

Pre-Employment Background Investigations

16 Hours – TCOLE Course #37009



Presented by:

***Texas Police Chiefs Association
Foundation***

P.O. Box 819, Elgin, Texas 78621



Welcome to a Texas Police Chiefs Association Foundation (TPCAF) training session. Thank you for participating in some of the best leadership focused training in Texas. Whether you are seeking the coveted Law Enforcement Command Officer Professional (LECOP) status or taking an individual class to sharpen your skill set, we hope you find this class personally and professionally rewarding.

Proceeds from training sessions like this support the TPCA Foundation's work, including the Fallen Officer Fund. The Fallen Officer Fund provides a \$10,000 check to the family of any peace officer killed in the line of duty in Texas. This includes Federal, State, county, local, and other peace officers working in Texas. The goal of the Fallen Officer Fund is to assist the family with any immediate needs by providing funds within 24-48 hours after the line of duty death. The family of a fallen officer should not have to worry about having money to pay a bill, flying in family from out of town, buying groceries, or any other need. Your attendance at this training session directly supports these families.

We encourage you to consider becoming a member of the Texas Police Chiefs Association (TPCA). TPCA is the largest association of police leaders in Texas and one of the largest state police chiefs associations in the nation. TPCA provides members with professional networking opportunities, a voice on legislative matters, resources, training opportunities, and access to model policies through the Texas Law Enforcement Accreditation Program. Please visit www.texaspolicechiefs.org for more information.

We hope you will check out our course catalog at [Texas Police Chiefs Association Conference & Training Site](#) to learn more about other training opportunities available.

Please consider donating to the Fallen Officer Fund

TEXAS POLICE CHIEFS ASSOCIATION FOUNDATION

To make a difference, please scan below



TEXAS POLICE CHIEFS ASSOCIATION FOUNDATION

TRUCK RAFFLE

2025 Chevrolet Trail Boss Valued at \$60,000
Approximate Value

 100% of Proceeds Benefit the TPCAF Fallen Officer Fund

Tickets
\$100 each

[Click Here To Purchase](#)

Drawing to be held:
April 17, 2025

Winner need not be present to win

[SCAN ME](#)



Winner assumes responsibility for all taxes and registration fees.

TPCA Foundation | PO Box 1030 | Elgin, TX 78621 | www.texaspolicechiefs.org



Actual Truck Not Pictured



TPCA Training



Open To All Texas Law Enforcement Agencies

-  Classes offered throughout different regions of Texas
-  Aims to provide the very best of executive and command level training for chiefs, commanders and supervisors to lead and manage throughout their organizations
-  Classes are focused on leadership with common themes of fairness, dignity, respect, trust and non-biased practices that create healthy organization and community confidence.

Details &
Registration
Here



TRAINING TOMORROW'S LEADERS TODAY!



LECOP

Law Enforcement Command Officer Program

Earn acknowledgment as a trained Law Enforcement Command Officer by completing a series of 10 training courses. Classes are open to all Texas Law Enforcement Agencies and designed to develop leadership skills and apply those skills to specific assignments.

TRACK A

Focuses on Individual Leadership Skills

TRACK B

Focuses On Leadership In An Organization & Influencing Culture



TEXAS POLICE CHIEFS ASSOCIATION

66th Annual Conference

APRIL 14-17, 2025
Galveston Convention Center



Training Opportunities

200+ Vendor Booths

Speakers

Golf Tournament

Run 2 Remember

Networking



Plan on attending the annual TPCA Conference.

Register at [Texas Police Chiefs Association Conference & Training Site](#)

Texas Law Enforcement Accreditation Program



The Texas Police Chiefs Accreditation Program allows Law Enforcement Agencies to voluntarily demonstrate compliance with over 170 best practices, developed by professionals, to ensure efficient service delivery and protection of individual rights.



External Review of policies & operations



Enhances knowledge of policing & procedures



Decreased exposure to liability risk & cost



Demonstrates to the community the police department meets or exceeds the highest standards of Law Enforcement excellence





WHAT YOU NEED TO KNOW:

- Open to all Law Enforcement Agencies
- Financial obligations: new application fee, annual program fee, travel costs for review team
- Program manager is required to complete 8 hours of program training - Agency heads are highly encouraged to attend
- Agency has two years to complete the process
- Accredited status is granted for four years. During this period, agencies are required to submit annual reports to demonstrate ongoing compliance with relevant standards
- Participating entities may qualify for scholarship to cover initial fee



www.texaspolicechiefs.org

PROFESSIONAL SERVICES



The Texas Police Chiefs Association (TPCA) is the largest association of police executives in Texas and one of the largest state police chiefs associations in the country. With a diverse group of experts in all areas of policing, TPCA provides a wide range of professional services to Texas governmental entities.

Police Chief Search and Selection

Staffing Studies

Executive Level Training

Comprehensive Organizational Studies

Strategic Planning

Accreditation Program

POLICE CHIEF SEARCH AND SELECTION

The Texas Police Chiefs Association offers valuable technical assistance in evaluating resumes and pinpointing credible candidates. Utilizing these resources can enhance your ability to choose the most suitable candidate for your department. Additionally, the Association can deliver a comprehensive selection process, typically at a significantly lower cost than many consulting firms.

STAFFING STUDIES

We provide Staffing Studies that use the IACP and ICMA recommended workload models to determine the staffing options for various policing strategies.

COMPREHENSIVE ORGANIZATIONAL STUDIES

A comprehensive Organizational Audit is beneficial, as it examines all departmental operations to ensure adherence to legal standards and best practices. This evaluation provides an analysis of crime control strategies, necessary staffing levels, and may include an anonymous employee survey.

STRATEGIC PLANNING

A roadmap providing organizational direction can be an effective management and budget tool. TPCA can assist law enforcement agencies in developing a strategic plan and can facilitate the strategic planning process for other city departments.

EXECUTIVE LEVEL TRAINING

TPCA provides quality training around the state. The Law Enforcement Command Officers Program (LECOP) offers a series of 10 courses to command level officers and supervisors covering the full range of law enforcement operations including Developing Leaders, Managing Administrative Operations, Patrol, Traffic, Special Operations and Criminal Investigations. Upon completing the full course series, they receive a LECOP Certificate and special recognition. All TPCA classes emphasize the importance of Leadership.

