

## Department of the Interior Law Enforcement Policy

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**Effective Date:** March 1, 2021

**Series:** Law Enforcement and Security

**Chapter 2A:** Personnel Security and Suitability Program for Law Enforcement

**Originating Office:** Office of Law Enforcement and Security

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2A.1 **Purpose.** This Chapter establishes the minimum standards for personnel security and suitability for the Department of the Interior (Department/DOI) Bureau/Office law enforcement programs.

2A.2 **Scope.** This policy applies to all DOI Bureaus/Offices with responsibility for law enforcement officers (LEOs), civilian (non-sworn) personnel responsible for supervising LEOs, and contractor/employee positions in Bureau/Office law enforcement programs that are designated to require a National Security clearance. Nothing in this Chapter is intended to eliminate or modify any personnel security and suitability requirements established by law or Executive Order (E.O.).

2A.3 **Authorities.** The authorities and references specific to this Chapter include, but are not limited to, the following:

- A. E.O. 10450, Security Requirements for Government Employment
- B. E.O. 12968, Access to Classified Information
- C. Title 5, Code of Federal Regulations (CFR), Part 731, Suitability
- D. Title 5, CFR, Part 1400, Designation of National Security Positions

2A.4 **Policy.** Bureaus/Offices must adhere to the standards, requirements, and processes set forth within this policy. Further, DOI personnel security and suitability program provisions are detailed in Part 441 of the Departmental Manual (DM). For the purposes of this Chapter, Bureaus/Offices must ensure that:

- A. All DOI permanent and temporary/seasonal law enforcement positions will be designated, at a minimum, Noncritical-Sensitive and clearable for access to Secret information.

- B. DOI law enforcement positions (such as officers assigned to sensitive work locations, Special Agents, Criminal Investigators, management level law enforcement officers, etc.) in which the incumbents are required to maintain a Top Secret clearance or higher, shall be designated as appropriate for the position (Critical-Sensitive for Top Secret or Special-Sensitive for a Top Secret with a Special Access Program, i.e. Sensitive Compartmented Information).
- C. Civilian (non-sworn) personnel responsible for supervising LEOs will be designated at a security level equal to or greater than the highest-level security clearance required for their subordinate law enforcement employees.

#### 2A.5 **Responsibility.**

A. Assistant Secretary – Policy, Management and Budget (AS-PMB) is responsible for providing management direction and support for all DOI law enforcement (LE) programs and activities through Department-wide policies, standards, and guidelines.

B. Deputy Assistant Secretary – Public Safety, Resource Protection and Emergency Services (DAS-PRE) is the Department’s primary law enforcement policy officer and the principal advisor to the Secretary, Deputy Secretary, and Assistant Secretary – Policy, Management and Budget on law enforcement policy and operations.

C. Director, Office of Law Enforcement and Security (OLES) has the responsibility, as delegated by the DAS-PRE and pursuant to 112 DM 17 and 212 DM 17, for law enforcement policy development and for oversight of the Department’s law enforcement programs.

D. Bureau Directors are responsible for ensuring that Bureau law enforcement programs are managed in accordance with law, regulation, and Departmental policy.

E. Bureau Directors of Law Enforcement (BDLE) are responsible for establishing and enforcing Bureau policies and procedures that comply with law, regulation, and Departmental policy.

#### 2A.6 **Definitions.** For the purpose of this Chapter, the terms below are defined as follows:

- A. Civilian. An employee of the DOI other than an LEO.
- B. Contractor. An individual performing a service under an agreement or contract to the DOI.
- C. Critical-Sensitive Positions. As defined in 5 CFR § 1400.201(a)(2), Critical Sensitive positions are, “national security positions which have the potential to cause exceptionally grave

damage to the national security...” Also, in accordance with 5 CFR § 1400.201(c), a Critical-Sensitive position automatically carries with it a risk designation under 5 CFR § 731.106 at the high level.

