



Commission on Peace Officer Standards and Training

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Subject: **Compliance with POST Selection Standards During Coronavirus (COVID-19) Emergency**

On March 19, Governor Gavin Newsom issued a mandatory “stay at home” order for California residents to help lessen the impact of COVID-19. Cities and counties continue to tighten these restrictions, creating exceptional challenges for our law enforcement partners and their need to continue the recruitment, selection and hiring of critical personnel. Departments should continue to follow their current hiring practices if/when possible, however POST is cognizant that these extraordinary circumstances may preclude some departments from conducting business as usual.

The hiring of California peace officers is regulated through state law (Government Code section 1029, et seq.) and Commission Regulations 1950-1955. There are no equivalent state laws for dispatchers, thus their regulatory requirement comes directly from Commission Regulations 1956-1960. POST regulations are codified through the California Code of Regulations; as such they hold the weight of state law. Currently there is no direction from the Governor regarding exempting, waiving or providing temporary extensions to meet these requirements. As such, POST is providing the following guidance to assist agencies with continuing to meet hiring needs, while mitigating concerns for the health and safety of candidates and others involved in the hiring process. Although the guidance specifically addresses and references peace officer candidates, it may be applied to dispatchers, if appropriate, as POST regulatory requirements, with limited exceptions, are nearly identical for both classifications.

As we navigate these uncharted waters, departments should continue to have open and honest communications with their background investigators, physicians, psychologists and others involved in the hiring process to ensure that the hiring process remains fair and impartial. This Bulletin is not to be construed as POST policy nor regulation; rather, it is interim guidance for departments where individual circumstances make it difficult to impossible to continue business as usual. Departments should, as appropriate, seek guidance from their own legal counsel regarding any changes to their current hiring practices.

Questions about this bulletin should be directed to [Melani Singley](#) at (916) 227-4258.

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Background Investigation

Prior to employment, all candidates must undergo a thorough background investigation to ensure good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer (Commission Regulation [1953](#)). This is accomplished by a thorough review of the candidate's personal history, including the gathering of relevant documentation; contacts with references, neighbors, and employers; and criminal history checks.

Any modifications to the background process should be at the direction and the discretion of the hiring department and documented thoroughly. As with any change in policy or procedure, close consultation with legal counsel is advised.

Candidate Background Interviews

Departments should make every effort to continue conducting in person face-to-face background interviews with the candidates to review their personal history statement forms, obtain appropriate waivers and consent forms, and review documents. If this is not feasible, and the department authorizes the use of remote video-enabled interviews, departments should work closely with their investigators and legal counsel to establish a process that will maintain the integrity and fairness of the background investigation process, while ensuring the health and safety of those involved.

There are many areas to consider prior to conducting remote video-based interviews, including, but not limited to, signing of waivers/consent/release forms, verifying candidate identity, reviewing documents, establishing procedures for controlling the environment (e.g., location, distractions), ensuring candidate privacy and confidentiality, access to appropriate technology, and properly recording and/or memorializing the interview. Although intended for psychological evaluations, the guidance provided on conducting remote psychological evaluations and the complementary teleconference checklist included with this bulletin may provide additional areas to consider when developing policies and procedures for conducting remote interviews. Please note that background interviews do not and should not include medical questions and/or information, thus HIPAA-compliant platforms are not necessary nor required. Additionally, POST does not require detection of deception examinations (e.g. polygraphs); therefore, departments should determine how best to handle these types of examinations.

Documentation

Requisite documentation for the background investigation includes proof of citizenship, age, driver record, education, dissolution of marriage, military history, and credit checks. Most of this information can be obtained electronically, thus changes to current practice should be minimal. Any delays in obtaining documentation (such as copies of official transcripts or official DMV records) should be noted and followed-up with immediately, as they become available.

Proof of citizenship and age requires the department to review original documents and attest to authenticity of copies. If this is not feasible under current circumstances, copies of documents may be submitted by the candidate; however, the department must review the originals prior to appointment, attesting to the authenticity of the copies in the background file.

Criminal History Checks

Criminal history checks include required state and federal fingerprint checks¹ and a review of criminal history information from local departments where the candidate has worked, lived and/or attended school.² This area is of critical importance to ensuring that the candidate is legally eligible for employment and to assess job-relevant behaviors that are compatible or incompatible with the peace officer position. Candidates will continue to be required to submit their fingerprints through the live scan process at an [available location](#), the hiring department, or other local law enforcement agency. Live scan vendors are working diligently to limit exposure and ensure the health and safety of applicants.

Local criminal history checks can be accomplished through communicating directly with the local departments to obtain written documentation and/or letters regarding the candidate's criminal history. In most situations, this is accomplished via email, mail or fax, thus eliminating the need for direct contact with individuals.