ACCREDITATION PROGRAM

A nationally recognized program with over 170 standards outlining best practices for law enforcement agencies in Texas. This program includes independent review of policies and operations of an agency, ensures efficient service delivery to the public, protection of individual rights, and decreased exposure for liability and risk.

FOR MORE INFORMATION PLEASE EMAIL
GELLIS@TEXASPOLICECHIEFS.ORG
OR CALL 512-281-5400



Table of Contents

- Texas Police Chiefs Association Foundation
- Instructor Bio
- Pre-Employment Background Investigations Presentation
- Job Analysis Worksheet



Texas Police Chiefs Association Foundation

Overview and Macro Curriculum

Pre-Employment Background Investigations

Rationale:

One of the most important issues in any police agency is the development and maintenance of a positive culture that is forward looking and oriented toward the betterment of the community. This course focuses on best practices for conducting background investigations to ensure hiring the highest quality personnel that is best suited to work in the community. Information provided centers on sound investigative techniques that meet legal requirements for gathering and maintaining background information according to the EEOC.

Overview:

This is a 16-hour course presented over two days. This course provides practical instruction through historical stories, legal case studies, and question and answer sessions. This course is designed for supervisors and any officer involved in the background process.

Course Goals:

At the conclusion of this course, the participant will:

1. Identify necessary steps to conduct thorough background investigations.
2. Describe the types of information that should and should not be collected and retained in background investigations.
3. Define the legal requirements for conducting background investigations.

Schedule of Topics:

Day One

0800 – 0830 hrs	Welcome, Introduction and Opening
0830 – 1130 hrs	Legal Requirements for Conducting Background Investigations
1130 – 1300 hrs	Lunch (on your own)
1300 – 1700 hrs	Conducting Background Investigations

Day Two

0800 – 1130 hrs	Conducting Background Investigations
1130 – 1300 hrs	Lunch (on your own)
1300 – 1500 hrs	Conducting Background Investigations
1400 – 1630 hrs	Candidate Questioning Methods
1630 – 1700 hrs	Conclusion and Graduation

Instructor:

Chris B. Bratton, Chief of Police (ret.)



Instructor Bio


Chief Chris Bratton (ret.)

Chris Bratton is a Master Peace Officer and Certified Instructor with over 45 years in law enforcement. He served over 28 years with the Round Rock (Texas) Police Department with over 20 years in the position of Division Commander.

Bratton retired as the Chief of Police for the City of Elgin in 2017. He also served for over seven months as both the Chief of Police and the Interim City Manager while conducting the hiring process for a new Elgin City Manager. He holds a Bachelor of Science Degree in Criminal Justice from Excelsior University. He completed his Master of Science Degree in Industrial and Organizational Psychology at Capella University. He is also a graduate of the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), the Police Executive Research Forum's Senior Management Institute for Police (SMIP), the Texas A&M Bush School of Government's Leadership Development for Integrated Emergency Response (LDIER), and the LEAD program at the Weldon Cooper Center for Public Service at the University of Virginia.

Chief Bratton has been a trainer for over 30 years and has made presentations to various agencies including ILEETA, the Texas Department of Public Safety, Capital Area Council of Governments, Texas Sheriff's Association, Texas Attorney General's Office, Texas State Auditor's Office, SoTelligence, Institute of Forensic Science and Technology (Monterrey, Mexico), and numerous local law enforcement agencies.


He has conducted or supervised several hundred background investigations over the past 20 years.



PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS

CHRIS BRATTON
Chief of Police
Retired

1



Learning Objectives

- Understand the laws that regulate the hiring of candidates
- Understand the role and function of the background investigator
- Understand what areas to investigate in the background

2



Goal of Investigation

- Primary goal is to find the best possible candidate
- National poll of U.S. workers found that 44% reported putting in as little effort as they could get away with without being fired!!!

3



Goals of Investigation

- Fairness
- No one has the right to a job as a peace officer – do have a right to be treated fairly
- Primary goal is to find and hire qualified candidates

4



Costs of Failure

- In litigation the employee usually has a 70% chance of winning
- Average cost of defending a “failure to hire” suit is about \$30,000
- Average cost of defending a suit for wrongful termination is about \$80,000

5



Model Hiring Process

■ Application	■ Conditional Offer Given
■ Written Test	■ Polygraph(?)
■ Physical Ability	■ Medical Examination
■ CCH-DL Checks	■ Psychological Exam
■ Interview(s)	■ Decision to Hire
■ Polygraph(?)	
■ BACKGROUND	

6

Personal Characteristics to Investigate

- Physical Ability
- Writing Skills
- Reading Skills
- Situational Reasoning Ability
- Self Control
- Integrity
- Oral Communication Skills
- Interpersonal Skills
- Initiative
- Dependability
- Credibility
- Appearance

7

Background Characteristics

- Six basic area to investigate
 - Dependability
 - Integrity
 - Initiative
 - Self Control
 - Interpersonal Skills
 - Situational Reasoning Ability and Skills

8

Legal Aspects

- Title VI and VII of Civil Rights Act of 1964 as amended:
 - Discrimination
 - Americans with Disabilities Act
 - Pregnancy Act
 - Age Discrimination
 - Federal Credit Reporting Act
 - Rights to Privacy in Background Investigations

9



Title VI

- Handled by the Department of Justice
- Prohibits discrimination by Law Enforcement Officers/Agents
- Must be performed in course of duties and under color of law
- Usually criminal in nature


10



Title VII

- Handled by the EEOC
- Prohibits discrimination against both employees and job applicants based on:
 - Race
 - Color
 - Religion
 - Sex
 - National Origin
 - Age


11



Title VII – EEOC Actions

- Fiscal Year 2010
 - Nearly 100,000 charges filed
 - 7.2% increase over previous year
 - 210 claims filed under GINA
 - EEOC is plaintiff in over 200 suits on behalf of complaining person


12



EEOC – 2013 ACTIONS

- Over 93,000 charges filed
- Over 131 lawsuits filed on employers
- Focus of all was discrimination and retaliation
- Obtained over \$371 million in relief
- First major GINA suit against Founders Pavilion, Inc. – Western District of NY


