

[Proposed regulation changes are presented in underline/strikeout format.]

11 CCR § 1953

§ 1953. Peace Officer Background Investigation.

(a) Government Code Mandate

Every peace officer candidate shall be the subject of a thorough background investigation to verify good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer [Government Code section 1031(d)].

(b) Background Investigation Evaluation Criteria

The background and personal history sections of the Bias Assessment Framework [Regulation 1955(d)(4)] and the entire set of The POST *Background Investigation Manual: Guidelines for the Investigator* (2018) provides assistance in conducting background investigations. ~~The use of the manual is discretionary; except the POST Background Investigation Dimensions (Dimensions) herein incorporated by reference described in the manual - Integrity, Impulse Control/Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Confronting and Overcoming Problems, Obstacles, and Adversity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability, and Communication Skills - shall be considered in the conduct of every peace officer background investigation.~~ The *POST Background Investigation Manual: Guidelines for the Investigator* (2022) provides guidance in conducting background investigations. The use of the manual is discretionary, with the exception of the Dimensions.

(Regulation 1953(c) – (e)(4) continued...)

(5) Education Verification

(A) Every peace officer candidate shall meet one of the following minimum education requirements pursuant to Government Code section 1031(e):

1. Be a high school graduate of one of the following:
  - a. A U.S. public school, or
  - b. An accredited U.S. Department of Defense high school, or
  - c. An accredited or approved public or nonpublic high school.
2. Pass the General Education Development (GED) test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level.
3. Pass the California High School Proficiency Examination, or
4. Have attained a two-year, four-year, or advanced degree from an accredited college or university.

Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved

accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED or COGNIA, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(B) Proof shall consist of an official transcript or other means of verifying satisfactory completion of educational requirements deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed.

(6) Employment History Checks

(A) Every peace officer candidate shall be the subject of employment history checks through contacts with all past and current employers over a period of at least ten years, as listed on the candidate's personal history statement.

(B) Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted. All information requests shall be documented.

(7) Relatives/Personal References Checks

(A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references (e.g., secondary references), provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate and additional references provided by the initial contacts were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.

(Regulation 1953(e)(8) – (f)(2)(E) continued...)

(g) Documentation and Reporting

(1) Background Narrative Report

The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of biased behaviors and/or bias-relevant traits and attributes per the Bias Assessment Framework [Regulation 1953(b)]. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true,

current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections.

(2) Retention

The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code section 12946.

(3) Information Access

The narrative report and any other relevant background information shall be shared with the psychological evaluator [Regulation 1955(e)(3)]. This information shall also be shared with others involved in the hiring process, such as screening physicians, if it is relevant to their respective evaluations.

This information must be furnished to those conducting background investigations of peace officer candidates on behalf of other law enforcement departments except as specifically provided by statute (Government Code section 1031.1, Government Code section 6250 et seq, Labor Code section 1050, Labor Code section 1054, O'Shea v. General Telephone Co. (1987) 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the prospective department to determine the suitability of the peace officer candidate.

Note: Authority cited: Sections 1030, 1031, 1031.2, 1031.3, and 1031.5, Government Code; Section 2267, Vehicle Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 1029, 1030, 1031, 1031.2, 1031.3, 1031.5 and 12900 et seq., Government Code; Sections 2267 and 12500, Vehicle Code; Sections 13510 and 29805, Penal Code; and Title 18 Section 922(d)(9), US Code.

11 CCR § 1955

§ 1955. Peace Officer Psychological Evaluation.

(a) Government Code Mandate/Evaluator Requirements

Every peace officer candidate shall be evaluated to determine if the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer [Government Code section 1031(f)], and to otherwise ensure that the candidate is capable of withstanding the psychological demands of the position.

(1) The psychological evaluation shall be conducted by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued post-doctorate.

(2) The psychological evaluator (hereinafter referred to as “evaluator”) shall be competent in the conduct of preemployment psychological screening of peace officers. The required areas of competence, ~~as are~~ defined in the *POST Peace Officer Psychological Evaluator Competencies (Competencies): Assessment, Clinical, Communication, Jurisprudence, Multicultural, Occupational, Procedural, Psychometric, and Standards*, are herein incorporated by reference. The Competencies are contained and defined in Chapter 3 of the *POST Peace Officer Psychological Screening Manual (201822)*.

(3) The evaluator must complete a minimum of 12 hours biennially of POST-approved continuing professional education per Commission Regulation 1955(b).

(4) The evaluator shall conduct the examination on behalf of and for the benefit of the employing department.

(b) Continuing Professional Education (CPE)

(Regulation 1955(b)(1) – (2)(G) continued...