Contacts with References

Personal contacts with references including relatives, personal references, and employers may not be feasible given the Governor's mandate. Alternatives to face-to-face contacts may be mitigated via phone, email and/or distribution of questionnaires. POST provides sample questionnaires in Appendix C of the Background Investigation Manual and on the [POST Website](#). Documentation of contacts with references and any changes to standard procedure should be noted in the background investigation file. For employment checks where in-person reviews of personnel files are required, departments should work directly with the employers to determine the best method for review.

Neighborhood Checks

Physical neighborhood checks should continue, if possible. If face-to-face interviews with neighbors are not feasible, minimally, departments should independently acquire neighbor's addresses and distribute questionnaires. POST provides a modifiable sample [neighborhood interview questionnaire](#). Departments shall continue to document responses and follow-up, if/as necessary.

¹ Government Code sections 1030 and 1031(c) and Commission Regulation 1953(e)(3)(B)-(C)

² Commission Regulation 1953(e)(3)(A)

Background Report

In addition to providing the requisite background information, any changes to procedures, including details on alternative steps taken and/or issues that occurred during this interim period should be documented.

Medical Evaluation

Prior to appointment to a peace officer position, candidates must be found medically suitable to exercise the powers of a peace officer.³ Commission Regulation [1954](#) requires departments to establish “*medical screening procedures and evaluation criteria used in the conduct of the medical evaluation ... based on the peace officer duties, powers, demands, and working conditions as defined by the department.*” POST provides guidance in establishing specific medical standards through the [Medical Screening Manual for California Law Enforcement](#).

Although there is no alternative to the physical examination of a candidate, one of the areas of concerns recently expressed is the recommendation in Chapter X: Respiratory System (rev. 2014) for the use of spirometry as a routine test to assess respiratory function in candidates. Due to the COVID-19 virus, the American College of Occupational and Environmental Medicine (ACOEM) has recently recommended a temporary suspension of spirometry testing unless medically necessary. Since the Manual is a guidance document, rather than regulatory, departments are free to determine the appropriate testing protocols to ensure candidate medical suitability prior to appointment. Supplementary tests recommended in the Manual (such as exercise stress tests) may be viable alternatives to the spirometry; however, in this specific instance, hiring departments should work with their physicians to determine appropriate testing protocols to assess candidate pulmonary function.

As the current situation evolves, departments should continue to communicate with their physicians to assess individual situations and determine appropriate medical protocols and evaluation criteria to ensure medical suitability of their candidates, prior to appointment.

Psychological Evaluation

Commission Regulation [1955](#) requires that every peace officer candidate be “*evaluated to determine if the candidate is free from any emotional or mental condition that might adversely affect the exercise of the powers of a peace officer [Government Code section 1031(f)], and to otherwise ensure that the candidate is capable of withstanding the psychological demands of the position.*” The candidate must be found psychologically suitable, prior to appointment.⁴

³ Government Code section 1031(f) and Commission Regulation 1954(e)(1)(D)

⁴ Commission Regulation 1955(f)(1)(D)

Commission Regulation 1955 further lists the required components of the peace officer psychological evaluation. Two of these components pertain to information the hiring agency must provide the evaluator ahead of the evaluation: (a) the peace officer duties, powers, demands, and working conditions of the position, and (b) personal history information, which includes the candidate's relevant work, life, and developmental history based on information collected during the background investigation.⁵ In a remote evaluation context, both of these requirements can be met easily by use of secure email transmission.

The three remaining components are the responsibility of the evaluator: (a) the administration, scoring, and interpretation of a minimum of two written psychological instruments;⁶ (b) a psychological interview of the candidate;⁷ and (c) obtaining psychological records and relevant medical records, if warranted and obtainable.

As a result of COVID-19 and the Governor's mandate, POST has received many inquiries regarding the psychological evaluation, including options for conducting psychological evaluations remotely (i.e., without close physical proximity between a peace officer candidate and the evaluator). Before modifying any current practices, psychologists should communicate with the hiring department regarding their concerns and their intention to adapt their procedures due to the current pandemic. Where circumstances warrant and at the direction and discretion of the hiring department, POST offers the following guidance for remote administration of the psychological evaluation.

Guidance Regarding Remote Administration of Written Assessments

For information concerning options and procedures for remote administration of written assessment instruments used in an evaluator's psychological evaluation, evaluators should contact the test publishers.

Guidance Regarding the Remote Administration of the Psychological Interview:

Evaluators are strongly advised to be thoroughly familiar with the American Psychological Association's [*Guidelines for the Practice of Telepsychology*](#) and the following legal requirements for telehealth services and the electronic delivery of psychological services in California:

- [Notice to California Consumers Regarding the Electronic Delivery of Psychological Services](#)
- [Telehealth: Summary of Changes - Assembly Bill 809 \(Logue\) – Statutes of 2014](#)
- [Standards of Practice for Telehealth](#)

⁵ This information may be augmented by responses on a personal history questionnaire collected as part of the psychological evaluation.