13



EEOC – 2014 actions

- About 89,000 cases filed
- 133 lawsuits against employers
- Focus still on discrimination
- Over \$296 million in monetary relief
- Added 300 new investigators at year end


14



EEOC – 2016 Actions

- Only about 65,000 charges filed
- About 10.2% of all charges filed in Texas
- 10.1% of all GINA charges filed in Texas
- Still focused on Retaliation and Worker protection
- Current numbers show over \$100 million in settlements


15



EEOC – 2018 Actions

- Almost 77,000 total charges
- 9.8% of all charges filed in Texas
- 8.2% of all GINA charges filed in Texas
- Primary focus on Discrimination, Diversity, and Retaliation in Workplace
- Currently reporting over \$505 Million in settlements
- Won 95.7% of all cases at District Court level


16



EEOC Focus 2013-2017

- Hiring and Employment Screening
- Equal pay for equal work
- Harassment in the Workplace
- Protecting immigrant, migrant, and other vulnerable workers
- Addressing "emerging and developing" issues
- Preserving access to the legal system


17



EEOC Focus 2017-2021

- Eliminating barriers in recruiting and hiring
- Protecting vulnerable workers, migrant, immigrant, and underserved minorities
- Addressing selected emerging and developing issues
- Ensuring equal pay protections for all workers
- Preserving access to the legal system
- Preventing Systemic Harassment

18



EEOC ACTIONS 2019

- Stanley Black & Decker pays \$140,000 to settle disability discrimination suit ref: cancer treatment appointments
- Blue Cross/Blue Shield of Texas pays \$75,000 to settle disability discrimination suit ref: failure to hire deaf applicant
- Pulmonary Specialists of Tyler pays \$30,000 to settle disability discrimination suit ref: illegal medical questions
- Atlas Energy of Texas pays \$85,000 to settle age discrimination suit

19



ADDED TITLE VII PROTECTION

- Also grants protection re:
 - Hiring
 - Firing
 - Promotion
 - Compensation
 - Benefits
 - Training Opportunities
 - All other benefits and conditions of employment

20



TITLE VII COMPLAINTS

- Complaint must be filed within 180 days of act or event
- EEOC must decide on action within 180 days
- Successful complainants could win:
 - Lost wages or other benefits
 - Reinstatement or placement in specific job
 - Attorney fees and court costs


21



TITLE VII – KICKER!!!

- Crime Reduction Act of 1991
- Amended Title VII to include:
 - Compensatory Damages for Pain and Suffering
 - Punitive Damages in cases where the employer acts with malice or reckless indifference to the rights of the individual

22



EEOC FOCUS AREAS

- Disparate Impact
- Disparate Treatment
- Pattern or Practice of Behaviors

23



DISPARATE IMPACT

24

Disparate Impact

- ▀ Rule of 80
- ▀ Business Necessity

25

Rule of 80

- ▀ If the hiring rate for the minority group is less than 80% (4/5ths) of the hiring rate for the majority group it is prima facie evidence that adverse/ disparate impact exists.

26


HOW RULE OF 80 WORKS

▀ Example:

	Green	Blue
#applied	100	50
hired	50	10
hiring rate	50%	20%
	$20\% \div 50\% = 40\%$	

Since $40\% < 80\%$ EEOC concludes that evidence exists to show disparate impact


27



HOW TO MITIGATE

- BFOQ
 - Bona Fida Occupational Qualification
 - "A bona fida occupational qualification is a legal exception to an otherwise discriminatory hiring practice that is "reasonable necessary to the normal operation or a particular business."
 - Burden of proof will always lie with the employer

28



BFOQ

- Can be requested if "the essence of the business operation would be undermined if the business eliminated its discriminatory practice."
- Never permits additional discrimination such as lower pay based on religion, sex, nationality, etc.

29



BFOQ PRINCIPLES

- ESSENCE
 - Applies only to qualifications that affect the employees ability to do the job
 - Romantic Paternalism will never apply
 - Cannot argue BFOQ based on customer preference
 - Authenticity does apply

30

DISPARATE IMPACT – MITIGATION

- Lower your Standards
 - Effects not welcome in:
 - Miami
 - Los Angeles
 - Philadelphia
 - New Orleans

31

DISPARATE IMPACT - MITIGATION

- Modify or Eliminate Standards Causing the Impact
 - Physical Agility Test
 - Written Test
 - Standards for Prior Drug Usage
 - Standards for Prior Criminal Activity (charged but not convicted)

32

DISPARATE IMPACT - MITIGATION

- Special Note on Criminal Activity
 - If arrested but not convicted Federal guidelines apply
 - If applicant has arrest record you must always allow applicant a chance to explain prior to rejection. (Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000e et seq. (1982))

33

DISPARATE IMPACT – FINAL THOUGHTS

- Have your BFOQs Validated
 - Make sure your requirements are legal
 - Get a testing company to perform validation
 - At very least have local legal authority do validation
 - SPEND A LITTLE MONEY UP FRONT!!!
 - Proper Validation allows you to legally discriminate

34

DISPARATE (ADVERSE) TREATMENT

35

DISPARATE (ADVERSE) TREATMENT

- Defined as:
 - Inconsistent application of rules and policies to one group of people over another. Discrimination may result when rules and policies are applied differently to members of protected classes.

36

DISPARATE TREATMENT

- First Aspect:
 - suspicious timing, ambiguous statements oral or written, behavior toward or comments directed at other employees in the protected group, and other bits and pieces from which an inference of discriminatory intent might be drawn

(Troupe v. May Department Stores, 20 F.3d 734, 736 (7th Cir. 1994))

37

DISPARATE TREATMENT

- Second Aspect:
 - evidence that other, similarly-situated employees not in the protected class received systematically better treatment.

(Marshall v. American Hospital Assoc., 157 F.3d 520 (7th Cir. 1998))

38

DISPARATE TREATMENT

- Third Aspect
 - The third type is evidence that the plaintiff was qualified for the job, a person not in the protected class got the job, and the employer's stated reason for its decision is unworthy of belief. (i.e. circumstantial)

39

DISPARATE TREATMENT

- Seminal case
 - McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and later refined in Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981), and St. Mary's Honor Center v. Hicks, 509 U.S. 502 (1993).