(3) Evaluator CPE Requirement

(A) Effective July 1, 2019, All-evaluators must complete the POST-developed Peace Officer Psychological Screening Manual on-line exam prior to conducting preemployment psychological screening. ~~Incumbent evaluators must meet this requirement no later than July 1, 2019.~~

(B) Effective September 1, 2014, evaluators must complete 12 hours of POST-approved CPE every license renewal cycle. For partial cycles, CPE hours are prorated at .5 hours per month, based on the evaluator's license renewal date. The POST CPE requirement

must be met no later than the evaluator's license renewal date. Additional CPE hours above the 12 hour minimum do not count toward the next two-year cycle.

(C) The evaluator may satisfy no more than 75% [up to nine (9) hours] of the POST CPE requirement through independent learning that meets Regulation 1955(b)(1). Independent learning includes, but is not limited to, courses delivered via the Internet, including asynchronous training, CD-ROM, satellite downlink, correspondence, and home study.

(Regulation (b)(4) – (c) continued...)

(d) Psychological Screening Procedures and Evaluation Criteria

(1) The psychological screening procedures and evaluation criteria used in the conduct of the psychological evaluation shall be based on the peace officer duties, powers, demands, and working conditions as defined by the department. This information shall be provided to the evaluator, along with any other information (e.g., risk management considerations) that will allow the evaluator to make a psychological suitability determination.

(2) Every peace officer candidate shall be evaluated, at a minimum, against job-related psychological constructs herein incorporated by reference in the *POST Peace Officer Psychological Screening Dimensions* (Dimensions): Social Competence, Teamwork, Adaptability/Flexibility, Conscientiousness/Dependability, Impulse Control, Integrity/Ethics, Emotional Regulation/Stress Tolerance, Decision Making/Judgment, Assertiveness/Persuasiveness, and Avoiding Substance Abuse and Other Risk-Taking Behavior. The Dimensions are contained and defined in Chapter 4 of the *POST Peace Officer Psychological Screening Manual (201822)*.

(3) When evaluating a peace officer candidate for explicit and implicit bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer, psychological evaluators shall use the Bias Assessment Framework, herein incorporated by reference, to assess biased behaviors, biased attitudes and bias-relevant traits and attributes.

(4) The POST Peace Officer Psychological Screening Manual (201822) provides guidance in the evaluation of peace officer candidates. The use of this manual is discretionary with the exception of the required Psychological Evaluator Competencies, and the Psychological Screening Dimensions, and the Bias Assessment Framework outlined in subsections 1955(a)(2) and, 1955(d)(2), and 1955(d)(3), respectively.

(e) Required Sources of Information for the Psychological Evaluation

The psychological evaluation shall include a review by the evaluator of the following sources of information prior to making a determination about the candidate's psychological suitability.

(1) Job Information

Job information shall consist of the peace officer duties, powers, demands, and working conditions provided by the department per subsection 1955(d)(1).

(2) Written Assessments

Written assessments shall consist of a minimum of two written psychological instruments. One of these instruments shall be designed and validated to identify patterns of abnormal behavior; the other instrument shall be designed and validated to

assess normal behavior. Both instruments shall have documented evidence of their relevance for evaluating peace officer suitability. Together, the instruments shall provide information about each candidate related to: (1) freedom from emotional and/or mental conditions that might adversely affect the exercise of the powers of a peace officer, and (2) psychological suitability per the POST Psychological Screening Dimensions [refer to subsection 1955(d)(2)].

The psychological assessments shall be interpreted using appropriate, authorized test publisher scoring keys. If mail-order, internet-based, or computerized test interpretations are used, the evaluator shall verify and interpret the individual results.

#### (3) Personal History Information

Personal history information includes the candidate's relevant work, life, and developmental history based on information collected during the background investigation [Regulation 1953(g)(3)]. This information may be augmented by responses on a personal history questionnaire collected as part of the psychological evaluation.

#### (4) Psychological Interview

A psychological interview shall be administered to each peace officer candidate subsequent to a review and evaluation of the results of the written assessments [Regulation 1955(e)(2)] and the candidate's personal history information [Regulation 1955(e)(3)]. Sufficient interview time shall be allotted to address all issues arising from the reviewed information and other issues that may arise during the interview.

#### (5) Psychological Records

Psychological records and relevant medical records shall be obtained from the candidate's treating health professional, if warranted and obtainable. This information may be provided by the candidate, or, with written authorization from the candidate (Civil Code section 56.11), may be obtained directly from the health professional.

#### (f) Psychological Evaluation Reporting Requirements

(1) Data from all sources of information shall be considered; the evaluator's determination shall not be based on one single data source unless clinically justified.

