



## **308 - CRIMINAL BACKGROUND CHECKS**

### **I. INTRODUCTION**

In order to preserve the integrity of City government, as well as the safety and well being of citizens and all City employees, the City will not employ or retain individuals if they have demonstrated conduct incompatible with service to the public.

The purpose of this policy is to outline procedures for conducting background checks on prospective hires, prospective volunteers, employees changing positions, and certain current employees on a periodic basis, who will provide services of a sensitive nature including matters involving public welfare, safety, health activities, monetary or confidential matters, children's activities, therapeutic recreation programs, mature adult programs, and access to the Criminal Justice Information System (CJIS) or the Virginia Criminal Information Network (VCIN).

For the purposes of this policy, "applicant" means, prospective new hires, current employees who laterally transfer, promote or demote to such a position, and volunteers. Applicants who will be performing services for, or on behalf of the City in the departments identified in Section II.A, or engaged in activities under Section II.B., are subject to background checks as a condition of employment or providing volunteer services. The Department of Human Resources will be responsible for maintaining a database of all positions including volunteers that require background checks.

### **II. COVERED POSITIONS**

- A. All applicants for positions in the following departments are subject to background checks:
1. Adult Corrections
  2. Development
  3. Finance
  4. Fire
  5. Information Technology
  6. Internal Audit
  7. Juvenile Services
  8. Office of Self-Insurance
  9. Human Resources
  10. Planning
  11. Police
  12. Public Utilities
  13. Purchasing
  14. Real Estate Assessor's Office

15. Human Services
  16. City Attorney's Office
- B. In addition to the departments in Section A, applicants who will be involved in the following types of activities are subject to background checks:
1. supply and material handling, such as stock clerk, storekeeper, and similar positions;
  2. monetary transactions on a regular basis;
  3. initiating and authorizing significant financial transactions;
  4. care, treatment, education, training, instruction, supervision or recreation of children, the elderly, or disabled (Ref: Code of Virginia Section 19.2-392.02);
  5. initiating, establishing and maintaining City information technology systems and data; and mapping, installing and maintaining City infrastructure;
  6. security, law enforcement, public safety, health and similar functions;
  7. positions which require access to the Virginia Crime Information Network (VCIN) or the National Crime Information Center (NCIC);
  8. financial data systems design, programming, and operations;
  9. unrestricted access to confidential and sensitive information; entry for work purposes into the homes of others. (Ref: Code of Virginia Section 19.2-389, #34);
  10. positions that require the Special Conservator of the Peace designation; and
  11. positions that require a commercial driver's license (CDL) endorsement to transport hazardous materials.

### **III. TYPES AND SCOPE OF BACKGROUND CHECKS**

The Director of Human Resources shall determine the type and scope of the criminal history record checks and any other background checks required for affected positions including volunteers. Notwithstanding the above, Police Department volunteers are subject to Police Department policies which establish additional background check requirements. In addition to the database maintained by Human Resources, the type of background check, when applicable, is also contained in the City job descriptions.

- A. Local and State Background Checks - A local and state background check is a search through the Newport News Police Department's central records section and the Virginia State Police computerized on-line data bank of criminal records.
- B. Federal Background and Fingerprint Checks - A federal background and fingerprint check includes the same components of the local and state background check, but also includes fingerprinting in order to conduct a national search for criminal records.
- C. Sex Offender Record Checks - The National Sex Offender Public Website computerized data bank of sex offenders will be accessed to determine the existence of sex offender status and crimes against a minor record, or if an applicant was required to register as a sex offender.
- D. Virginia Child Abuse and Child Neglect Registry - The Virginia Department of Social Services child abuse and neglect central registry will be accessed to determine if applicants have a founded child abuse and neglect charge in the State of Virginia.

#### **IV. PROCEDURES FOR APPLICANT BACKGROUND CHECKS**

All applicants for positions in the police and fire departments shall be processed for background checks. For other departments, only the applicants being considered as finalist(s) for covered positions under Section II.A. and activities under Section II.B. will be processed for background checks unless otherwise provided for in the selection procedure or as indicated in policy. When the hiring department has identified the finalist(s) in any position requiring a background check, the hiring department will arrange for the finalist(s) to complete an Authorization for Release of Information form and shall forward it to Human Resources. A completed VCIN User Background form is also required for positions which require access to the Virginia Crime Information Network/National Crime Information Center. The Department of Human Services checks will require completion and notarization of a Child Protective Services Release of Information form.