⁶ Commission Regulation 1955(e)(2)

⁷ Commission Regulation 1955(e)(4)

In addition to the laws and guidelines listed above, evaluators are urged to consider the following issues when conducting psychological evaluations remotely:

1. Informed consent and disclosure

- Be sure to follow state law and professional standards of ethics and practice when obtaining informed consent remotely.
- Consider any new information that you may need to include in your informed consent and disclosure document and procedures that may be unique to remote assessments (e.g., recording of the assessment by either the evaluator or the candidate).
- If your procedures vary from those previously approved by the hiring agency, be sure to obtain the department's approval in advance.
- Confidentiality requirements apply equally to telehealth sessions, so be sure to use HIPAA-compliant procedures and technology.

2. Testing/interview environment

- It is the evaluator's responsibility to ensure that the conditions of test administration indicated in the test manual for each written assessment instrument must be preserved for the test results to be valid. At a minimum, this involves ensuring that the candidate's testing and interview environment is free of distractions, conducive to valid assessment, and protective of test security (e.g., by prohibiting the use of cell phones and other recording devices during the session).
- When administering written assessment instruments remotely, monitor the test session and the examinee's interaction with the test materials to ensure confidentiality and test session integrity.
- If feasible, conduct the testing in the presence of a trained test proctor to assist with logging in and starting the assessment, maintain the proper environment, verify examinee identification, and resolve or report any technical problems.
- If the use of a trained test proctor is not feasible, consider using a live HIPAA-compliant video connection to monitor the test taker during the telehealth session.

3. Technical issues

- Make sure the audio and video connectivity are working as expected and make arrangements with the candidate at the start of the remote session concerning actions to take in the event of the loss of connectivity or other problems.
- Practice the mechanics and workflow of administering remote written assessments and operating the web-based video platform you will be using in a video-based interview.

4. Professional issues

- As when conducting an evaluation in a face-to-face context, make a professional judgment as to whether you were able to obtain the necessary information to make a reliable and valid determination of the candidate's psychological suitability.

- Inform the hiring agency when distractions, technical problems, or other unanticipated issues preclude you from reaching a determination with adequate professional confidence.
- State in your written report when any portion of the psychological evaluation was conducted remotely.

Checklist for Conducting Psychological Interviews via Teleconference

General considerations:

Remote (teleconference) interviews may not be appropriate for all candidates. Consider conducting only in-person interviews for candidates who:

1. Are emotionally vulnerable.
2. Live with a known abuser.
3. Do not have access to a space that will ensure privacy and confidentiality. (This can be due to a crowded living space, thin walls, young children in the home, or serving as a caretaker.)
4. Do not have access to a computer/tablet/smartphone meeting the technical requirements for connectivity.

Consider offering a candidate who meets the above criteria the option to be interviewed via teleconference from an office at the hiring agency, or in a separate room at the psychologist's office.

Prior to the teleconference interview:

1. Send the candidate informed consent forms and instructions on how to access the teleconference via email.
2. Make sure the candidate knows how to get the teleconference started (including downloading in advance any web client software needed for the teleconference).
3. Make sure that your software is updated and that you have enough practice using the teleconference software.
4. Confirm that your equipment (audio and visual) is working properly. Check your background and remove distractions and personal items as appropriate.
5. Disable examinee recording.
6. Ensure that you have reviewed the background information and psychological test results before the interview, as required by POST Commission Regulation 1955.

Prior to or at the start of the teleconference interview:

1. Confirm the candidate's identity (e.g., by having the candidate show his/her/their driver's license or other photo ID).
2. Establish a back-up plan, including alternative means for communicating with one another, such as via phone, if the audio/visual connection is lost.

3. Disclose whether you will be recording the teleconference (consent is required) and clarify that the candidate does not have your consent to record the interview.
4. Ensure that informed consent/disclosure/authorization has been obtained and properly documented.
5. Verify the candidate's privacy (i.e., ask if anyone else is in the room, all doors are closed) and free from distractions.

After the teleconference interview:

1. Document in your interview notes any technical or other problems that may deviate from the standard of care.
2. As with in-person interviews, make a professional judgment as to whether you were able to obtain the necessary information to make a reliable and valid determination of the candidate's psychological suitability.
3. Inform the hiring agency when distractions, technical problems, or other unanticipated issues preclude you from reaching a determination with adequate professional confidence.
4. State in your written report when any portion of the psychological evaluation was conducted remotely.