(2) The evaluator shall provide the department with a psychological suitability declaration that shall include the following information:

(A) The evaluator's printed name, contact information and professional license number,

(B) The name of the candidate,

(C) The date the evaluation was completed, and

(D) A statement, signed by the evaluator, affirming that the candidate was evaluated in accordance with Commission Regulation 1955. The statement shall include a determination of the candidate's psychological suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be psychologically suitable.

(3) The department shall maintain the psychological suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections.

(4) Any additional information reported by the evaluator to the department shall be limited to that which is necessary and appropriate, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and the nature and seriousness of the potential risks posed by the candidate. All information deemed

medical in nature shall be maintained as a confidential record, separate from the background investigation file.

(5) Information from the psychological evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.

(g) Second Opinions

(1) A candidate who is found psychologically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [2 California Code of Regulations section 11071(b)(2)]. Consideration should include determining whether the second opinion evaluator meets the requirements set forth in Government Code section 1031(f) and Regulation 1955(b).

(2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the requirements specified in Commission Regulation 1955. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.

Note: Authority cited: Sections 1031 and 1031.3, Government Code; Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Sections 1031 and 1031.3, Government Code; and Section 13510, Penal Code.

## Bias Assessment Framework [Proposed Commission Regulation 1955(d)(3)]

Intended uses: (a) to guide background investigators to bias-relevant areas of inquiry for inclusion in the background investigation report reviewed by the screening psychologist; and (b) to guide screening psychologists in the collection and evidence-based use of bias-related information derived from the three sources of information stipulated in POST Commission Regulation 1955.

Targeted Construct	Data Sources					
	Background and Personal History		Written Instruments		Psychological Interview	
	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective
Biased Behaviors	History of biased behaviors <sup>1</sup>	Evidence of mitigating or protective factors subsequent to biased behavior	Responses to written self-report questionnaire pertaining to a history of biased behaviors <sup>2</sup>	Not directly assessed	Interview questions pertaining to a history of biased behaviors	Interview questions pertaining to behaviors contrary to bias or that mitigate a history of biased behaviors
Biased Attitudes	Not directly assessed	Not directly assessed	<i>Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.</i>	<i>Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.</i>	Interview-based assessment of biased attitudes	Interview-based assessment of attitudes in opposition to the targeted bias
Bias-Relevant Traits & Attributes <sup>3</sup>	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes

<sup>1</sup> Background investigations should include a broad range of diverse references and developed references including workplace (e.g., supervisors, co-workers), family members, neighbors, close personal relationships, social and family friends, teachers, military colleagues, and other contacts.

<sup>2</sup> Psychological evaluators are required to assess each of the targeted constructs, but the data sources used for the assessments are at the discretion of each evaluator. For example, when the background investigation and psychological interview adequately assess biased behaviors and biased attitudes, respectively, written assessments of those constructs may not contribute incrementally to the assessment.

<sup>3</sup> When there is clear and direct evidence of unmitigated biased behaviors or attitudes, other factors are not relevant for assessing the bias of a peace officer candidate. However, when direct evidence of explicit or implicit bias is unavailable, ambiguous, or relatively weak, it may be useful to consider related factors such as neutral or favorable intergroup contact, motivations to respond without prejudice, perceptions of social norms about prejudice, and executive function. These factors also generally contribute to more equitable behavior and fair treatment of others, and thus can mitigate tendencies to act in discriminatory ways even when some evidence of bias is detected.



**Table 1a: Non-exhaustive list of biased behaviors**

*Intended use: Tables 1a and 1b provide non-exhaustive lists of examples of aggravating/facilitating factors and mitigating/protective factors and are intended as guidance for background investigators and screening psychologists in implementing the Bias Assessment Framework.*

Targeted Construct	Examples of Aggravating or Facilitative Factors	Examples of Mitigating or Protective Factors
Biased Behaviors	<ol style="list-style-type: none"> <li>1. Use of slurs or epithets targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics</li> <li>2. Acts of violence, harassment or discrimination targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics</li> <li>3. History of disciplinary actions, reprimands, or other formal consequences (e.g., at school, work, military) for biased behavior against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics</li> <li>4. Statements, social media postings and other behaviors indicating bias, social group dominance/ supremacy, or espousing intolerance of or hostile action against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics</li> <li>5. Membership in a hate group, participation in hate group activities, or public expressions of hate<sup>1</sup></li> <li>6. Voluntary and ongoing association with persons who hold membership in a hate group, participate in hate group activities, or engage in public expressions of hate.</li> </ol>	<ol style="list-style-type: none"> <li>1. Evidence that the candidate made a prompt, good-faith effort to make restitution<sup>2</sup></li> <li>2. Evidence that the offense is so minor, or so much time has passed, or it happened under such unique conditions that it is unlikely to reflect a stable bias</li> <li>3. Evidence that the candidate has matured or rehabilitated</li> <li>4. The information, evidence or report was from a questionably reliable source</li> <li>5. In the case of voluntary and ongoing association with persons who openly espouse bias, mitigating evidence may be that the association is warranted by one or more important social, familial or occupational ties and the candidate does not share the bias</li> </ol>

