



ALBUQUERQUE POLICE DEPARTMENT
GENERAL ORDERS

SOP 2-90 (Formerly 6-2)

Effective: 09/12/2023 Review: 09/12/2024 Replaces: 02/28/2022

2-90 BACKGROUND INVESTIGATIONS

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

None

B. Form(s)

New Mexico Law Enforcement Agency Form LEA-1 Basic Training and Re-certification Request

New Mexico Law Enforcement Agency Form LEA-2

New Mexico Law Enforcement Agency Form LEA-3 Medical Examination Procedure

Personal History Statement

Waiver of Liability Acknowledgment of Confidentiality Form

C. Other Resource(s)

Albuquerque Police Department Interest Card Application

Americans with Disabilities Act of 1990

N.M. Code R. §§ 10.29.9.1 to 10.29.9.19 Police Officer

NMSA 1978, § 29-7-6 Qualifications for Certification

Omnibus Consolidated Appropriations Act of 1997 §658 Gun Ban for Individuals

Convicted of a Misdemeanor Crime of Domestic Violence

2-90-1 Purpose

The purpose of this policy is to set forth the duties for the Background Investigations Unit, which is responsible for conducting thorough, objective, and timely background investigations on applicants for employment with the Albuquerque Police Department (Department) for the purposes of evaluating applicants' suitability for employment with the Department. All background investigations are conducted in accordance with New Mexico Department of Public Safety regulations and anti-discrimination laws.

2-90-2 Policy

It is the policy of the Department to provide requirements for the hiring of Department personnel and the background investigations process.

N/A

2-90-3 Definitions

A. Conditional Offer of Employment Agreement

An agreement that extends to an applicant a conditional offer of employment that conforms with the requirements of the Americans with Disabilities Act. The applicant



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must satisfy all Department qualification criteria before a final offer will be extended. A conditional offer of employment is not a contract for employment.

B. Disqualification

The removal from consideration and/or the cessation of processing of an applicant or applicant for an academy class.

C. Highly Qualified Applicant

An applicant who has passed testing and is assigned to a Background Investigations Unit Investigator for follow-up investigation

D. Minimum Entrance Standards

The minimum standards of training for police officer certification established by the State of New Mexico as defined in New Mexico Administrative Code §§ 10.29.9.1 to 10.29.9.10. Law enforcement agencies may expand upon these standards but not lower them.

E. Qualified Applicant

A qualified applicant who has successfully completed the interest card and is scheduled for testing and is going through the background investigation process.

2-90-4 Selection Process

A. Interest Card Application

1. The applicant who wishes to apply to become a Police officer, Prisoner Transport Officer (PTU), or Police Service Aide (PSA) and who submits the Department's web-based [Interest Card Application](http://www.apdonline.com) through www.apdonline.com.
 - a. For applicants with military experience, the only acceptable release or discharge from any branch of the armed forces of the United States shall be:
 - i. Honorable discharge;
 - ii. Any other discharge under honorable conditions shall be reviewed on a case-by-case basis; and
 - iii. Under no circumstances shall a release or discharge under dishonorable conditions from any of the armed forces of the United States be acceptable, pursuant to NMSA 1978, § 29-7-6.
2. After the applicant submits their interest card application, the web-based application system www.apdonline.com qualifies or disqualifies them as based on information on their card.



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3. For a qualified applicant, the web-based application system through www.apdonline.com notifies the applicant of available dates for scheduling testing.
 - a. The web-based application system requests the applicant to bring the following documents with them to testing;
 - i. Birth certificate;
 - ii. Applicable training certificates;
 - iii. Credit report;
 - iv. Copy of driver's license and Social Security card;
 - v. DD-214, if applicable;
 - vi. Higher education transcripts, if applicable;
 - vii. High school diploma; and
 - viii. Notarized Waiver of Liability Acknowledgment of Confidentiality.