40

DISPARATE TREATMENT

- What this looks like in Recruitment
 - Asking different questions to different candidates
 - Men v Women
 - Minorities v Majorities
 - Abled v Less Abled

41

PATTERN OR PRACTICE OF BEHAVIOR

42

PATTERN OR PRACTICE

- Definition:
 - It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States

43

PATTERN OR PRACTICE


- Effects both applicants and current employees
- Effects hiring practices, promotions, job assignments, and any other employment related issue (time off, shift rotations, shift assignments, etc.)
- Can be demonstrated by comparison of actual relevant work force to work force of organization

44

PATTERN OR PRACTICE

- Bradley V. Pizzaco: Black male with PFB (Pseudofolliculitis Barbae) was fired for not shaving. EEOC ruled that this practice had discriminatory impact on all Black males.


45



PATTERN OR PRACTICE

- Shell Western: had a physical strength test that eliminated a large portion of all female applicants. EEOC ruled that this test had discriminatory impact on all women.

46



PATTERN OR PRACTICE

- Consent Decree
 - Governs every aspect of any Departments life from hiring to every aspect of running the Department.
 - Oakland; Philadelphia; Los Angeles; Miami; Philly

47



THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)


48



THE ADA

- Guarantees equal opportunities to jobs for QUALIFIED individuals with disabilities
- Applies to:
 - Advertising
 - Recruitment
 - Testing
 - Hiring
 - Advancement
 - All other employment related activities


49



THE ADA

- Qualified Individual with a Disability
 - Any individual with a physical or mental impairment that substantially limits one or more major life activity
 - Seeing
 - Breathing
 - Walking
 - Hearing
 - Speaking
 - Learning
 - Performing Manual Tasks


50



THE ADA

- Also applies to:
 - Any individual having a record of every having such an impairment
 - Any individual regarded as having such an impairment
 - Includes individuals with HIV, AIDS, epilepsy, paralysis, and mental illness
 - Any person who has recovered from mental illness, cancer, or any other covered condition


51



THE ADA

- New Regulations effective May 25, 2011
 - Added new functions not originally mentioned by Congress such as eliminating waste
- Most findings are now routine
- Focus shift from question of disability to the occurrence of discrimination


52



THE ADA

- Key to ADA is to define what the essential job functions are for each position being hired and how much time the individual spends doing the essential job function
- Must define both the physical and mental elements of job including working conditions, frequency, and importance


53



THE ADA

- Agency must create a Job Analysis Work Sheet for every position in the agency
- <C:\Users\cbbra\OneDrive\Desktop\Bannon Current\JobAnalysisWorkSheet.doc>

54



THE ADA – KICKER!


- Articulate the Direct Threat
 - Articulate the significant risk to the health and safety of others that CANNOT be eliminated by reasonable accommodation
 - Be willing to articulate what happens if essential job functions are not performed by the employee See David Atkins v. Ken Salazar Secretary Department of the Interior – Fifth Circuit Court of Appeals No. 10-60940, December, 2011

55



THE PREGNANCY DISCRIMINATION ACT OF 1978 (PDA)


56



THE PDA

- Includes pregnancy and pregnancy related disabilities under the same umbrella protection given in ADA
- Pregnant employee must be treated the same as any other employee considered to have a permanent or temporary disability for all employment related purposes


57



THE PDA

- The law does not require you to accommodate pregnancy
- Law does require you to treat pregnancy the same as any other temporary disability
- Law does not require you to hire a pregnant applicant if they cannot at the time of testing perform the essential job functions


58



THE PDA

- When you can remove a pregnant employee from either street duties or a candidate from the testing process:
 - When the employee/candidate requests it
 - When a doctor requires it
 - When their performance fails


59



THE PDA


- Employers may not take "anticipatory" action against a pregnant employee or make assumptions about her ability to perform the job - Maldonado V US Bank, 7th Circuit, 1999
- Texas Local Government Code, Section 180.004 requires a city to "make reasonable effort to accommodate an employee" who is pregnant and must be physically restricted because of pregnancy

60



THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (ADEA)

61



THE ADEA

- Prohibits discrimination against older employees
- Defines older employees as persons age 40 and older
- Civil Service v non-Civil Service


62



THE ADEA

- Successful plaintiffs can win:
 - Back pay
 - Placement in or Reinstatement in a particular job
 - Liquidated (double) damages if willful
 - Front pay for loss of future earnings
 - Front pension and benefit deposits with interest
 - Attorney and Court fees

63



THE ADEA


- Maresco v. Evans
 - Recognized as the landmark ADEA case
- Older Workers Benefit Protections Act of 1990
 - Expanded ADEA to require employers to provide same benefits for older employees as they do for younger employees

64



FEDERAL CREDIT REPORTING ACT

65



FEDERAL CREDIT REPORTING ACT


- Specific Provisions Became Effective July 21, 2011
 - If adverse action taken against applicant based in whole or part on credit score you must send notice of:
 - Credit Score use in the adverse action
 - Actual score and range of scores that are acceptable
 - Up to four factors that adversely impacted the persons credit score
 - Date of the Credit Score
 - Identity of the agency providing the Credit Score

66



RIGHT TO PRIVACY IN BACKGROUND

67



RIGHT TO PRIVACY IN BACKGROUND


- NASA v NELSON January 2011
 - Open ended inquiries are permissible
 - May request a broad range of information
 - Must be related to interest in employing a competent and reliable workforce
 - **NO** Federal Right to informational privacy
 - Unanimous decision by Supreme Court

68



■ CONDUCTING A BACKGROUND INVESTIGATION

69



FOCUS OF BACKGROUND

- What are the characteristics that we look for in the candidate ?
- What we should be looking for are the candidates standard behaviors.
- What specific things should we focus on to find the ideal candidate?