<sup>1</sup>“Hate group” means an organization that, based upon its official statements, principles or activities, supports, advocates for, threatens, or practices the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability. “Participation in hate group activities” means active and direct involvement in, or coordination or facilitation of, acts of violence by hate group members. “Public expression of hate” means any explicit expression in a public forum, on social media including in a private discussion forum, in writing, or in speech, advocating for, supporting, or threatening the genocide of, or violence toward, any individual or group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability. “Public expression of hate” also includes the public display of any tattoo, uniform, insignia, flag, or logo that indicates support for the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

<sup>2</sup> Items 1-4 are adapted from mitigation criteria published in the *National Security Adjudicative Guidelines*. (2017). See <https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-4-Adjudicative-Guidelines-U.pdf>

**Table 1b. Non-exhaustive list of biased attitudes and bias-relevant traits and attributes**

Targeted Construct	Examples of Aggravating or Facilitative Factors	Examples of Mitigating or Protective Factors
Biased Attitudes	<p>Published measures of biased attitudes<sup>1</sup> include:</p> <ol style="list-style-type: none"> <li>1. Social Dominance Orientation Scale (Ho et al., 2015)</li> <li>2. Right-Wing Authoritarianism Scale (Altemeyer, 1998; Zakrisson, 2005)</li> <li>3. Modern/Symbolic Racism Scale (Henry &amp; Sears, 2002; McConahay, 1986)</li> <li>4. Ambivalent Sexism Inventory (Glick &amp; Fiske, 1996)</li> <li>5. Attitudes Toward Lesbians &amp; Gay Men (Herek, 1998)</li> <li>6. Bias Awareness Scale (Perry, Murphy, &amp; Dovidio, 2015)</li> <li>7. Rape Myth Beliefs (Parratt &amp; Pina, 2017)</li> </ol>	<p>Attitudes in opposition to targeted biases also are measured by several of the published measures of biased attitudes (however, see footnote 1)</p>
Bias-Relevant Traits & Attributes	<ol style="list-style-type: none"> <li>1. Cynicism</li> <li>2. Misanthropy</li> <li>3. Disinhibited or antagonizing externalizing tendencies (e.g., impulsivity, disconstraint, antisocial behavior)</li> <li>4. Low tolerance</li> <li>5. Absence of empathy</li> <li>6. Clinically significant symptoms or moderate symptoms/traits associated with counterproductive behavior as a peace officer</li> </ol>	<ol style="list-style-type: none"> <li>1. High theory of mind formation</li> <li>2. High stress resilience and coping</li> <li>3. Favorable or neutral experience(s) with members of other groups</li> <li>4. Egalitarian values</li> <li>5. Evidence of empathy and perspective-taking toward members of marginalized groups</li> <li>6. High levels of executive function</li> <li>7. Internal motivation to respond without prejudice</li> </ol>

<sup>1</sup>Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.

## Assessing Bias in California Peace Officer Candidates: Draft Implementation of the AB 846 POST Commission Mandate



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POST SME Panel Chair

California Commission on Peace  
Officer Standards and Training

August 5, 2021

## Requests

- Please ensure your Zoom name is your own.
- If you want to speak, write your comment or question in the chat box.
- Keep your mic muted until invited to speak.

# Assembly Bill 846 Mandates

*Effective January 1, 2021*

Action by peace officer employers

Changes to peace officer criterion standard

Action by POST Commission

## Employer Mandate

(Penal Code §13561)

*Requires departments employing peace officers to review job descriptions and deemphasize the paramilitary aspects of employment while placing more emphasis on community interaction and collaborative problem solving*

## State Mandate

*Revised the  
minimum standard  
for California peace  
officers by  
amending  
Government Code  
§ 1031(f)*

### **California Government Code § 1031(f),** *Added by Stats. 2020, Ch. 322 (AB 846) Effective January 1, 2021*

Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(f) Be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

# POST Commission Mandate

(Government Code  
§1031.3)

*Mandated POST to study, review and update regulations and associated screening materials to incorporate identification of explicit and implicit bias*

