



CITY OF CHESAPEAKE, VIRGINIA

NUMBER: 2.52

CITY DIRECTIVE

EFFECTIVE DATE: 07/29/2020

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES -
CRIMINAL HISTORY RECORD CHECK POLICY**

SUPERCEDES: 05/18/2009

I. PURPOSE

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 individuals if they have demonstrated past conduct incompatible with service to the public.

This Policy outlines the City's expectations with regard to criminal history background checks for prospective hires, interns, volunteers, temporary and contract workers engaging in City programs or providing City services.

This Policy is not intended to supersede or control background investigation procedures already in effect for departments that have criminal history record check requirements that exceed the requirements of this Policy or that have procedures that may otherwise be required by law.

II. APPLICABILITY

This Policy applies to all non-sworn positions in departments/agencies operating under the direction of the City Manager. For the purposes of this policy, references to the City Manager, Director of Human Resources, or department head shall include their designees.

III. SCREENING PROCESS AND PROCEDURES

The process and procedures for conducting criminal history record checks on prospective hires, interns, volunteers, contract and temporary workers, or employees changing positions have been outlined in a separate guide that will be a supplement to the policy.

A. Evaluating Criminal History Record Check Results – Positions Serving Juveniles, The Disabled, or the Elderly

1. Barrier crimes/dispositions

No person shall be retained in a paid or unpaid position providing services to juveniles, the disabled, or the elderly, or be approved to provide such services or care, if the results of the fingerprint check show that the person has a Child Protective Services founded sexual abuse disposition, has been convicted within the past ten years of any barrier crimes, and/or the position for which the person is

being considered prohibits any convictions of barrier crimes, as enumerated in Code of Virginia § 19.2-392.02, as amended from time to time, or equivalent offenses in another state or a military court of justice. All barrier crime convictions outside the automatic disqualification period of ten years shall be reviewed on a case-by-case basis, considering the City's best interests and the duties and responsibilities to be assigned the individual.

2. All other crimes

All other convictions and Child Protective Services dispositions shall be reviewed on a case-by-case basis to determine if the individual poses a safety risk to juveniles, the disabled, or the elderly involved in the program. No individual may be found ineligible because of pending charges, except for barrier crimes or any crime against minors. However, an individual may ultimately be found ineligible if the previously pending charge results in a conviction that indicates the individual poses a safety risk to children. Pending charges will be assessed against the same criteria and may result in rescission of an offer of employment or a delay in the final employment decision until a final disposition is rendered, or a reasonable time frame has elapsed.

B. Evaluating Criminal History Record Check Results – All Other Positions Not Serving Juveniles, The Disabled, or the Elderly

1. Crimes against the person

a. A conviction of any "Crime Against the Person," as defined by Title 18.2, Chapter 4 of the Code of Virginia, 1950, as amended, within the immediate past five years shall automatically disqualify the individual from employment/participation with the City. This disqualification shall apply regardless of the state in which the individual was convicted. It shall also apply to comparable convictions in a military court of justice.

b. Such a conviction, outside the automatic disqualification period of five years, shall be evaluated on a case-by-case basis considering the City's best interests and the duties and responsibilities to be assigned the individual.

2. All other crimes and pending charges

All other convictions and pending charges shall be evaluated on a case-by-case basis considering the City's best interest and the duties and responsibilities to be assigned the individual. Pending charges will be assessed against the same criteria and may result in rescission of an offer of employment or a delay in the final employment decision until a final disposition is rendered, or a reasonable time frame has elapsed.

IV. CONTINUING OBLIGATION TO REPORT

An individual who is charged with or convicted of a crime, subsequent to the initial or annual criminal history record check screening, is required to immediately report such information to his/her supervisor. Failure to report may subject the employee to disciplinary action, up to and including termination, and may be cause for termination of services provided by an unpaid worker. The City may require an individual already in City service to provide current criminal history information where the City has reason to believe that a criminal conviction has occurred but has not been reported as required under this provision.

V. CONFIDENTIALITY

City representatives associated with the criminal history record check process shall maintain the confidentiality of all such records. In accordance with law, such records shall be used for the sole purpose of determining an individual's suitability as a City employee, intern, or volunteer. Criminal history records shall be retained and disposed of in accordance with the Library of Virginia Records Retention and Disposition Schedule.

VI. CONTRACTORS, TEMPORARY SERVICE, AND SECURITY VENDORS

Each contract or memorandum of understanding that the City executes with a contractor or temporary service vendor shall include language outlining the City's expectations with regard to criminal history background checks for temporary or contract workers engaging in City programs or providing City services.

APPROVED AS TO FORM AND CONTENT:

Melissa A. Hamann
Melissa A. Hamann, Assistant City Attorney

8/10/2020
Date

APPROVED AND ADOPTED:

Christopher M. Price
Christopher M. Price, City Manager

7.29.20
Date