D. Law Enforcement Officer. A DOI employee sworn and commissioned to enforce criminal statutes and authorized to carry firearms, execute and serve warrants, search, seize, make arrests, and perform such duties as authorized by law.

E. National Security. As defined in 5 CFR § 1400.102(a)(3), national security “refers to those activities which are directly concerned with the foreign relations of the United States, or protection of the Nation from internal subversion, foreign aggression, or terrorism.”

F. Noncritical-Sensitive Positions. As defined in 5 CFR § 1400.201(a)(1), Noncritical-Sensitive positions are “national security positions which have the potential to cause significant or serious damage to the national security...” Also, in accordance with 5 CFR § 1400.201(d), a Noncritical-Sensitive position automatically initially carries with it a risk designation under 5 CFR § 731.106 at the moderate level, unless the agency determines that the position should be designated at the high level. Agencies shall designate the position at the high level where warranted based on criteria set forth in Office of Personnel Management (OPM) issuances as described in 5 CFR § 731.102(c).

G. Permanent LEO Position. A position filled by an LEO employee whose appointment is not designated as temporary and does not have a defined time limitation.

H. Permanent Seasonal LEO Position. A position filled by an LEO employee whose appointment is permanent and placed in nonduty/nonpay status and recalled to duty in accordance with pre-established conditions of employment. Seasonal employment is annually recurring periods of work of fewer than 12 months each year.

I. Sensitive Compartmented Information (SCI). Information bearing special intelligence community controls indicating restricted handling within intelligence collection programs. These controls are formal systems of restricted access established to protect the sensitive aspect of the sources and methods. Special administration procedures for SCI matters are reserved for the OLES and the United States Geological Survey (USGS), under the oversight of OLES. Bureau and Office SCIs, other than the USGS program, are administered through OLES.

J. Special-Sensitive Positions. As defined in 5 CFR § 1400.201(a)(3), Special Sensitive positions are “national security positions which have the potential to cause inestimable damage to the national security...” Also, in accordance with 5 CFR § 1400.201(c), a Special Sensitive position automatically carries with it a risk designation under 5 CFR § 731.106 at the high level.

K. Temporary Seasonal LEO Position. A position filled by an LEO employee whose appointment is a non-status appointment to a competitive service position for a specified period of time, not to exceed 1 year (i.e., temporary appointment not to exceed 1040 hours).

## 2A.7 Standards and Requirements.

A. Bureau/Office law enforcement administrators must ensure that the following specific investigative requirements for employment and/or continued employment are met:

### (1) Permanent Law Enforcement Positions.

(a) For DOI LEO positions designated as Noncritical-Sensitive and/or requiring a Secret clearance, a Tier 3 Investigation (T3) on a Standard Form 86 (SF 86), Questionnaire for National Security Positions, will be completed and favorably adjudicated prior to placement, unless a “Request for Waiver of Pre-appointment Investigative Requirement for a Noncritical/Critical-Sensitive Position” Form DI 1912 (see Illustration 1) is approved by the BDLE and the Director, OLES (see 2A.7 Section A (5)). A Tier 3 Reinvestigation (T3R) will be conducted each succeeding five years.

(b) For DOI LEO positions designated as Critical-Sensitive or Special-Sensitive and/or requiring a Top Secret clearance or higher, a Tier 5 Investigation (T5) on a SF 86, Questionnaire for National Security Positions, will be completed and favorably adjudicated prior to placement, unless a “Request for Waiver of Pre-appointment Investigative Requirement for a Noncritical/Critical-Sensitive Position” Form DI 1912 (see Illustration 1) is approved by the BDLE and the Director, OLES (see 2A.7 Section A (5)). A Tier 5 Reinvestigation (T5R) will be conducted each succeeding five years.

### (2) Temporary/Seasonal Law Enforcement Positions.

(a) For an initial temporary/seasonal LEO, a Tier 3 Investigation (T3) on an SF 86, Questionnaire for National Security Positions, will be initiated and scheduled with the Office of Personnel Management (OPM) and a “Request for Waiver of Pre-appointment Investigative Requirement for a Noncritical/Critical-Sensitive Position” Form DI 1912 (see Illustration 1) must be approved by the BDLE and the Director, OLES (see 2A.7. Section A (5)) prior to placement.