## POST Commission Mandate

- Guided by a Subject Matter Expert (SME) Panel
- Panelists selected on the basis of their nationally recognized research and expertise involving psychological screening, prejudice and bias, and/or police behavior/performance

# Subject Matter Expert Panel Members



## *Panel Chair*

**David M. Corey, PhD, ABPP**

- Practicing screening psychologist and published researcher
- Chair, Specialty Council for Police & Public Safety Psychology
- Coauthor, *POST Peace Officer Psychological Screening Manual*

# Subject Matter Expert Panel Members



**Karen L. Amendola, PhD**

- Chief Behavioral Scientist, National Police Foundation
- Published researcher

# Subject Matter Expert Panel Members



**John F. Dovidio, PhD**

- Professor Emeritus of Psychology, Yale University
- Director, Intergroup Relations Lab, Yale University
- Extensive published research on bias and prejudice

# Subject Matter Expert Panel Members



**Calvin K. Lai, PhD**

- Assistant Professor, Psychological & Brain Sciences, Washington University
- Director, Diversity Science Lab
- Chair of the Scientific Advisory Board at Project Implicit
- Extensive published research on bias and prejudice



# Subject Matter Expert Panel Members



## Rashawn Ray, PhD

- Professor of Psychology, University of Maryland, College Park
- Executive Director, Lab for Applied Social Science Research
- Fellow, The Brookings Institution
- Extensive published research on bias and prejudice

# AB 846 POST Commission Mandate Implementation Plan



## Phase 1

Subject matter expert panel: survey existing practices, conduct comprehensive literature review, and develop recommendations



## Phase 2

Solicit feedback from advisory and stakeholder groups



## Phase 3

Review feedback and revise recommendations, as needed; submit to POST Commission for action



## Bias Assessment Practices: Survey Findings

- N=105 screening psychologists from all 10 state regions responded to the online survey



## Bias Assessment Practices: Survey Findings

- Psychological interview was reported to be the *most widely used* method for assessing explicit (95.6%, N=91) and implicit bias (86.4%, N=88)



## Bias Assessment Practices: Survey Findings

- Self-reported personal history is reported to be the **second** most common method used to assess explicit (87.9%, N=91) and implicit bias (75.0%, N=88)



## Bias Assessment Practices: Survey Findings

- Background investigation findings were reported to be the **third** most common method for assessing explicit (86.8%, N=91) and implicit bias (71.6%, N=88)



## Bias Assessment Practices: Survey Findings

- Psychological test results were reported to be the *least common* method used for assessing explicit (64.8%, N=91) and implicit bias (55.7%, N=88)



## Bias Assessment Practices: Survey Findings

- Only a quarter of screening psychologists (26.1%, N=23 of 88 respondents) reported routinely receiving outcome data for hired candidates, *but only from some agencies*

## Definitions of Key Terms

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**Bias:** A response toward a group and its members, relative to one's own group, that creates or maintains status differences between groups.

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**Discrimination:** Unfair treatment or behaviors directed toward people on the basis of their actual or perceived group membership.

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**Prejudice:** An attitude toward a group and its members that creates or maintains status differences between groups.

## Definitions of Key Terms

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**Explicit bias (or explicit prejudice):** An attitude or belief (e.g., stereotype) about a group and its members that people know they hold and are willing to express. Explicit biases are more controllable, more conscious, and/or slower or less efficient to retrieve from memory than implicit bias. Explicit biases are typically assessed directly with self-report measures.

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**Implicit bias:** Feelings or beliefs about a group and its members that are less controllable, less conscious, and/or faster or more efficient to retrieve from memory than explicit bias. Implicit biases may often be activated without intention or awareness. Implicit biases are typically assessed indirectly through performance on an ostensibly unrelated task.

## Literature Review: Key Findings

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Discrimination is multi-determined, involving individuals' explicit and implicit biases, the social situation, and the opportunities and consequences for expressing bias. As a result, measures of explicit and implicit bias will weakly or moderately, at best, predict discrimination.

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Intervention or training efforts to reduce prejudice in an enduring way after hiring have shown only limited effectiveness. Therefore, selecting peace officers on preexisting low levels of prejudice may be particularly important for preventing discrimination.

## Literature Review: Key Findings

When there is clear and direct evidence of unmitigated biased behaviors or attitudes, other factors are not relevant for assessing the bias of a peace officer candidate.

When direct evidence of bias is ambiguous or weak, other factors that are related to explicit or implicit bias become more important in assessment.