70



CANDIDATE CHARACTERISTICS

- Physical Ability
- Writing Skills
- Reading Skills
- Situational Reasoning Ability
- Self Control
- Oral Communication Skills
- Integrity
- Interpersonal Skills
- Initiative
- Dependability
- Appearance


71



CANDIDATE CHARACTERISTICS

- All can be summed up into six focus areas
 - Dependability
 - Initiative
 - Integrity
 - Interpersonal Skills
 - Self Control
 - Situational Reasoning Ability

72



CANDIDATE CHARACTERISTICS

- Dependability
 - Is the candidate currently dependable and will that continue into the future
 - How many times has the candidate been undependable in the past
 - What were the conditions of those incidents


73



CANDIDATE CHARACTERISTICS

- Initiative
 - Is the candidate a self-starter
 - Does the candidate have a reputation for researching and finding information required to complete assigned tasks.
 - Does the candidate have a "growth" or a "fixed" mindset

74



QUESTIONING FOR MINDSET

- FIXED MINDSET
 - Belief that a persons qualities are fixed in stone at birth
 - Intelligence, personality, and moral character cannot be changed over lifetime
 - Urgency to prove oneself over and over
 - Reacts poorly to constructive criticism or suggestion
 - "Don't try - you might look like a failure"

75

QUESTIONING FOR MINDSET


■ GROWTH MINDSET

- Believes that basic qualities are cultivated over time through personal study and work
- True potential can never be know
- Can learn new things ever day and improve performance
- Look for critique and criticism as roadmap for personal improvement
- "Try something new – it might work better and be an improvement"

76

QUESTIONING FOR MINDSET

Adolescent Brain Development

Fixed Mindset		Growth Mindset
intelligence is static		intelligence is developing
• Challenges ... avoid		• Challenges ... embraces
• Obstacles ... give up		• Obstacles ... fortitude
• Effort ... no point		• Effort ... work hard
• Criticism ... deflect		• Criticism ... learns
• Success of others ... feel threatened		• Success of others ... celebrates

77

CANDIDATE CHARACTERISTICS

■ INTEGRITY

- Is the candidate known for doing what is right
- Is the candidate willing to do the right thing instead of the popular thing
- Will candidate stand on principles or change position in face of opposition

78

CANDIDATE CHARACTERISTICS

INTERPERSONAL SKILLS

- Does candidate have adequate communication skills
- Can candidate communicate with multiple cultures and peoples
- Can candidate control his/her emotions under stressful situations

79

CANDIDATE CHARACTERISTICS

SELF CONTROL

- Does candidate participate in dangerous or destructive behaviors
- Can candidate make appropriate behavioral decisions
- Can candidate be influenced by peers to act in unprofessional ways

80


CANDIDATE CHARACTERISTICS

SITUATIONAL REASONING ABILITY

- Can candidate think on his/her feet
- Can candidate size up a situation correctly
- Can candidate make appropriate behavioral choices base on the situation

81

CANDIDATE CHARACTERISTICS



82

CANDIDATE CHARACTERISTICS

my dog got a haircut and now it looks like he gave up drinking.



83

WHERE DO WE START

- FIRST HAVE TO CHOOSE INVESTIGATORS
 - Officers and civilians doing investigations must be aware of legal requirements
 - Should be trained in agency policy on recruitment
 - Should be trained and familiar with agency disqualifiers and how they are applied

84

WHERE DO WE START

INVESTIGATORS

- Must be completely unbiased
- Cannot form opinion of candidate based on information recovered
- Must continue to search for both positive and negative information until investigation complete

85

WHERE DO WE START

INVESTIGATORS

- Must continue to work with the candidate until they are disqualified or passed to next level
- Must never consider candidates physical appearance such as tattoos or hair color

86

BEING UNBIASED



87

WHERE DO WE START

- INVESTIGATOR
 - As Recruiter
 - Often the first serious encounter the candidate has had with law enforcement
 - Candidate will form an opinion of the agency based on their interaction with the background investigator

88

WHERE DO WE START

- INVESTIGATOR
 - As Protector
 - Candidate does have rights
 - Keep inquiries to BFOQ issues (job related)
 - Keep information as confidential as possible

89

WHERE DO WE START

- INVESTIGATOR
 - Must be a consummate professional
 - Cannot react to information received from candidate unless it requires a criminal response
 - Cannot judge the candidate
 - Must be prepared for any surprise that pops up

90

BEING PROFESSIONAL



91

WHERE DO WE START

- Initial point of the investigation must be the Personal History Statement
- Required by TCOLE for each applicant
- Form is not prescribed but all parts must be covered in investigation

92

PERSONAL HISTORY STATEMENT

- The attached Personal History Statement (PHS) is intended as a sample of what TCOLE considers to be the minimum information necessary to meet the required background investigation (BI) for any law enforcement licensee appointed to an agency, as defined under TCOLE Rule 211.1(a)(8).
- Agency administrators may add additional information or agency identifiers without deletion or elimination of any information in this document.
- The PHS/BI is an auditable document which must be retained along with all other required TCOLE appointment documents through the licensee's employment and five (5) years after he or she leaves the agency.

93

PERSONAL HISTORY STATEMENT

- Required Sections
 - Personal Information
 - Relatives and References
 - Education
 - Residence
 - Experience and Employment
 - Military Experience
 - Financial
 - Legal
 - Motor Vehicle Operaton
 - Social Media Sites

94

PERSONAL INFORMATION

- Check completeness and legibility
- Note current residence location for follow up in reference section investigation
- Previous agency applications give a place to double check information provided

95

RELATIVES AND REFERENCES

- Provided references should be starting point only and not definitive reference
- It is not your job to verify phone numbers, email addresses, or locations!
- Call references and then use them to move "3 deep" to get legitimate information on candidate

96



EDUCATION

- Must have transcripts of all work both attempted and completed for every High School and College attended.
- Need to see a diploma for all school work completed at any institution.
- Don't overlook the importance of High School Transcripts


97



RESIDENCE

- Rental residences provide an additional reference point in landlord
- Timeline residences for continuity
- Prior roommates are additional references not usually listed in PHS

98



EXPERIENCE AND EMPLOYMENT

- Timeline all jobs
- Look at periods of "unemployment"
- Each job is an additional reference point
- Question former employers about candidates "mindset"

99

MILITARY EXPERIENCE

- Important to see the DD-214 long form
- Make sure career follows prescribed paths
- Look at reenlistment codes

100

FINANCIAL

- Avoid the use of credit reports
- Best option is to see last 3-4 months of bank statements (checking particularly)
- Look for continuity in "income" and "outgo"
- Pay attention to where "outgo" is going

101

LEGAL

- Important to look past reported activity to unreported but admitted activity
- Agency must decide how to deal with this admitted activity
- Included in this is narcotics and alcohol usage

102

MOTOR VEHICLE OPERATION

- One of the most critical factors to investigate
- If a candidate doesn't obey the Class C traffic law what leads you to believe that they will obey Policy and Procedure – or any other law?