(b) A returning temporary/seasonal LEO must have a favorably adjudicated T3 and a Special Agreement Check (SAC) to include an FBI Fingerprint Check and National Credit Check completed and favorably adjudicated prior to placement and commissioning for any succeeding season(s). If a returning temporary/seasonal LEO’s break in service is more than 60 days, a SAC to include an FBI Fingerprint Check and National Credit

Check, must be completed and favorably adjudicated prior to placement and commissioning. A T3R will be conducted each succeeding five years of the favorable T3 adjudication.

(3) Investigations of Incumbent LEOs, Employees, and Contractors Experiencing a Change in Position Sensitivity.

(a) All DOI LEOs, employees, and contractors from another agency selected for a position at any DOI Bureau/Office law enforcement program which is at a higher sensitivity designation than the position previously occupied must meet the investigative requirements of the new sensitivity level.

(b) If the sensitivity of the position itself is changed, the incumbent may remain in the position, but the investigation required by the new sensitivity designation must be initiated within 14 working days after the re-designation is final.

(c) If an individual under the circumstances outlined in (a) or (b) above has received the required investigation for placement in the new position or in the new sensitivity category, no reinvestigation is required unless updating is necessary because of the time elapsed since the previous investigation or because of other special circumstances which justify additional investigations.

(4) Investigations of Former Cleared LEOs, Employees and Contractors. The investigation required by the sensitivity level of the position selected for, must be conducted if the break in service is greater than 24 months.

(5) Waiver of Pre-appointment Investigative Requirement. The interests of the Federal service dictate that individuals should not be appointed or assigned to sensitive positions until the appropriate investigation has been completed. Waiving a pre-appointment investigation carries the risk of an ineligible person being placed in a sensitive position exposing the Federal service to damage and embarrassment. E.O. 10450 requires that a waiver of the preappointment investigative requirement for employment in a "sensitive" position may only be made "in case of emergency" provided that such action is necessary in the national interest. This finding shall be made part of the records of the agency.

Before appointing or assigning an individual to a permanent Noncritical/Critical-Sensitive Position, the required and appropriate level of background investigation must be completed and favorably adjudicated unless a "Request for Waiver of Pre-appointment Investigative Requirement for a Noncritical/Critical-Sensitive Position," Form DI 1912, has been approved. Granting a waiver does not provide authorization for access to classified national security information or delegation of law enforcement authority.

The "Request for Waiver of Pre-appointment Investigative Requirement for a

Noncritical/Critical-Sensitive Position" will be forwarded according to the sequence designated on the form. Before forwarding the waiver request to the Director, OLES, the following mandatory checks/forms are to be completed with the results attached to the Form DI 1912:

- (a) A Pre-appointment Background Check, Form DI 1990 (see Illustration 2);
- (b) SF 86, the Questionnaire for National Security Positions;
- (c) A resume, the Optional Application for Federal Employment (OF 612) or any other written format of application as described in OF 510, Applying for a Federal Job and the Application for Federal Employment (SF 171); and
- (d) A written justification requesting a waiver of the pre-appointment investigative requirement that:
  - (i) States the necessity;
  - (ii) Includes a statement that the employee will not have access to classified national security information; and,
  - (iii) Includes a statement that the employee will not receive delegation of law enforcement authority until notification is received from the Bureau/Office Security Officer (SO) advising that the background investigation is complete and has been favorably adjudicated.

The Director, OLES will provide a decision notice to the BDLE of the approval or disapproval of the "Request for Waiver of Pre-appointment Investigative Requirement for a Noncritical/Critical-Sensitive Position".