- *When there is some direct but unclear evidence of prejudice or bias, mitigating factors can override these predispositions, reducing the likelihood that people will act in a discriminatory way.*



## Purposes of the Bias Assessment Framework

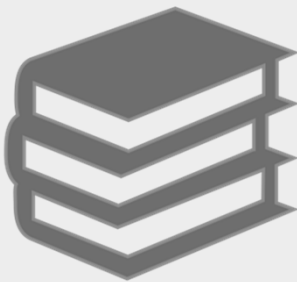
*To guide background investigators to bias-relevant areas of inquiry for inclusion in the background investigation report reviewed by the screening psychologist*

*To guide screening psychologists in the collection and evidence-based use of bias-relevant information derived from the three sources of information stipulated in POST Commission Regulation 1955*



## Bias Assessment Framework

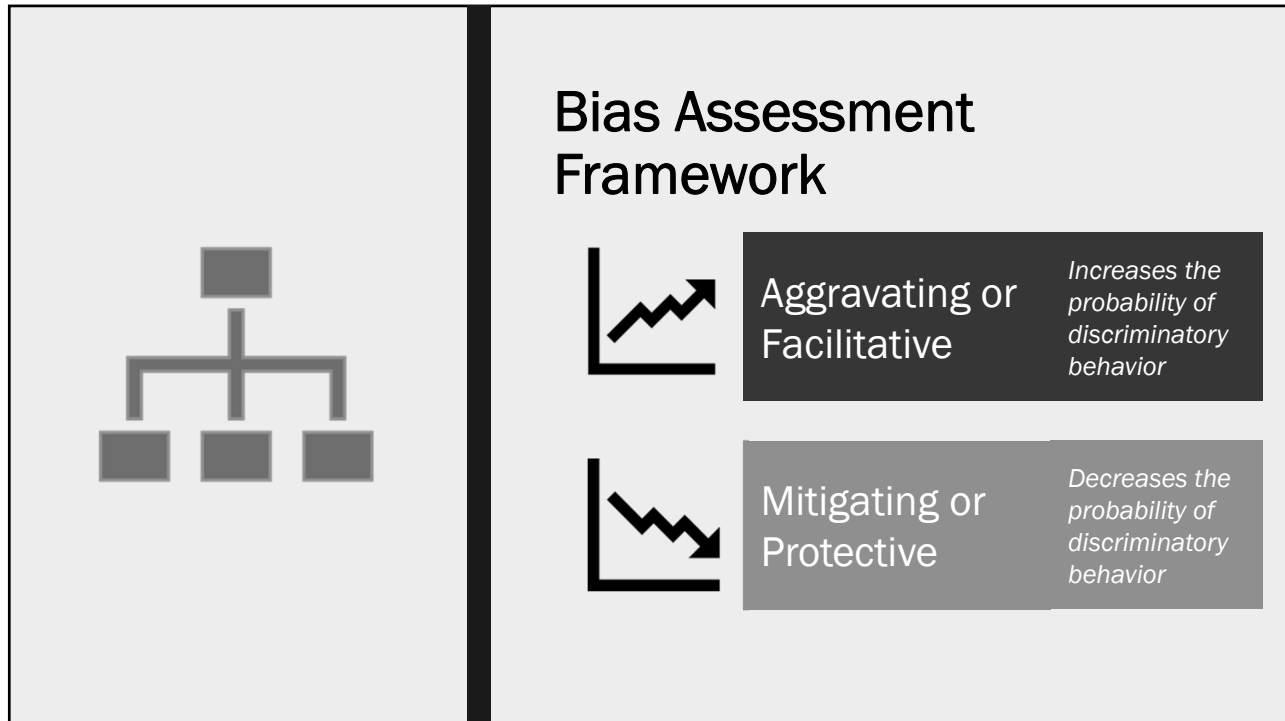
- Targeted constructs:
  - Biased behaviors
  - Biased attitudes
  - Bias-relevant traits and attributes



## Bias Assessment Framework

- Data sources:
  - Background and personal history
  - Written instruments
  - Psychological interview





## Bias Assessment Framework

Targeted Construct	Data Sources					
	Background and Personal History		Written Instruments		Psychological Interview	
	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective
Biased Behaviors	History of biased behaviors <sup>1</sup>	Evidence of mitigating or protective factors subsequent to biased behavior	Responses to written self-report questionnaire pertaining to a history of biased behaviors <sup>2</sup>	Not directly assessed	Interview questions pertaining to a history of biased behaviors	Interview questions pertaining to behaviors contrary to bias or that mitigate a history of biased behaviors

<sup>1</sup> Background investigations should include a broad range of diverse informants including workplace (e.g., supervisors, co-workers), family members, neighbors, close personal relationships, social and family friends, teachers, military colleagues, and other relationship contexts.