103

MOTOR VEHICLE OPERATION

- Questions 87 - Are you now, or have you ever been, a member or associate of a criminal enterprise, street gang, or any other group that advocates violence against individuals because of their race, religion, political affiliation, ethnic origin, nationality, gender, sexual preference, or disability?
- Critically important to investigate the known associates of candidates.
- Question covers almost every known group our intelligence efforts investigate

104

MOTOR VEHICLE OPERATION

- Question 88 - Do you have, or have you ever had, a tattoo signifying membership in, or affiliation with, a criminal enterprise, street gang, or any other group that advocates violence against individuals because of their race, religion, political affiliation, ethnic origin, nationality, gender, sexual preference, or disability?
- Again question associates and affiliations
- Not a question about appearance but rather about associations
- Appearance should be addressed as policy issue.

105

MOTOR VEHICLE OPERATION

- Question 89 - Since the age of 17, have you ever been involved in an anger-provoked physical fight, confrontation or other violent act?
- Question is not about fighting but about self-control
- Issue to investigate here is all about candidates ability to maintain self control in stressful situations

106

MOTOR VEHICLE OPERATION

- Question 90 - Have you ever hit or physically overpowered a spouse, romantic partner or family members?
- Question looks at self control, interpersonal skills, and situational reasoning ability
- Looking to identify if the candidate has issues that will cause problems with the public when working for the agency

107

SOCIAL MEDIA SITES

- Here I feel that the section should be removed from the PHS for later questioning
- Candidates with questionable posts will be alerted by this question and sanitize their posts and sites
- Candidates should be questioned about this issue in person during their initial face to face interview with background investigator

108

SOCIAL MEDIA SITES

- Question – how do we find out what sites they might be using?
- One answer – www.peakyou.com
- Another is – www.spokeo.com
- A third is – www.socialcatfish.com
- A fourth way is to google search "Chris Bratton"
- Others to try: Pipl or YoName

109

SOCIAL MEDIA SITES

■ Instagram	■ Xbox Live
■ Facebook	■ Fark
■ Twitter	■ Blogmarks
■ Live	■ Playstation Network
■ Reddit	■ Digg
■ Diigo	■ PeekYou
■ White Pages Neighbors	■ Nation Center for State Courts
■ Kik	■ Tinder
■ YouTube	■ Twitch
	■ Tumblr

110

SOCIAL MEDIA EXPOSURE



111

SOCIAL MEDIA EXPOSURE



112

SOCIAL MEDIA EXPOSURE



113

SOCIAL MEDIA EXPOSURE



114

SOCIAL MEDIA EXPOSURE



115

CANDIDATE DOCUMENTS


- Full length color photograph
- Official/Certified Birth Certificate
- Naturalization Papers (If Applicable)
- Driver's License and Proof of Financial Responsibility
- High School Diploma
- High School Transcript
- College Diploma(s)

116

CANDIDATE DOCUMENTS

- College Transcripts of all work attempted or completed
- Marriage License(s) or Certificate(s)
- Divorce Decrees or Dissolution of Marriage Paperwork
- Military Discharge Paperwork (DD-214 Long Form)
- Bank Statements (three months minimum)

117



CANDIDATE DOCUMENTS

- All Police Reports that name Candidate in any regard (victim, witness, or suspect)
- All Court paperwork (Civil or Criminal) that names Candidate not already required

118



AREAS TO INVESTIGATE

- Work History
- Unemployment Record
- Military Record
- Educational History
- Criminal History (Both reported and self-admitted)
- Traffic Record
- Financial History

119



AREAS TO INVESTIGATE

- Electronic History
- Marital History and Family Relations
- Use of Narcotics (Including Legal Prescriptions)
- Use of Alcohol
- Friends/Associates
- Memberships
- General Reputation

120

KEY AREAS OF FOCUS

- Job Related Performance Issues
 - References (Dependability and Initiative)
 - Timeliness (Dependability and Self Control)
 - Adaptability (Interpersonal Skills and Situational Reasoning)
 - Behavior with Co-workers (Self Control, Interpersonal Skills, Initiative, and Integrity)
 - Behavior with Supervisors (Self Control, Interpersonal Skills, Initiative, and Integrity)
 - Behavior with Public Customers (Self Control, Interpersonal Skills, Initiative, and Integrity)

121

DEPENDABILITY



122

INTEGRITY



123

INITIATIVE



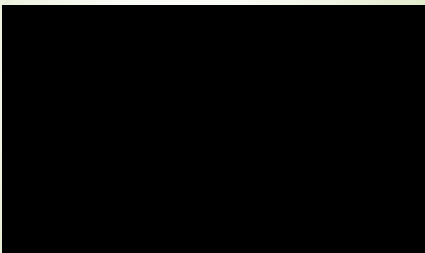
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SELF CONTROL



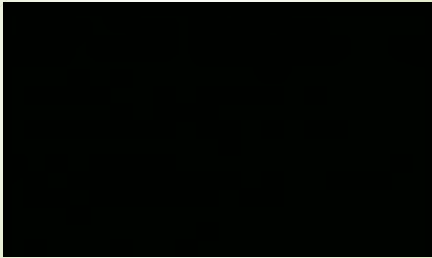
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INTERPERSONAL SKILLS



126

SITUATIONAL REASONING



127

SITUATIONAL REASONING




128

BACKGROUND INVESTIGATION

- Investigation must be:
 - OBJECTIVE
 - Must report both positive and negative information discovered
 - Note everything regardless of source
 - Critical to correctly note source information


129



BACKGROUND INVESTIGATION

- ACCURATE
 - Double check the accuracy of all information listed in report
 - Attribute information listed to the correct and appropriate source
 - Document source correctly so others can contact if necessary