B. Initial Testing

1. During the initial testing, the qualified applicant completes a:
 - a. Personal History Statement (PHS); and
 - b. Nelson-Denny Examination.

C. Background Investigation

1. After the initial testing, the qualified applicant who is applying to become a Police officer, PTU, or PSA must pass a background investigation.
2. The Background Investigations Unit Investigator shall:
 - a. Complete a detailed background investigation for qualified applicants, which includes, but is not limited to:
 - i. Credit (financial) history;
 - ii. Criminal history;
 - iii. Driving history;
 - iv. Employment history;
 - v. Educational history;
 - vi. Military history;
 - vii. A reference check; and
 - viii. A Social Media check.
 - b. Complete the Department's pre-employment investigation process to include:
 - i. Reviewing a lateral hire's history of using lethal and less lethal force;
 - ii. Determining whether the lateral hire has been named in a civil or criminal action; and
 - iii. Assessing the lateral hire's use of force training records and complaint history; and



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- c. Complete background investigations of sworn personnel, PTU personnel, and PSA's. The investigation will encompass a Criminal Justice Information Service (CJIS) criminal history check through an approved vender (i.e., Gemalto, IDEMIA).

3. Disqualification Criteria

- a. The Background Investigations Unit Investigator who identifies the following information during the background investigation shall submit the file for command staff review;
 - i. Inappropriate conduct during former law enforcement employment;
 - 1. Inappropriate actions as a police officer or equivalent position (military police, security, prior law enforcement) have special significance in and of themselves due to the professional, ethical standards of these professions, are considered in the evaluation process, and may serve as a disqualifying factor on a case-by-case basis; and
 - 2. On-duty conduct in violation of generally accepted rules of conduct, such as uses of force that would violate APD policy, dereliction of duty, acceptance of gratuities, sexual conduct, and conduct unbecoming as an officer during former employment may disqualify a highly qualified applicant/applicant on a case-by-case basis.
- b. Any applicant who is untruthful in any part of the recruiting or selection process;
- c. Any applicant who;
 - i. Refuses to take the mandatory drug-screening test;
 - ii. Has a test result showing a presence of illegal drugs, prohibited substances, or prescription drugs not prescribed to the applicant; or
 - iii. Uses illegal drugs, prohibited substances, or prescription drugs (not prescribed) by an applicant after the application to the Department has been submitted.
- d. Past illegal drug/narcotic use;
 - i. Refer to the respective job description for minimum qualifications.
- e. Alcohol use by minors;
 - i. Use of alcohol by minors prior to the age of twenty-one (21) may be a disqualifier as determined on a case-by-case basis.
- f. After the conditional offer of employment, an applicant may be disqualified after a detailed drug usage interview;
- g. The following criminal activity;
 - i. Criminal activity in which the applicant was convicted of, pled guilty to, or entered a plea of *nolo contendere* as an adult to any felony charge, or was involved in any prosecution diversion program (PDP) for a felony crime committed shall be permanently disqualified;
 - ii. Delinquency adjudications as a juvenile shall be considered on a case-by-case basis;
 - iii. Applicants who admit to an undiscovered felony crime where there is no deception shall be considered on a case-by-case basis;Mitigating/aggravating circumstances may include, but are not limited to:



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1. Severity of the act;
 2. Number of times the act was committed;
 3. Age at the time the act was committed;
 4. Circumstances surrounding the act; and/or
 5. Recentness of the act.
- iv. Applicants who, within the three (3) years prior to taking the written test, were convicted of, pled guilty to, or entered a plea of *nolo contendere* as an adult to any violation of federal law, state law, or local ordinance that would be classified as a misdemeanor crime, shall be disqualified until the appropriate time passes;
 - v. Any conduct that would constitute a misdemeanor offense committed that the qualified applicant, admits to, or is discovered during the course of the background investigation may be a disqualifier as determined on a case-by-case basis;
 - vi. Any misdemeanor in which there is a court-ordered deferred sentence with a resulting dismissal of the charge upon completion of some court-ordered conditions, shall be reviewed on a case-by-case basis; and
 - vii. Incidents of domestic disputes not involving an official reporting of the incident to a law enforcement agency are considered on the basis of the nature of the domestic dispute(s).
 1. The Background Unit Investigator shall evaluate each domestic violence incident;
 2. The Background Unit Investigator shall, when possible, obtain written or recorded statements from all parties involved in any domestic violence incident;
 3. As part of the Omnibus Consolidated Appropriations Act of 1997, it is unlawful for any person convicted of a misdemeanor crime of domestic violence to ship, transport, possess, or receive firearms or ammunition, or to sell or to otherwise dispose of a firearm or ammunition to any person knowing or having reasonable cause to believe that the recipient has been convicted of such a misdemeanor. Therefore, an applicant with a conviction of domestic violence is disqualified; and
 4. Any domestic violence in which there is a court ordered deferred sentence with a resulting dismissal of the charge upon completion of some court ordered conditions, is reviewed on a case-by-case basis.
 - h. Applicants convicted of driving while intoxicated (DWI) in the last five (5) years, whether from an administrative sanction by any motor vehicle department, criminal conviction, or military disciplinary action, shall be removed from the process; and
 - i. An applicant with two (2) or more DWI convictions from any of these categories within the most recent ten (10) year period shall be dropped from the process.
 - i. Any pattern of excessive/unjustified use of force by a lateral applicant shall be grounds for disqualification.
 - j. Any civil or criminal action where a lateral applicant has been found to be liable may be disqualified.



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D. Post-Background Investigation

1. Applicants must successfully complete the following six (6) parts of the selection processes in order to be recommended to continue in the process:
 - a. Written psychological assessment;
 - b. Polygraph examination;
 - c. Psychological interview;
 - d. Chief's Selection Committee;
 - e. Medical examination procedure; and
 - f. Physical fitness assessment.

E. Process for Qualified Applicant Placed in Future Training Academy Class

1. The Background Investigations Unit Sergeant may request a qualified applicant who was held over to another training academy class to obtain an updated medical exam due to the length of time between the original medical exam and the start of the next training academy class.
2. The Background Investigations Unit Sergeant may also require a qualified applicant to complete a physical ability test to assess whether they maintained the required level of physical fitness.
3. The Background Investigations Unit Sergeant and Academy Division Lieutenant may require qualified applicants to complete any other tests as deemed necessary.

F. Disqualification Procedures

1. If an applicant fails any portion of the selection process, the web-based application system through www.apdonline.com will notify the applicant electronically within thirty (30) days. The specific reasons for disqualification will not be stated.
2. The Recruiting and Backgrounds Deputy Commander shall make the final approval of disqualification.
- 6 3. The Background Investigations Unit Investigator shall generate the disqualification letter.
 - 6 a. The Background Investigations Unit Sergeant shall sign the disqualification letter and place copies of the letter and the supporting Interoffice Memorandum in the applicant's file within one week of final approval.

G. Re-Application Process

1. Applicants who are rejected in the selection process but are eligible to reapply are required to repeat each step in the selection process.



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- a. However, if an applicant still has a valid written tests (Nelson-Denny and City Entrance exam not over one-year-old from date of the test), then an applicant may be allowed to retake the physical abilities step, and begin the process from that stage;
- b. The Recruiting Unit Sergeant and the Academy Division Lieutenant shall verify test results are still valid as based on the date of the original tests and the date the highly qualified applicant applied to the Academy Division.

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H. The Background Investigations Unit Sergeant shall:

1. Assign files of qualified applicants to a Background Investigations Unit investigator; and
2. Keep a log of each assignment.