<sup>2</sup> Psychological evaluators are required to assess each of the targeted constructs, but the data sources used for the assessments are at the discretion of each evaluator. For example, when the background investigation and psychological interview adequately assess biased behaviors and biased attitudes, respectively, written assessments of those constructs may not contribute incrementally to the assessment.

## Bias Assessment Framework

Targeted Construct	Data Sources					
	Background and Personal History		Written Instruments		Psychological Interview	
	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective
Biased Attitudes	Not directly assessed	Not directly assessed	<i>Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.</i>	<i>Published measures of biased attitudes are available but have not been validated for use in personnel selection. They may be useful in the context of the psychological interview.</i>	Interview-based assessment of biased attitudes	Interview-based assessment of attitudes in opposition to the targeted bias

## Bias Assessment Framework

Targeted Construct	Data Sources					
	Background and Personal History		Written Instruments		Psychological Interview	
	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective	Aggravating or Facilitative	Mitigating or Protective
Bias-Relevant Traits & Attributes <sup>1</sup>	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes	Indicators of aggravating or facilitative traits or attributes	Indicators of mitigating or protective traits or attributes

<sup>1</sup> When there is clear and direct evidence of unmitigated biased behaviors or attitudes, other factors are not relevant for assessing the bias of a peace officer candidate. However, when direct evidence of explicit or implicit bias is unavailable, ambiguous, or relatively weak, it may be useful to consider related factors such as neutral or favorable intergroup contact, motivations to respond without prejudice, perceptions of social norms about prejudice, and executive function. These factors also generally contribute to more equitable behavior and fair treatment of others, and thus can mitigate tendencies to act in discriminatory ways even when some evidence of bias is detected.

## Guidance for Background Investigators and Psychological Evaluators

- A non-exhaustive list of biased behaviors, biased attitudes and bias-relevant traits/attributes is provided for each of the three targeted constructs, organized by aggravating/facilitative vs. mitigating/protective findings

## Biased Behaviors: Aggravating/Facilitative

Use of slurs or epithets targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics

## Biased Behaviors: Aggravating/Facilitative

Acts of violence, harassment or discrimination targeting a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics

## Biased Behaviors: Aggravating/Facilitative

History of disciplinary actions, reprimands, or other formal consequences (e.g., at school, work, military) for biased behavior against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics

## Biased Behaviors: Aggravating/Facilitative

Statements, social media postings and other behaviors indicating social group dominance/ supremacy, or espousing intolerance of or hostile action against a person or group because of one or more actual or perceived characteristics involving disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or because of association with a person with one or more of these actual or perceived characteristics

## Biased Behaviors: Aggravating/Facilitative

Membership in a hate group, participation in hate group activities, or public expressions of hate

Voluntary and ongoing association with persons who hold membership in a hate group, participate in hate group activities, or engage in public expressions of hate

## Definitions

“Hate group” means an organization that, based upon its official statements, principles or activities, supports, advocates for, threatens, or practices the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

## Definitions

“Participate in hate group activities” means active and direct involvement in, or coordination or facilitation of, acts of violence by hate group members.

## Definitions

“Public expression of hate” means any explicit expression in a public forum, on social media including in a private discussion forum, in writing, or in speech, advocating for, supporting, or threatening the genocide of, or violence toward, any individual or group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability. “Public expression of hate” also includes the public display of any tattoo, uniform, insignia, flag, or logo that indicates support for the genocide of, or violence toward, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

## Biased Behaviors: Mitigating/Protective

Evidence that the candidate made a prompt, good-faith effort to make restitution

Evidence that the offense is so minor, or so much time has passed, or it happened under such unique conditions that it is unlikely to reflect a stable bias

## Biased Behaviors: Mitigating/Protective

Evidence that the candidate has matured or rehabilitated

The information, evidence or report was from a questionably reliable source

## Biased Behaviors: Mitigating/Protective

In the case of voluntary and ongoing association with persons who openly espouse bias, mitigating evidence may be that the association is warranted by one or more important social, familial or occupational ties *and* the candidate does not share the bias.