130



BACKGROUND INVESTIGATION

- DESCRIPTIVE
 - Relate only what has directly related to the investigator
 - Never put down investigator opinion
 - Do not attempt to evaluate the meaning of the facts related except to determine if the candidate has met a disqualifier

131



BACKGROUND INVESTIGATION

- FACT FINDING NEEDS TO MEET CERTAIN PARAMETERS:
 - Job Related
 - Sufficient for a decision maker to look at
 - Did any information found meet either a temporary or permanent disqualifier

132

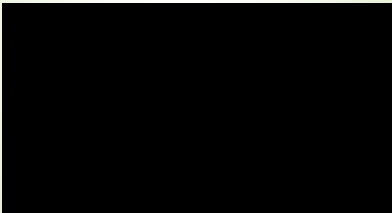
BACKGROUND INVESTIGATION

- ALWAYS LOOK FOR EMPLOYEE DEVIANCE
 - Issues of Production
 - Issues of Property
 - Political Issues
 - Personal Aggression Issues

133

BACKGROUND INVESTIGATION

No matter how hard they try to hide past©




134

BACKGROUND INVESTIGATION

- GUIDELINES TO CONSIDER IN DEVIANCE FINDINGS
 - Seriousness of Behavior
 - Extenuating or Aggravating Circumstances
 - Likelihood of Recurrence
 - Impact to Agency if behavior re-occurs
 - Are there Due Process Issues

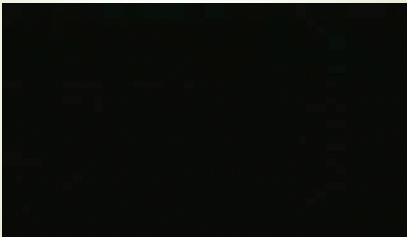
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BACKGROUND INVESTIGATION
DON'T ALWAYS BELIEVE FIRST IMPRESSION



136

BACKGROUND INVESTIGATION




137

BACKGROUND INVESTIGATION




138



BACKGROUND INVESTIGATION

- INQUIRIES BY MAIL FOR INDIVIDUALS
 - Always use same questionnaire for each candidate
 - Always enclose a S.A.S.E. with inquiry
 - Ask if person would be comfortable with candidate responding to an emergency call at their residence


139



BACKGROUND INVESTIGATION

- INQUIRIES BY MAIL FOR BUSINESSES
 - Use same questionnaire for each candidate
 - Always enclose a S.A.S.E. with each inquiry
 - Ask if candidate is eligible for re-hire
 - Ask if that is a corporate business decision


140



BACKGROUND INVESTIGATION

- TELEPHONE INTERVIEWS
 - Must use the same questionnaire for each candidate
 - If a personal reference ask if the person would be comfortable having the candidate respond to their residence on an emergency call
 - If a business reference ask if candidate is eligible for re-hire and if that corporate business decision
 - Can ALWAYS chase information if it's brought up by the person being interviewed.


141



BACKGROUND INVESTIGATION

- PERSONAL INTERVIEWS
 - Watch body language of candidate
 - Use active listening skills
 - Listen for words like: started, began, finished, ended, proceeded, continued, etc.
 - Listen for changes in story from what was initially listed in the PHS

142



BACKGROUND INVESTIGATION

- PERSONAL INTERVIEWS
 - Use the "pregnant" pause often
 - Use "encouragers" often

143



BACKGROUND INVESTIGATION

- WRITTEN REPORT
 - Contains all of the information the investigator has discovered
 - Both positive and negative information
 - No investigator opinions or beliefs

144

BACKGROUND INVESTIGATION

- FOCUS OF WRITTEN REPORT
 - Dependability
 - Initiative
 - Integrity
 - Interpersonal Skills
 - Self Control
 - Situational Reasoning Ability

145

BACKGROUND INVESTIGATION

- TERMINATING THE INVESTIGATION
 - Always terminate in writing
 - Give a specific reason
 - Let candidate know if/when they will be eligible to re-apply

146

BACKGROUND INVESTIGATION

- LEGITIMATE REASONS TO TERMINATE
 - Evidence of past behavioral issues
 - Evidence of criminal activity
 - Evidence of significant financial issues
 - Evidence of significant family problems
 - Meets Agency Disqualifiers

147

BACKGROUND INVESTIGATION

- FINAL THOUGHTS
 - Background Investigator has the most critical job in the agency
 - The integrity and reputation of the agency will be determined by the candidates you hire today

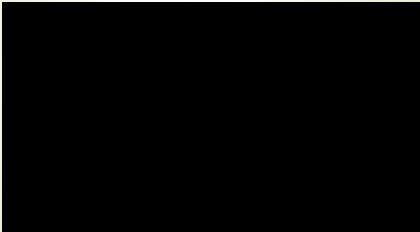
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BACKGROUND INVESTIGATION

- Job of the background investigator is to find ways to make the very best candidates successful
- Background investigator is the true guardian of the agency's legacy

149

BACKGROUND INVESTIGATION



150



THANK YOU!

- ▶ Chris Bratton
- ▶ Chief of Police – Retired
- ▶ 512-657-2534
- ▶ cbbratton77@gmail.com

JOB ANALYSIS WORKSHEET

NAME DEPARTMENT/DIVISION: BRIEF JOB DESCRIPTION:	CLASS NO. & TITLE: FUNCTIONAL JOB TITLE:
---	---

HR USE ONLY	II. ESSENTIAL JOB FUNCTIONS: These are the most important/major job functions which are "essential" as a matter of <u>business necessity</u> in this position and the % time spent performing each function. List essential job functions in order of importance.	% TIME