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2-90-5 Background Investigation for Civilian Personnel

A. A Department supervisor who is seeking to hire an applicant for a position as a civilian employee may request Background Investigations Unit personnel to conduct a background investigation. A Department supervisor shall provide the following documents to the Background Investigations Unit Sergeant:

1. Birth certificate;
2. Applicable training certificates;
3. Credit report;
4. Copy of driver's license and Social Security card;
5. DD-214, if applicable;
6. High school diploma;
7. Higher education transcripts, if applicable; and
8. Notarized Waiver of Liability Acknowledgment of Confidentiality.

B. Background Investigations of civilian personnel shall include, but are not limited to:

1. Criminal history;
2. Driving history;
3. Employment history;
4. Educational history;



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5. Financial History;
6. Military history; and
7. Verification of references.

6 C. Once a background investigation is complete, the Background Investigations Unit Sergeant shall provide the results to the referring supervisor for review.

6 1. The Department supervisor shall ensure the background investigation meets their approval before accepting.

- a. If a referral requires CJIS clearance, it will be the referring supervisor's responsibility to request for the background unit to conduct a CJIS criminal history check through an approved vender (i.e., Gemalto, IDEMIA).

2. The Department supervisor may coordinate with the Background Investigations Unit Sergeant for additional follow-up investigation, if necessary.

3 **2-90-6 Confidentiality**

- A. Background Investigations Unit personnel shall provide strict security and confidentiality to the information obtained during the recruitment and selection processes, including background investigations. Strict adherence to the security and confidentiality of information is mandatory for all Background Investigations Unit personnel involved in the selection process.
- B. The access to and use of information obtained by Background Investigations Unit personnel during the selection process shall be restricted to authorized personnel and shall only be used for the purposes outlined in Department Standard Operating Procedures (SOP).
- C. Only personnel assigned to the Recruiting Unit and Background Investigations Unit or who are authorized by the Academy Division Director/Commander shall be permitted to handle or view background investigations files.
- D. All Background Investigations Unit personnel shall sign a confidentiality agreement.

Background Investigations Unit personnel who violate the confidentiality agreement shall be disciplined.

5 **2-90-7 Release of Information**

- A. Court Orders and Subpoenas



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1. Under no circumstances shall Background Investigations Unit personnel release background investigation files or allow for the handling or viewing of background investigation files to anyone outside of the Background Investigations Unit background files without a court order, unless authorized by the City Attorney's Office.
2. If a background investigation file is subpoenaed, the process server should be directed to the City Attorney's Office to serve the subpoena. The file will only be signed-out to the City Attorney's Office.

B. Requests for Information to Applicants and Outside Agencies

1. Under no circumstances shall Background Investigations Unit personnel release any information from an applicant's file to an applicant unless it is an original document and authorized by the Background Investigations Unit Sergeant.
 - a. All information is otherwise the property of the Department and information previously provided by the applicant may be given verbally to the applicant.
2. Background Investigations Unit personnel shall not release information on any applicant for any purpose except as a function of the recruiting process.
 - a. Background Investigations Unit personnel shall refer requests for information on applicants from recruiting units with other law enforcement agencies to the Background Investigations Unit Sergeant.
 - i. The request must be accompanied by a copy of the Waiver of Liability Form Acknowledgment of Confidentiality Form that is signed by the applicant.
3. Background investigation files are reviewed in their entirety by the requesting agency's recruiting representative. Under no circumstances shall copies be made of a background investigation. However, the Background Investigations Unit Sergeant may release copies of PHSs to another law enforcement agency's recruiting representative with a valid Release of Liability.

5 2-90-8 File Maintenance and Retention

- A. The Academy Division Lieutenant shall maintain background investigation files in a secured area. The files shall remain in the Lieutenant's possession and control.
 1. The files shall remain in a secured area until authorized personnel request access.
- B. Background Investigations Unit personnel shall maintain the files of applicants who are accepted into the training academy.
- C. The Background Investigations Unit Sergeant shall purge hard copies of background investigation files that are over five (5) years old.



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- D. The Background Investigations Unit Sergeant shall maintain a log of all files that have been purged.