## Biased Attitudes: Aggravating/Facilitative

### Published measures of biased attitudes

- Social Dominance Orientation Scale (Ho et al., 2015)
- Right-Wing Authoritarianism Scale (Altemeyer, 1998; Zakrisson, 2005)
- Modern/Symbolic Racism Scale (Henry & Sears, 2002; McConahay, 1986)
- Ambivalent Sexism Inventory (Glick & Fiske, 1996)
- Attitudes Toward Lesbians & Gay Men (Herek, 1998)
- Bias Awareness Scale (Perry, Murphy, & Dovidio, 2015)
- Rape Myth Beliefs (Parratt & Pina, 2017)

*Note: These measures have not been validated for use in personnel selection and do not meet professional standards for psychological testing and assessment [i.e., AERA, APA, & NCME. (2014). Standards for Educational and Psychological Testing.] They may be useful in the context of the psychological interview.*

## Biased Attitudes: Mitigating/Protective

Attitudes in opposition to targeted biases also are measured by several of the published measures of biased attitudes

## Bias-Relevant Traits/Attributes : Aggravating/Facilitative

Cynicism

Misanthropy

Disinhibited and  
antagonistic externalizing  
tendencies

Low tolerance

Absence of empathy

Clinically significant  
symptoms or moderate  
symptoms/traits  
associated with  
counterproductive  
behavior as a peace officer

## Bias-Relevant Traits/Attributes: Mitigating/Protective

High theory of mind  
formation

1.High stress  
resilience and coping

1.Favorable or  
neutral experience(s)  
with members of  
other groups

1.Egalitarian values

1.Evidence of  
empathy and  
perspective-taking  
toward members of  
marginalized groups

High level of  
executive function

Internal motivation to  
respond without  
prejudice

## Draft Recommendations

1. Bias and discriminatory behavior are elements of Social Competence; therefore, the SME Panel ***does not recommend at this time*** adding to the POST Psychological Screening Dimensions.

- Positive Behaviors include being “*aware of and sensitive to social, economic and cultural differences, including those associated with gender, sexual orientation, race, and religion*”
- Counterproductive Behaviors include making “*hasty, biased judgments based on physical appearance, race, gender or other group membership characteristics*”

## Draft Recommendations

2. Existing Psychological Evaluator Competencies do not adequately address the need for ongoing development of knowledge and skills to interact with diverse candidates. Therefore, the SME Panel recommends adding ***Multicultural Competence: Ability to interact effectively with candidates in cross-cultural situations, including the consideration of customs, beliefs, values, and patterns of behavior reflecting disability, sexual orientation, and racial, ethnic, religious, gender, and national identity.***

## Draft Recommendations

3. Amend POST Commission Regulation § 1955(d)  
 Psychological Screening Procedures and Evaluation Criteria  
When evaluating a peace officer candidate for explicit and implicit bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer, psychological evaluators shall use the Bias Assessment Framework to assess biased behaviors, biased attitudes and bias-relevant traits and attributes.

## Draft Recommendations

4. Identification of bias and discriminatory behavior are currently included in the POST Background Investigation Dimensions.

Positive behaviors/attributes include:

**Interpersonal Skills** - involves interacting with others in a tactful and respectful manner, and showing sensitivity, concern, tolerance, and interpersonal effectiveness in one's daily interactions.

- **Social Sensitivity** (the ability to "read" people and awareness of the impact of one's own words and behavior on others); **Social Interest and Concern** (interest and concern for others); **Tolerance** (tact and impartiality in treating all members of society)

Potential indicators of unsuitability for peace officer employment include:

- lack of tact and impartiality in treating all members of society; making hasty, bias judgments based on physical appearance, race, gender, or other group membership characteristics; inability to recognize how one's own emotions/behavior affect situations and others; having been disciplined by an employer for acts constituting racial, ethnic, or sexual harassment or discrimination

## Draft Recommendations

- Amend POST Commission Regulation § 1953 (Background Investigations)
  - (b) The background and personal history sections of the Bias Assessment Framework [Regulation 1955(d)(4)] and the entire set of The POST Background Investigation Manual: Guidelines for the Investigator (2018) provides assistance in conducting background investigations. The use of the manual is discretionary; except the-POST Background Investigation Dimensions (Dimensions)... shall be considered in the conduct of every peace officer background investigation. The use of the *Background Investigation Manual: Guidelines for the Investigator (2022)* is discretionary, with the exception of the Dimensions.

## Draft Recommendations

- Amend POST Commission Regulation § 1953 (Background Investigations)
  - (g) Documentation and Reporting:
    - (1) Background Narrative Report
 

The background investigator shall summarize the background investigation results in a comprehensive narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of biased behaviors and/or bias-relevant traits and attributes per the Bias Assessment Framework [Regulation 1953(b)].

...

## Draft Recommendations

- Amend POST Commission Regulation § 1953 (Background Investigations)

(e)(7) Relatives/Personal References Checks

(A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references (e.g., secondary references), provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate and additional references provided by the initial contacts were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.



## FEEDBACK & NEXT STEPS