- **Deputy Sheriff Level Background** (fulfills POST requirements)
- **Communications Dispatcher Level Background** (fulfills POST requirements)
- **Civilian Applicant background** (fulfills Jail Security Clearance Background) however may or may not include credit check depending on position.
- **Auxiliary (volunteer)** — (fulfills Jail Security Clearance Background), however may or may not include credit check depending on position.
- **Jail Access Civilians** — (Jail Clearance only), may or may not include credit check depending on position.

Jail Security Clearance Background Checks are initiated and approved by the Jail Commander. The

Professional Standards Unit shall provide direction and assistance as may be necessary.

Auxiliary (Volunteer) Background Checks are initiated by the auxiliary unit's department liaison, usually a Command Staff Officer. The Command Staff Officer overseeing the unit approves the background investigation. The Professional Standards Unit shall provide direction and assistance as may be necessary. See attachment "**B**" for procedures and process.

The applicant's documents will be reviewed with the applicant for accuracy and completeness.

Information contained in the Personal History Statement, Background Investigation Questionnaire, (and if applicable), information gleaned from the truth verification interview, will be investigated and utilized to develop additional investigative leads as may be necessary.

The Background Investigator will conduct interviews in locations, settings, and circumstances that shall be conducive to effective interviewing and providing maximum confidentiality. Wherever practical, the Background Investigator will conduct in-person / field interviews and make physical visits to the applicant's place(s) of: employment, residence, schooling, and recreation. In-field investigations shall be completed in compliance with POST mandates.

Background Investigators shall conduct themselves in a professional manner. Professional attire that is appropriate for the location and circumstances of background related business is required.

BACKGROUND INVESTIGATION DOCUMENTATION:

The details of the background investigation shall be recorded in written form that accurately and completely reflects the pertinent facts supporting the investigator's conclusions.

The report will be organized into the following categories:

- **Executive Summary**— The general summary of information in which the findings, conclusions and recommendations are stated.
- **Verification Documents** — Contains the documents necessary for employment / appointment (e.g., FBI, CII, Law Enforcement Agency Criminal Checks, Credit Check, Official Birth Certificate, Selective Service Registration, Military DD-214, Dissolution of Marriage(s), Marriage Certificate(s), Transcripts, Medical/Psychological Clearance Letters, etc.)
- **Reference Checks** — Contains documentation of all investigation interviews.
- **Miscellaneous** — Contains general investigative documents and processing information such as discrepancy interviews, application documents, performance tests, polygraph or CVSA summary reports, applicant correspondence, etc.
- **Notes** — Contains investigative notes and all waivers.

The background investigation report shall adhere to the approved format established by the Professional Standards Unit.

The background investigation report shall retain only that information permitted by statute. Medical and psychological reports shall be returned to the vendors following employment / appointment. Only the clearance letters shall be retained in the file.

BACKGROUND INVESTIGATION REVIEW STEPS:

1. **Background Investigator** — shall be responsible for completing, and submitting the background investigation in complete, accurate, and authorized format in a timely fashion.

The Background Investigator shall indicate that he/she either RECOMMENDS or DOES NOT RECOMMEND a conditional offer of employment.

2. **Background Investigation Sergeant** --- shall be responsible for reviewing the background investigation for accuracy, thoroughness and in compliance with statute & department policy. The Sergeant shall indicate that he/she either RECOMMENDS or DOES NOT RECOMMEND a conditional offer of employment. In the case of "DOES NOT RECOMMEND," the report will be returned to the investigator with instructions directing follow-up, correction, or whatever necessary action is deemed necessary.
3. **Administrative Lieutenant** — shall review the completed background investigation and indicate that he/she either RECOMMENDS or DOES NOT RECOMMEND a conditional offer of employment. In the case of "DOES NOT RECOMMEND," the report will be returned to the investigator with written instructions directing follow-up, correction, or whatever necessary action is deemed necessary.
4. **Bureau Commander** — shall review the completed background investigation report and indicate that he/she either RECOMMENDS or DOES NOT RECOMMEND a conditional offer of employment. In the case of "DOES NOT RECOMMEND," the report will be returned to the Administrative Lieutenant for follow-up action.
5. **Undersheriff** — shall review the completed background investigation report and indicate that he/she either RECOMMENDS or DOES NOT RECOMMEND a conditional offer of employment. In the case of "DOES NOT RECOMMEND," the Undersheriff will return he report to the Bureau Commander for follow-up action.
6. **Sheriff** — shall review the completed background investigation report and the recommendations of the Undersheriff, Captain, Lieutenant, and Background Investigator. The Sheriff will either "RECOMMEND" or "NOT RECOMMEND" the conditional offer and post-conditional job offer. **THE SHERIFF IS THE AUTHORIZED APPOINTING AUTHORITY.**