HR USE ONLY	III. PHYSICAL AND ENVIRONMENT/HAZARD DEMANDS OF ESSENTIAL JOB FUNCTIONS: Notate in the code boxes the frequency letter code for <u>each</u> physical activity and environment/hazard listed below for this position. N = NEVER, O = OCCASIONAL (< 25%), F = FREQUENT (25-75%), C = CONTINUOUS (75%+).		
CODE	ACTIVITIES	CODE	ENVIRONMENT/HAZARD
	a. Sitting - job functions performed by sitting		a. Client/Customer Contact - communication outside work unit
	b. Crawling - job functions performed by crawling		b. Mechanical Hazards - exposure to dangerous machinery
	c. Standing - job functions performed by standing		c. Indoor Activity - job functions performed indoors
	d. Twisting Upper Body - job functions performed by twisting		d. Electrical Hazards - exposure to electrical shock or danger
	e. Walking - job functions performed by walking		e. Outdoor Activity - job functions performed outdoors
	f. Climbing - job functions performed by climbing		f. Dust/Mites Hazards - exposure to excessive dust/mites
	g. Kneeling - job functions performed by kneeling		g. Extreme Heat - work setting in excessive heat
	h. Carrying 50 lbs. of Weight		h. Extreme Cold - work setting in excessive cold
	i. Squatting - job functions performed by squatting		i. Extreme Noise - work setting around noisy machinery
	j. Lifting 50-100 lbs. of Training Supplies		j. Other: Telephone – talking on telephone while working on projects – note taking
	k. Bending - job functions performed by bending		
	l. Other:		

CODE	IV. AMBULATORY DEMANDS OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of ambulatory demands (excluding travel requirements) which is applicable to this position:
	a. No ambulatory requirements.
	b. Minimal ambulatory requirements - ability to move to and from work space with little other movement required using wheelchair or other aid.
	c. Moderate ambulatory requirements - ability to move in and around personal work space using wheelchair or other aid.
	d. Normal ambulatory requirements - ability to move in and around personal work space AND to and from other areas of the office or building using wheelchair or other aid to attend meetings, deliver/retrieve materials, conduct interviews, or other activities outside of personal work space.
	e. Extreme ambulatory requirements - ability to stand/sit/move with no physical limitations or aids to perform activities such as retrieve/replace files in a large file system.

CODE	V. COGNITIVE SKILLS OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of cognitive skills which is applicable to this position:
	a. Minimal cognitive requirements - ability to learn and retain repetitive actions.
	b. Moderate cognitive requirements - ability to learn, retain, and act according to basic rules guiding the performance of an activity.
	c. Normal cognitive requirements - ability to learn, remember, and integrate rules, policies, or practices guiding the performance of an activity.
	d. Extensive cognitive requirements - ability to learn, remember, and integrate complex concepts, difficult procedures, or complicated processes.
	e. Extreme cognitive requirements - ability to use creative thinking to originate new methodologies, concepts, or programs; or to solve highly complex and unique problems impacting major programs; or to perform highly technical procedures requiring specialized skills.

CODE	VI. SPEECH - COMMUNICATION DEMANDS OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of speech requirement which is applicable to this position:
	a. No speech required.
	b. Minimal speech-communication requirements - ability to respond to supervisors/co-workers in the affirmative or negative.
	c. Marginal speech-communication requirements - ability to communicate verbally with supervisors/co-workers using natural or device-enhanced speech.
	d. Normal speech-communication requirements - ability to communicate verbally with clients/customers to gather information &/or explain policies/procedures.

e. Advanced speech-communication requirements - ability to communicate effectively to groups through either practiced or extemporaneous oral presentation.

CODE	VII. WRITTEN - COMMUNICATION DEMANDS OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of written communications which is applicable to this position:
	a. No written communications required.
	b. Minimal written communications - ability to record very limited information such as phone messages or other brief notations using handwritten or mechanical means.
	c. Marginal written communications required - ability to record information frequently such as phone messages, suspense/tracking records, log entries, leave/travel records, or other written records using handwritten or mechanical means.
	d. Normal written communications required - ability to routinely record information such as draft correspondence/reports/documents/policies/procedures, conduct interviews and record information, prepare case narratives, or prepare other lengthy documents using handwritten or mechanical means.
	e. Advanced written communications required - ability to continually record information as a primary job function such as writing news/editorial articles for a newspaper, prepare in-depth technical reports of on-going research activities, produce graphics/illustrations for media materials, or other predominately writing jobs using handwritten or mechanical means.

CODE	VIII. VISUAL ACUITY OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of visual acuity which is applicable to this position:
	a. No vision required.
	b. Minimal visual requirements - ability to see shapes, shadows, contrasts.
	c. Marginal visual requirements - ability to read text with the aid of magnifying equipment.
	d. Normal or corrected reading vision required - ability to read with attention to details.
	e. Acute visual requirements - ability to perform visual activities requiring prolonged attention to detail such as editing and proofreading.
	f. Extreme visual acuity required - ability to perform intense visual activities such as detailed art composition, camera/photography work, or lab/microscope work.

CODE	IX. AUDITORY ACUITY OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of auditory acuity which is applicable to this position:
	a. No hearing required.
	b. Minimal auditory requirements - ability to hear warning devices, tones, or loud sounds.
	c. Marginal auditory requirements - ability to hear and understand speech on a limited basis with use of amplifying equipment/hearing aids.

d. Normal or corrected hearing required - ability to hear and understand speech to interact with coworkers/clients/customers on a routine or frequent basis with use of amplifying equipment/hearing aids.

CODE	X. TRAVEL DEMANDS OF ESSENTIAL JOB FUNCTIONS: Notate in the code box the most appropriate letter code for the level of travel which is applicable to this position:
	a. No travel required.
	b. Minimal travel required - ability to travel infrequently (i.e. annually) for activities such as job skills training at a centralized training center.
	c. Moderate travel required - ability to travel occasionally (i.e. quarterly) for activities such as out-of-town meetings or training sessions.
	d. Normal travel required - ability to travel frequently (i.e. weekly-monthly) for activities such as site visits, delivering mail, auditing records, inspecting facilities, or other activities requiring frequent travel under normal conditions.
	e. Extreme travel required - ability to travel routinely (i.e. daily) under extreme conditions such as all hours of day/night in high risk/dangerous settings or heavy travel for long distances such as delivering/picking up office furniture/equipment/supplies, or conducting investigations, etc.

HR USE ONLY	XI. EQUIPMENT USED: List any equipment/machinery/vehicles required in this position to perform the essential job functions, the purpose of use, and % time used:	
	NAME OF EQUIPMENT/MACHINERY/VEHICLE	% TIME USED

XII. OTHER DEMANDS: List and explain any additional requirements of the position considered necessary to perform the essential job functions listed in Section II.

SUPERVISOR'S NAME

DATE

HR CLASSIFICATION ANALYST

DATE