

CHAPTER 2
AREAS OF INQUIRY: UNIFORMED CLASSIFICATIONS
REVISED FEBRUARY 2019
TABLE OF CONTENTS

<u>PROPRIETY OF INFORMATION</u>	2-3
<u>PRECOMMITMENT TO HIRE INQUIRIES</u>	2-3
Name, Address, Telephone Number(s), Social Security Number	2-3
Date of Birth.....	2-3
Maiden or Prior Married Name	2-3
Securing Official Documents	2-4
Spouse, Children, and Relatives.....	2-4
Memberships in Organizations	2-4
Residences.....	2-4
Education.....	2-5
Employment.....	2-5
Military Experience	2-5
Arrests	2-6
Financial Status/Credit References	2-6
Sexual Conduct	2-7

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 2

AREAS OF INQUIRY: UNIFORMED CLASSIFICATIONS

1. PROPRIETY OF INFORMATION. In discussing the propriety of seeking certain information during the selection process, it is important to recognize that prior to a conditional commitment to hire being made to an applicant, certain areas of inquiry shall be completed. The selection process transfers to the applicant investigation phase once the application, written examination, and physical ability test are completed.

2. PRECOMMITMENT TO HIRE INQUIRIES. The following questions posed are on the CHP 446, Personal History Statement Cadet, California Highway Patrol. These questions, as well as other specific areas of inquiry, are discussed below. The information provided focuses on the appropriateness or inappropriateness of certain inquiries. It is recognized that some of the issues discussed are not within the purview of the applicant investigator. However, providing information concerning the legal basis for requesting this background data should assist the investigator in understanding the full scope and tenor of fair employment practices. Certain items discussed directly relate to inquiries which the investigator is required or permitted to make during the course of the investigation. Information concerning these items is presented to afford the investigator guidelines for conducting the investigation in a manner that is both legal and job-related.

a. Name, Address, Telephone Number(s), Social Security Number. It should be noted that the law permits a person to use any name so long as the change is not done for fraudulent purposes. The following are not considered improper:

- (1) The use of religious or ancestral names.
- (2) The decision of a woman not to use her husband's name.
- (3) The decision of a man to use his wife's name.

b. Date of Birth. Due to fingerprinting process requirements, a request for a candidate's date of birth is proper for all classifications. The Federal Bureau of Investigation and California Bureau of Identification will not accept fingerprint cards without the date of birth because it is used for identification purposes. Additionally, California Government Code Section 1031(c) requires all candidates who apply for a position as a peace officer be fingerprinted to determine if a criminal record exists.

c. Maiden or Prior Married Name. Inquiries of this type may be made when it can be established the information is necessary for identification for investigation purposes (e.g., to determine employment reference validity predating the candidate's marriage).

d. Securing Official Documents. Documents such as birth certificates or naturalization papers are required for citizenship and identification purposes. These documents may be required before the candidate begins employment and, if they cannot be produced, the candidate can be rejected.

e. Spouse, Children, and Relatives. It is permissible to interview the candidate's spouse and relatives because they may provide information regarding the candidate's willingness to confront problems, interest in people, interpersonal sensitivity, dependability, and integrity. The spouse's attitude toward the candidate's joining the Department, however, should not influence the final judgment of the candidate's employability. The background of family members or other persons with whom the candidate has had a close, personal relationship should not be routinely evaluated because its relevance to the candidate's qualifications is minimal. Likewise, the behavior of the candidate's children are of questionable relevance.

f. Memberships in Organizations. Requesting information concerning job-related organizations, clubs, professional societies, or other associations a candidate is a member of is allowable provided the information requested makes no reference to race, religious creed, color, national origin, or ancestry. It is a violation of the "National Labor Relations Act" to inquire into past, present, or prospective membership in any labor organization or union.

g. Residences.

(1) Conclusions should not be drawn from the mere fact the candidate either owns, rents, lives with relatives, or visiting the place of current residence. There is no reason to conclude that anything drawn from this information alone would be job-related.

(2) Evaluations of a candidate's style of living as it relates to such matters as the number of persons living in the residence; housekeeping habits; or condition of home, yard, or vehicle should generally be avoided because of the subjectivity involved. However, where the condition of the home borders on health violations or indicates other illegality, the situation should be further investigated and documented.

(3) It is acceptable to inquire into the reasons for changes in the candidate's residence. Information from such an inquiry might possibly indicate the candidate's interpersonal sensitivity, dependability, or integrity. If there

appears to be a pattern of frequent moves, no judgment should be made from this fact alone, but further investigation may be warranted.

h. Education. A candidate who does not possess necessary job-related educational requirements shall be rejected.

i. Employment.