B. Access to classified information or materials is not permitted until a written notice of approval is given by the Bureau/Office SO. Additional information for SO responsibilities can be found in 441 DM and specifics on Departmental classified national security provisions are established in 442 DM. The authorization to access classified information must include that the individual:

- (1) Possesses a valid and favorably adjudicated national security level background investigation, pursuant to E.O. 12968;
- (2) Attended a security briefing (in accordance with requirements set forth in 441 DM 6 and 7);

- (3) Signed a Standard Form (SF) 312, Classified Information Nondisclosure Agreement (NDA); and,
- (4) Has been granted an appropriate security clearance.

Illustration 1

**U.S. DEPARTMENT OF THE INTERIOR  
REQUEST FOR WAIVER OF PRE-APPOINTMENT INVESTIGATIVE REQUIREMENT FOR  
A NONCRITICAL/CRITICAL-SENSITIVE POSITION**

**ORIGINATING OFFICE**

NAME PROPOSED POSITION TITLE

ORGANIZATION PROPOSED EOD (DATE)

A waiver of pre-appointment investigative requirement is being requested for emergency reasons and such action is necessary in the national interest. A justification for this request is attached. If approved, I will ensure that the individual will not have access to any classified national security information nor receive delegation of law enforcement authority prior to the granting of a national security clearance (if a requirement of the position). Forms required for the investigation were submitted to the bureau/office security officer on \_\_\_\_\_ (date).

IMMEDIATE SUPERVISOR SIGNATURE & DATE PRINTED NAME

HIGHER LEVEL SUPERVISOR SIGNATURE & DATE PRINTED NAME

**BUREAU/OFFICE PERSONNEL OFFICER**

Based on my review of the individual's previous employment record and knowledge of this candidate's background, there appears to be no derogatory information which would preclude employment in a Noncritical/Critical-Sensitive position pending completion of the required investigation.

SIGNATURE & DATE PRINTED NAME

**BUREAU/OFFICE SECURITY OFFICER**

The results of the mandatory checks listed in 441 DM 4, or for law enforcement positions the results of the mandatory Pre-appointment Background Check in 446 DM 2A, are attached.

SIGNATURE & DATE PRINTED NAME

**BUREAU DIRECTOR of LAW ENFORCEMENT - APPROVAL**

SIGNATURE & DATE PRINTED NAME

**DIRECTOR, OFFICE OF LAW ENFORCEMENT AND SECURITY - APPROVAL**

SIGNATURE & DATE PRINTED NAME

ATTACHMENTS: (1) JUSTIFICATION FOR THIS REQUEST, AND (2) RESULTS OF MANDATORY CHECKS

ORIGINAL: EMPLOYEE'S OPF  
cc: EMPLOYEE'S SECURITY FILE - 1



Illustration 2

**U.S. DEPARTMENT OF THE INTERIOR  
PRE-APPOINTMENT BACKGROUND CHECK**

Report Number: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_ SSN: \_\_\_\_\_

Address: \_\_\_\_\_

Position Applied For: \_\_\_\_\_

**CHECKS:**

- |  |  |   |
|--|--|---|
| * Driver's License (Verification of Record)                                      | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * OPM/Security Investigation Index (SII)   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Military Records   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * National Crime Information Center: (NCIC)<br>(Law Enforcement Applicants only) | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Local Law Enforcement Agencies   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Credit History   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Employment History   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Residence History  | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Education/Training   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * References   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |
| * Other Checks/Information   | <input type="checkbox"/> Completed, documentation attached | <input type="checkbox"/> Not Applicable |

**SUBJECT INTERVIEW (NARRATIVE):**

\_\_\_\_\_  
Report Conducted By:  
Print Name & Signature

\_\_\_\_\_  
Report Concurred By:  
Personnel or Security Officer

\_\_\_\_\_  
Date & Office Telephone Number

\_\_\_\_\_  
Date & Office Telephone Number

Note: \*ATTACHMENTS: List all pertinent reference material (including results of interviews, record checks, written affidavits, certificates, etc.) and attach a copy of all available documents.