CONDITIONAL OFFER OF EMPLOYMENT:

The background investigative sergeant shall prepare a Conditional Offer of Employment upon the approval of the Sheriff. A bona fide job offer is extended to an applicant who has been found to be suitable for employment based upon the results of the background investigation.

Effective January 1, 2009 with the passage of **AB 2028** section **1031.2** is added to the Government Code, providing law enforcement agencies greater latitude in situating the background investigation within the larger peace officer hiring process. Specifically **GC 1031.2** reads:

- "The collection of non-medical and non-psychological information of peace officers, in accordance with a thorough background investigation... may be deferred until after a conditional offer of employment is issued if the employer can demonstrate that the information could not have reasonably been collected prior to the offer."

The following aspects of the background investigation could be lawfully conducted after a conditional offer is extended: **(1)** the collection of documents that may include protected information or that require considerable time to acquire, and **(2)** the "physical investigation" i.e., contacts and interviews with relatives, friends, employers, and any other references. The passage of **AB 2028** ensures that the guidance provided by the **EEOC** with respect to the **ADA** applies equally under state fair employment law (i.e., **FEHA**)

The background investigative sergeant shall schedule a pre-employment psychological and medical evaluation for deputy sheriff and dispatcher applicants. A POST certified vendor authorized by the Marin County Sheriff's Office shall conduct psychological and medical evaluations.

The Background Investigative Sergeant shall schedule a medical examination for all non-sworn applicants (post-conditional) job offer. Medical examinations will be in accordance with Marin County Human Resources pre-established criteria.

The Background Investigative Sergeant will submit a final recommendation for employment / appointment as with the pre-conditional job offer and routed similarly.

Once the Sheriff has authorized the final job offer, the Background Investigative Sergeant will prepare a salary/training/assignment contract for the applicant, and arrange for the administration of the Oath of Office.

SELECTION or REJECTION OF APPLICANTS:

Deputy Sheriff and Dispatcher applicants must meet the entire POST job dimensions / traits as defined by the Commission on Peace Officer's Standards and Training. Applicants failing to meet the relevant POST criteria may not reapply for the same position for 3 years.

Deputy Sheriff and Dispatcher applicants must be free of job-relevant psychopathology and meet the Marin County Sheriff's Office organizational profile. Applicants failing to meet the relevant psychological criteria may not reapply for the same position for 2 years.

**Note: California Government Code mandates that (background investigation records shall be retained for a minimum of two (2) years.*

CONFIDENTIALITY:

The information gathered during the personal history investigation shall be deemed confidential. Dissemination shall be limited to those circumstances authorized by this order.

No other employee of this agency may seek information from the background investigator or vendor absent a court order or specific authorization of the Sheriff or as allowed by this order.

Applicants will be asked to execute waivers of confidentiality during the initial interview in which the applicant expressly waives his/her privilege to review, photocopy, read, or otherwise learn the contents of their background investigation. The waiver shall be made part of the completed background investigation report file.

The results of the medical exam will be kept on file with the Marin County Human Resource Department. The Professional Standards Unit will only receive a confirmation on whether the applicant passed or failed the physical exam, which will be placed into the applicants background file. The results of the Psychological Exam will be reviewed and then returned to the Psychologist with the exception of the approval letter, which will be placed in the applicants background file.

Law enforcement personnel conducting background investigations may have access to background information (except the psychological, medical evaluation reports) provided they are functioning in an official capacity with proper identification and waiver documents.

In order to maintain the integrity of the background investigative process, at the conclusion of the investigation, any and all working copies of the background investigation will be either be destroyed by the investigator or surrendered to the Professional Standards Lieutenant. Only the final background investigation will be retained by Professional Standards.