The Department of Human Resources or authorized hiring department will submit the necessary information to request a criminal history record check, Special Conservator of the Peace designation, and eligibility for VCIN access, from the Newport News Police Department and the Virginia State Police.

Additional checks, such as child abuse and neglect central registry checks for state licensed day care centers administered by the Department of Parks, Recreation and Tourism, Department of Juvenile Services and Department of Human Services employees, are processed by the hiring department in accordance with departmental policy. The Department of Human Resources will be notified by the Police Department and the Virginia State Police when the required background checks have been completed.

Every effort shall be made to complete the background check and any subsequent investigations prior to any job offer or volunteer assignment being made. If the hiring department cannot wait until the criminal history or sex offender check or any further investigation has been completed, Human Resources will make a written job offer stating that the employment offer is conditioned upon an acceptable background check. However, the individual will not be assigned any sensitive work or work involving children until all the results of the checks are final. Any subsequent findings that are incompatible with the position, or any findings of falsification of application information, may be grounds for immediate termination.

**V. PROCEDURES FOR ANNUAL BACKGROUND CHECKS**

As a condition of employment, all employees of the Fire Department, who provide or may provide patient care, and have or may have unsupervised access to a child, or to an elderly or disabled person; all employees of Juvenile Services; and all employees of the Police Department, shall be subject to an annual background check, conducted in accordance with their respective departmental policy, procedure or practice. Human Services' employees shall be subject to an annual Child Abuse and Child Neglect record check.

**VI. EVALUATING THE RESULTS OF BACKGROUND CHECKS**

The Department of Human Resources will review the findings of the background checks. In determining whether or not an individual's criminal history disqualifies the individual from employment, or the ability to volunteer for the City, the following factors shall be considered:

1. the nature and seriousness of the crime;
2. the relationship of the crime to the work performed in the positions applied for;
3. the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;
4. the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought;
5. the extent and nature of the person's past criminal activity;
6. the age of the person at the time of the commission of the crime;
7. the amount of time that has elapsed since the person's last involvement in the commission of a crime;

8. the conduct and work activity of the person prior to and following the criminal activity; and
9. evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

The results of background checks will be maintained in Human Resources. If a background check reveals potentially disqualifying conduct, the Director of Human Resources or designee, and the Department Director may consult with the City Attorney's Office and determine whether such information disqualifies the individual from employment, transfer, or promotion based on the criteria established in Section VI.

In appropriate cases, the background check(s) may also result in termination of employment or the ability to provide volunteer services for the City. Based on the results of the background check(s), an employee may be disqualified for promotion/transfer and subject to appropriate discipline, depending on the seriousness of the disqualifying conduct and the impact on the employee's ability to continue to perform current job duties. If an applicant is denied employment or the ability to volunteer because of information appearing in a background check, Human Resources will notify the individual in writing when information obtained from the Criminal Records Exchange or a credit report contributed to the denial.

The department shall consult with the Director of Human Resources, or designee, prior to disciplining employees related to background check information.

## **VII. FALSIFICATION, OMISSION, AND MISREPRESENTATION**

Falsifications, omissions, or misrepresentation of information on forms associated with the background check, sex offender registry and other listed registries, or the employment or volunteer application, or failure to complete such forms or the job application, shall result in disqualification from consideration for volunteering, or employment, disciplinary action up to and including termination or termination of a volunteer.

## **VIII. CONTINUING OBLIGATION TO REPORT**

Employees and volunteers in the Departments of Fire, Police, and Juvenile Services, who are charged with or convicted of a crime, are required to immediately report such information to their Department Director. The Departments of Police, Fire and Juvenile Services employees are also subject to additional self-reporting requirements as established by departmental policies and objectives. Any testimony, information, or documents provided by the employee or volunteer and any fruits of their disclosure, cannot be used against them in any criminal prosecution. Such information shall not be shared with the criminal investigator of any Police Department, the Commonwealth Attorney's Office, or the U.S. Attorney's Office. However, in the event such a request for information is made, contact the City Attorney's Office.

Failure to report may subject employees to disciplinary action up to and including termination, and may be cause for termination of services provided by a volunteer. The City may require an individual already employed by the City, or providing volunteer services, to provide current background check information where the City has reason to believe that a criminal conviction has occurred but such has not been reported as required under Section VIII.

**IX. CONFIDENTIALITY**

The Department of Human Resources will maintain the confidentiality of all background record checks in accordance with all applicable local, state, and federal laws.

*Supersedes/Amends: 308, 9/01/99*

Approved:



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City Manager