



Fitchburg State University Police Department

Subject: BACKGROUND INVESTIGATIONS References: MPAC 32.1.5, 32.1.6, 32.1.7, 32.2.1, 32.2.3,		General Order <h1>5.4</h1>
Effective Date: October 17, 2022	Review Date: June 22, 2023	
By Order of: Michael J. Cloutier, Chief of Police		

PURPOSE:

The purpose of this policy is to specify the background investigation requirements for all sworn, non-sworn employees, and all student officers attending the Fitchburg State University police academy program.

POLICY:

It is the policy of the department that all applicants will undergo a background investigation prior to a final offer of employment. The background investigation will be conducted in accordance with the procedures outlined in **General Order 5.2 Personnel Selection**.

In addition, all student officers enrolled in the Fitchburg State University Police Program shall have a background check at the onset of the program, and before entering the academy portion upon completion of the senior year.

All candidates, either for the Fitchburg State University Police Department or the Fitchburg State University Police Program, may be disqualified from the screening and or hiring process for those reasons listed in this policy.

PROCEDURE:

A. General Guidance

1. All police department applicants will undergo a background investigation prior to being given a final offer of employment.
2. Each student officer enrolled in the Police Academy Program will undergo a background investigation prior to being enrolled in the Academy portion, upon completion of the senior year.
3. Background investigations shall only be conducted by personnel who have completed a background investigators course. Trained background investigators may enlist the assistance of others in the background process; however, it is the responsibility of the background investigator to ensure that the information contained in the background report is accurate.
 - a. The Fitchburg State University Police Department, in conducting background investigations shall use a standardized background packet. Any documents revised shall have a revision date to indicate when the form was changed or adopted.
4. The background investigation process may be suspended at any time prior to completion by the assigned background investigator upon discovery of information that they believe would either disqualify or deem the applicant unsuitable for employment or participation in the police program. In this instance, the investigator shall:
 - a. Submit a summary memorandum of their findings pertaining to the disqualification or unsuitability of the applicant for employment, accompanied by the investigation, to the Chief of Police for review.
 - b. The Chief of Police shall take one of the following actions upon review:
 - i. Concur with the findings and reject the candidate with no further action.
 - ii. Send the investigation back to the investigator for clarification or additional information.
 - iii. Send the investigation back to the investigator to complete the background investigation.

B. Automatic Disqualifiers

The following circumstances will be considered automatic disqualifiers for the purposes of determining the eligibility of a candidate. The term "candidate" refers to both a potential employee of the Fitchburg State University Police Department and a student officer enrolled in the university's Police Academy Program.

1. The candidate has been convicted of any felony classified in Massachusetts General Laws, or a conviction for a felony in another jurisdiction outside the Commonwealth of Massachusetts.
2. The candidate has been convicted of a misdemeanor and has been confined to any jail or house of correction as punishment for said crime.
3. The candidate has been convicted or adjudicated as a youthful offender or delinquent child, in any state or federal jurisdiction, for the commission of:
 - a. a misdemeanor punishable by imprisonment for more than two years;
 - b. a violent crime as defined in M.G.L. c. 140 § 121 ["violent crime", shall mean any crime punishable by imprisonment for a term exceeding one year or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult that: (i) has as an element of the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or(iv) otherwise involves conduct that presents a serious risk of physical injury to another.]
 - c. a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental receipt, or transportation of weapons or ammunition for which a term of imprisonment may be imposed.
4. The candidate has been convicted of a violation of any law regulating the use, possession, or sale of controlled substances as defined in M.G.L. C, 94C.
5. The candidate has been convicted of any crime that is a violation of domestic abuse provisions of any state or federal statute.
6. The candidate has been named in an **active** restraining order, no contact order, stay away, refrain from abuse, or similar order in violation of the domestic abuse provisions of any state or federal statute.
7. The candidate is unable to obtain a valid Massachusetts firearms license.
8. The candidate is unable to obtain a valid Massachusetts Class "D" Motor Vehicle Operator's license.
9. The candidate has received an Undesirable, Bad Conduct or Dishonorable separation or discharge from military service.
 - a. Definitions of types of discharges:
 - i. **Undesirable** - is given to a serviceperson who is found to be unfit or so lacking in ability or aptitude as to require continual supervision, or to one

whose interests or habits frequently require corrective disciplinary action, or to one who possesses undesirable traits or habits.