(1) No Prior Employment. It is appropriate to inquire into the reason a candidate has no prior employment. Such an inquiry might lead to information concerning the candidate's willingness to confront problems, dependability, and desire for self-improvement. However, there are many legitimate reasons for no prior employment (e.g., school attendance). The investigator must look into the circumstances of the candidate having no prior employment. No conclusions about the candidate should be drawn from that mere fact alone.

(2) Fired or Asked to Resign From Employment. Inquiring whether a candidate has been fired or asked to resign from employment may lead to information concerning their integrity or dependability. Information from a previous employer who fired or asked the candidate to resign must be carefully evaluated along with the candidate's explanation for such an occurrence. The investigator should also evaluate the recency of the incident.

(3) Extended Work Absence. Determining whether the candidate had extended work absences in previous employment may lead to job-related information concerning the candidate's dependability.

(4) Unemployment Insurance or Other State or Federal Assistance. Receipt of welfare assistance and unemployment compensation is legal and generally no judgment about the candidate should be made based upon the fact of having received such assistance. However, if the investigator finds the candidate has received assistance through fraudulent means, that information would reflect upon the candidate's integrity. Illegal receipt of funds constitutes fraud and may be grounds for rejection and criminal prosecution.

(5) Workers' Compensation. Information about a candidate's physical ability might be discovered if an inquiry is made into claims the candidate has filed for workers' compensation. If the investigator finds the claims were made fraudulently, then this information would reflect upon the candidate's integrity. The mere fact of having filed a workers' compensation claim should not be grounds for disqualifying a candidate. However, the investigator should closely examine the facts and circumstances associated with any such claim.

j. Military Experience. A thorough investigation into all circumstances surrounding a candidate's discharge from the military, whether honorable or

dishonorable, should be made. The factual information associated with the basis for the discharge will be the relevant factor for assessing the candidate's employability, not the discharge status itself. Military discipline imposed in accordance with the Uniform Code of Military Justice should be reviewed very carefully. If the crime committed and the sentence imposed equate to a felony conviction under California law, it may be grounds for rejection.

k. Arrests. The courts have determined that asking a job candidate to list all arrests on an employment application form violates Title VII because minority groups as a class are statistically more likely to have arrest records; however, California Labor Code Section 432.7(b) authorizes, with regard to peace officer candidates, the use of arrest data without an accompanying conviction. An arrest without a conviction is not proof, nor does it constitute any probative evidence, of any criminal act, and does not necessarily bear a rational relationship to a candidate's fitness for employment. In no case should the fact of an arrest, per se, be considered solely in making an employment decision. Where arrests without a conviction are present, a thorough investigation should be completed regarding the circumstances of the candidate's arrest, taking the following factors into consideration:

- (1) Nature and seriousness of the offense.
- (2) Circumstances under which the offense occurred.
- (3) Amount of time which has passed since the commission of the offense.
- (4) Age of the person when the offense was committed.
- (5) Whether the offense was an isolated or repeated violation.
- (6) Social condition which may have contributed to the offense.
- (7) Any evidence of rehabilitation.
- (8) Kind of position for which the candidate is applying.
- (9) Requirements of the position sought.

l. Financial Status/Credit References.

(1) When inquiring into a candidate's financial affairs, emphasis should be placed upon the candidate's overall behavior regarding finances. If a candidate has financial difficulties, the factual circumstances surrounding the financial problem must be carefully examined to determine their job-relatedness (e.g., integrity, problem-solving ability, and dependability).

(2) No conclusion should be drawn from the amount of indebtedness alone. It is necessary to determine whether liabilities seriously outweigh future anticipated assets, the reason for the indebtedness, to what extent the candidate is responsible, and if there was an attempt to defraud.

(3) No conclusions should be made concerning refused credit. There are many non-job-related reasons why a candidate might have been refused credit (including always paying by cash).

(4) No conclusions should be drawn from the mere number of charge accounts the candidate has.

m. Sexual Conduct. Sexual conduct as a disqualifying factor alone should be evaluated carefully in terms of its relationship to job performance. Standards of sexual conduct must be uniformly applied to both male and female candidates. The rational basic concept embraces the idea that a law enforcement officer provides a behavior model through personal conduct on and off duty. Investigation may lead to disqualification of a candidate if the sexual conduct is immoral and flagrant to the degree that it would reflect negatively on the law enforcement agency and ultimately result in a reduction in public trust and agency efficiency.

THIS PAGE LEFT INTENTIONALLY BLANK