ABSOLUTELY NO INFORMATION WILL BE RELEASED WITHOUT THE PHYSICAL WAIVER DOCUMENT ON FILE WITH THIS AGENCY AND VERIFICATION OF THE OFFICIAL'S IDENTITY.

RELATED STANDARDS:

6.15 U.S.C., 1681
7 U.S.C., 1324(A)
18 U.S.C., 921 et seq.
29 U.S.C., 504, 706(6)
29 U.S.C., 631
42 U.S.C., 1211(d)
42 U.S.C., 2002-2e, Title VII
California Government Code 12940
California Government Code 12940.1
California Government Code 12946
California Government Code 26202
California Government Code 34090
California Labor Code 96(k)
California Labor Code 1102
California Labor code 432.7
California Military Code 394
Peace Officer's Standards and Training

AFFECTED DIVISIONS:

Administration
Civil and Documentary Services
Communications Division
Courts
Investigations
Jail
Office of Emergency Services
Patrol

DATE OF REVISIONS:

2/15/01
2/5/02
11/14/06
1/6/09
12/11/11

BY ORDER OF:

David M. Augustus, Captain
Bureau of Administrative and Support Services

ATTACHMENT "A"

BACKGROUND INVESTIGATION CHECKLIST

INTERVIEW APPLICANT

- "Advisement to Applicants"
- "Informed Consent/Release & Hold Harmless"
- "Pre-employment Drug Use Guidelines"
- 1051 Labor Code Wavier (fingerprint & photograph authorization)
- Obtain Live Scan Fingerprints
- Obtain photograph
- "Waiver/To Whom it May Concern" (deputy, *dispatcher, civilian*)
Entry Level (Must be notarized)
- "Waiver/To Whom it May Concern" (deputy, *dispatcher*)
Lateral Entry (Must be notarized)
- "Informed Consent" Waiver of Peace Officer Personnel Records
Lateral Entry
- "Advisement to Peace Officers Seeking Lateral Placement"
(For lateral applicants only)
- "Advisement to Public Safety Dispatchers"
(For lateral dispatcher applicants only)
- Document — "Advisement Regarding Use of Credit Information"
- Personal History Statement
- Background Investigation Questionnaire
- Set Polygraph Appointment or CVSA Appointment
- In-depth review of PHS & BIQ with applicant
- Set Polygraph Specific or CVSA Specific if first one indicates areas of deception

INVESTIGATION

- Conduct reference checks
 - Primary References Listed (in-person wherever practical)
 - Secondary References (in-person wherever practical)
- Relatives (phone is permissible, but in-person is preferable) (Spouse interview should be done in person)
- Neighbors / Landlords (in-person required for Deputy Sheriff applicants, recommended)

for all other applicants)

- Home visit to applicant's residence (required for Deputy Sheriff applicants, recommended for all applicants)
- Employers (Current employer must be contacted in person & inspection of personnel records. Previous employers should be interviewed in person & an inspection of personnel records wherever possible).
- Credit Check via Equifax through Professional Standards Unit

LEGAL INQUIRES

- Law Enforcement Agency checks where applicant has lived (may be done by phone, fax, letter, or in-person)
- Wants / Warrants/TROs/CJIS Check – (Comm. Center will run this information) - Complete Request Form
- Agencies— (Mail out letter w/ copy of waiver & notarization)
- Agencies where applicant is and has been employed (Same as above)
- Agencies where applicant has attended school (Same as above)
- DMV Driving History (L-I) - Complete Request Form
- DOJ (CII) Fingerprint Check — (done through Live-Scan)
- FBI Fingerprint Check — (done through Live-Scan)

REPORT PREPARATION

- Executive Summary according to POST format - Section I
- Reference Interview Reports according to MCSO format
- Assemble all Verification Documents/Licenses - Section II
- CVSA or Polygraph Report - Section IV
- Secure interview & investigative notes - Section V
- "Conditional Offer of Employment" form (For all applicants including auxiliary applicants) containing hiring recommendation(s)