- ii. **Bad Conduct** - is given as a sentence by a special or general court-martial.
 - iii. **Dishonorable** - is given as a sentence of a general court-martial for a serious crime of a civil or military nature.
10. The candidate has used illegal substances while employed in a law enforcement capacity.
 11. The candidate is currently abusing drugs or alcohol.
 12. The candidate knowingly misrepresented or falsified information submitted on the Application and/or Personal History Statement; resume or any other documents filed in conjunction with the hiring process.
 13. The candidate knowingly made false statements, or purposeful omissions to the background investigator or other persons who are responsible to determine the eligibility of the applicant.
 14. The candidate has been convicted of operating under the influence of intoxicating liquor and/or drugs, and/or has been assigned to an alcohol treatment program in accordance with M.G.L. c 90 § 24 or received a disposition for the same under the provisions of M.G.L. c 90 § 24D within seven (7) years prior to being notified by the Department of their consideration to be a candidate. Also, any candidate that has been convicted two (2) or more times as an adult of the above-listed statutes will be disqualified.
 15. At any time, the candidate has been determined to be a "habitual traffic offender."
 16. Is listed in the National Decertification Index.

C. Discretionary Disqualifiers

1. When discretionary disqualifiers exist, the Chief of the Fitchburg State University Police Department shall meet with the Lieutenant(s) to review the investigation of each applicant to determine suitability.
2. Likewise, the Chief of the Fitchburg State University Police Department may meet with the Academy Director to review the investigation of each student seeking enrollment in the police program. The Chief may also consult with the Dean of Arts and Sciences as well as the Vice President for Student Affairs.
3. The following factors may be considered in exercising their authority to "recommend" or "not recommend" an applicant based on the information

available. The totality of the background investigation will be considered in making all recommendations. The following issues may be considered, as well as any other issues which would be relevant to a candidate's eligibility to be hired by the Fitchburg State University Police Department or to enter the Fitchburg State University Police Academy Program.

4. This list is not all-inclusive.
 - a. Regarding drug use, the following shall be considered:
 - i. What type of drug was involved?
 - ii. Did the candidate purchase the drug?
 - iii. Did the candidate sell the drug?
 - iv. What was the date of the last drug use?
 - v. What was the candidate's prior history of drug use?
 - vi. What were the circumstances surrounding the drug use?
 - vii. What was the candidate's age at the time of the drug use?
 - viii. What behavior has been exhibited by the candidate since his last use? (i.e. does the offense indicate a lack of judgment, maturity, character, or honesty that has not been clearly rectified by subsequent behavior?)
 - b. Regarding criminal offenses which are misdemeanors, the following shall be considered:
 - i. What type of crime was committed? (Petty larceny, fishing violation, other misdemeanors)
 - ii. What were the circumstances surrounding the offense?
 - iii. What was the candidate's past history of criminal conduct?
 - iv. Candidate's age at the time of the offense?
 - v. Candidate's behavior since the date of offense?
 - vi. The candidate had any combination of moving violations and/or surchargeable accidents that total six or more within the three years prior to the application. A "**surchargeable event**" includes both civil and criminal motor vehicle violations. Examples include:
 - vii. **Civil** - not obeying traffic signs or speeding, **Criminal** - serious offenses such as driving under the influence of alcohol/drugs or leaving the scene of an accident, and at-fault accidents where the

operator is considered to be more than fifty (50%) percent at fault. Multiple charges arising from one incident, or in conjunction with an accident, will be considered one event.

- viii. The candidate had three (3) or more speeding violations/convictions within one (1) year prior to the background check.
 - ix. The candidate's privilege to operate a motor vehicle has been suspended or revoked in any jurisdiction.
 - x. Admissions in a court of law to the commission of an offense that would be classified as a misdemeanor within the state of its commission.
 - xi. Admissions in a court of law to the unlawful possession, use, prescribing, dispensing, or administering of legal or illegal drugs.
 - xii. Admission of actions or omissions which are not necessarily violations of the law but which could or would affect the candidate's ability to perform the duties of a police officer in a fair and unbiased manner.
5. A history of financial mismanagement.
 6. Unusual or frequent absences from school or work (excluding medical reasons).
 7. Continual tardiness in school or work (excluding medical reasons). history of unsatisfactory work habits or work performance.
 8. Admissions to, or the evidence of, frequent intoxication or current drug use.
 9. Admissions to, or the evidence of, physical abuse to a spouse, children, or another person (s).
 10. The candidate has knowingly associated with a convicted felon,
 11. The candidate has knowingly associated with persons involved in criminal behavior,
 12. The candidate psychologically or physically abused any person.
 13. The candidate has demonstrated an inability to maintain self-control in crisis situations, or that his/her inability to control his/her temper has resulted in violence including physical abuse to a spouse, children, other persons, animals, or property,
 14. The candidate does not properly provide or care for their immediate family or those dependent upon them for support.
 15. The candidate has displayed racial, ethnic, gender, sexual orientation, or religious bias.

16. The candidate could be impeached in reference to his/her character for truthfulness.
17. The candidate was expelled from, or asked to terminate enrollment at, a school based on disciplinary issues?
18. The candidate has been expelled, released, dismissed, or resigned from a law enforcement academy or law enforcement training course in any jurisdiction, for any reason other than an injury.
19. The candidate has been found by an employer to have engaged in harassment or by a school to have violated a Title IX policy (that is, one that prohibits sex-based discrimination in any school or other education program that receives federal funds).
20. The candidate has been dismissed, asked to resign from any employment, dismissed from, or not re-appointed to, a position in law enforcement.
21. The candidate has voluntarily left a law enforcement agency while being a subject of an internal investigation, prior to the investigation being completed.

D. Psychological Evaluation

1. The purpose of a law enforcement psychological examination is to ensure that the applicant is psychologically capable of safely carrying out the duties of a police officer.
2. Psychological examination falls within two categories 1) the candidate **does** possess the psychological qualifications, or 2) the candidate **does not** possess the psychological qualifications. Individuals deemed to **not** possess psychological qualifications will be disqualified.
3. Other disqualifiers are
 - a. recent (within the past 3 years) incident of self-harm or attempted suicide;
 - b. instance of being involuntarily transported for mental health evaluation;
 - c. admittance to a mental health care facility for more than 72 hours;

E. Continual Academy Sponsorship

1. The Fitchburg State University Police Department, acting as the sponsoring agency to any student officer, to any police academy, may revoke its sponsorship if additional information is brought to the department after the background check has been completed, where such information:
 - a. if known at the time the background check was completed, would have disqualified the candidate;

- b. would likely lead an officer or candidate to be decertified by the Massachusetts Police Officer Standard Training Commission.
2. Candidates sponsored by the Fitchburg State University Police Department to any police academy may have their sponsorship revoked if dismissed by the academy director, in accordance with the rules, regulations, and policy of the academy. In addition;
 - a. Any employee sponsored to an academy may have their sponsorship revoked for violating department General Orders, after consultation with the Office of Human Resources.
 - b. Any student may have their sponsorship revoked from the university police academy if found to violate the university's code of conduct, after consultation with the Director of Community Standards, the Academy Director, and the Dean of Arts & Sciences.

F. CORI

Any CORI information obtained during and/or in part of a background investigation will follow the department's **General Order 11.3.1 DJCIS CORI Policy**

G. Appeal Process

1. Any Candidate either in the hiring process for the Fitchburg State University Police Department or for the Fitchburg State University Police Academy Program, who had participated in a background investigation will be notified in writing of any decision not to hire or sponsor them into the Police Program.
 - a. The candidate will be provided with any documentation that was deemed negative and led to the decision not to hire or sponsor.
 - b. The candidate will also be provided a copy of any related policies that supported the decision not to hire or sponsor.
2. Candidates will be notified in writing via certified mail. They will then have ten (10) days to appeal in writing to the Chief of Police from the day they received the certified letter. *MPAC 32.1.5*
3. Appeals should include:
 - a. What information was inaccurate in the background investigation
 - b. Proof that the information used for determination was erroneous
4. If the candidate successfully showed that the disqualification criteria were in error, they may be reconsidered for sponsorship if all other selection criteria are met.
5. If the candidate can not successfully show that the disqualification was erroneous, the decision to disqualify the candidate shall stand.

H. **Record Retention**

1. Background investigation files shall be kept in accordance with Massachusetts Public Record law.
 - a. Those individuals disqualified shall be kept securely for three (3) years after the hiring process is closed (Mass Record Law E2-03b))
 - b. Those individuals who are hired, the background packet shall be stored with the personnel file in the Office of Human Resources
 - c. Those individuals whose background is associated with the Police Academy Program, the Academy Director will be responsible for maintaining background files.

MPAC 32.1.6, 32.2.3

2. All Background packets and information shall be securely stored.
 - a. The University Police Department will secure background information in the following manner:
 - i. Background investigations that are in process will be secured by the background investigator in the Sergeants' office when not being reviewed or processed.
 - ii. Background investigation information left in an investigator's mailbox for review will be placed in a sealed envelope.
 - iii. As completed background investigations may need to be reviewed by several members of the department, each member is responsible to ensure that a completed background and its contents are not left in their office where unauthorized individuals may view its contents.
 - iv. Once a background has been reviewed and signed off on, it shall be stored in the locked personnel cabinet of the Chief of Police, with the original packet hand-delivered to the Office of Human Resources for secured storage.
 - b. Background investigations conducted for the University Police Program shall be securely stored.
 - i. Background investigations in the process will be secured by the background investigator in the Sergeant' office when not being reviewed or processed.
 - ii. Background information left in an investigator's mailbox for review will be placed in a sealed envelope.
 - iii. As completed background investigations may need to be reviewed by several members of the department, each member is responsible to

ensure that a completed background and its contents are not left in their office where unauthorized individuals may view its contents

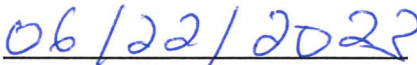
- iv. All background investigations conducted for the Police Program will be hand delivered to the Academy Director, who will acknowledge receipt in writing and be responsible for the secure storage of all background material.

MPAC 32.1.7

Approval:



Chief of Police



Date