ROUTING SYSTEM

- Route entire background report to Background Investigation Sergeant (or in his/her absence):
- Route to Administrative Lieutenant (or in his/her absence):
- Route to Bureau of Support Services Captain (or in his/her absence):
- Route to Undersheriff (or in his/her absence)

Sheriff

POST-CONDITIONAL JOB OFFER STEPS

(to be facilitated through Professional Standards Unit Only)

Recommendation to hire – approved by Sheriff

Applicant signs “Conditional Offer of Employment”

Schedule psychological evaluation (Deputy & Dispatcher applicants)

Mark Clementi, PhD (707) 527-0456

Schedule medical evaluation with Kaiser Occupational Medicine

Applicant Qualified - Psychological

Applicant Qualified - Medical

FINAL JOB OFFER RECOMMENDATION

Submitted in same fashion as “Conditional Job Offer”

REQUIRED DOCUMENTS

Certified Birth Certificate from County Recorder’s Office - ALL APPLICANTS

Copy of County Marriage Certificate for each marriage - ALL APPLICANTS

Copy of Court Order Dissolution for each marriage — ALL APPLICANTS

Copy of Bankruptcy Court Record & Judgment Orders - ALL APPLICANTS

Copy of Proof of Selective Service Registration (males where applicable)

Copy of DD-214 (Long Version) —ALL APPLICANTS having served in Armed Forces

Copy of High School Diploma or GED

Official High School Transcript or GED mailed directly from institution (copy of HS diploma not required if transcript shows date of HS graduation)- ALL APPLICANTS

Copy of College Degrees - SWORN & DISPATCHER APPLICANTS ONLY

Official College Transcripts from each college attended (mailed directly from institution)-SWORN & DISPATCHER APPLICANT

Copy of current motorist insurance - ALL APPLICANTS

Copy of driver license - ALL APPLICANTS

Copy of social security card - ALL APPLICANTS

- Copy of all arrest report(s) in which applicant was named as a suspect or arrested — ALL APPLICANTS
- Copy of all traffic collision reports in which applicant was a driver or involved party in preceding 5 yrs. —ALL APPLICANTS
- Copy of Internal Affairs and Disciplinary Actions (ALL FORMER CRIMINAL JUSTICE EMPLOYEE APPLICANTS)
- Copy of last 5 performance evaluations (Not applicable to auxiliary applicants)
- Copy of POST Certificates - SWORN & DISPATCHER APPLICANTS
- Copy of STC Certificates - SWORN APPLICANTS
- Copy of specialty training certificates - ALL APPLICANTS
- Copy of technical certificates / licenses if required for the position (i.e., FAA pilot's license for Air Patrol Reserve applicants)

Attachment "B"

**Volunteer Application Process
Air Patrol/Marine Patrol/Posse/Interns**

1. Complete Application
 - A. Air Patrol to Department Liaison.
 - B. Marine Patrol to Department Liaison.
 - C. Posse to Department Liaison.
2. Pre-Employment Interview with PSU.
3. CVSA complete fingerprints/photos/waivers or #4.
4. Polygraph schedule fingerprints/photo/waivers at later date.
5. Assign the background to a background investigator and complete the following:
 - A. Send letters to law enforcement agencies to include a local check (completed by PSU).
 - B. Conduct initial interview with volunteer.
 - C. Send letters to 5-7 references. Contact 3-5 secondary references. If any red flags follow-up with that reference or secondary reference.
 - D. Complete neighborhood check.
 - E. Employer check (current job) if less than 1 year go to previous employer.
 - F. Credit Report (completed by PSU).
 - G. Copy of Driver License/Social Security Card/Birth Certificate.
 - H. Copy of Pilot License/Medical Certification (Air Patrol Only).

**Volunteer Application Process
RACES/Interns**

1. Complete Application
 - A. Turn into OES Liaison for RACES.
 - B. MCSO Department Liaison for Interns.
2. Pre-Employment Interview with PSU.
3. CVSA complete fingerprints/photo/sign waivers.
4. Assign the background to the background investigator and complete the following:
 - A. Send letters to law enforcement agencies to include local check (PSU).
 - B. Conduct initial interview with volunteer, if no red flags background is complete.
 - C. Credit Report (PSU).
 - D. Copy of Driver License/Social Security Card/Birth Certificate.