



City of Riverside, California
Human Resources Policy and Procedure Manual

Approved:

Human Resources Director

City Manager

Number: I-14 Effective Date: 07/06

SUBJECT: BACKGROUND CHECK POLICY

PURPOSE:

To establish guidelines and ensure compliance with applicable federal and state laws for conducting pre-employment background and reference checks on individuals who have been conditionally offered employment, or candidates that are being considered for temporary or volunteer positions in the City of Riverside, to ensure public safety. City Council has authorized a resolution authorizing the City to obtain state summary criminal background information from the Department of Justice [or consumer background reports from consumer reporting agencies](#) for employment purposes. The City desires to establish guidelines for those employees, prospective employees and volunteers who have a criminal history so that such information may be appropriately considered in employment decisions.

POLICY:

1. Authority - Under federal and state law, public agencies may enact policies that disqualify applicants with [certain](#) criminal convictions from employment positions if the conviction is [relevant directly and adversely related](#) to the [specific job duties of the](#) position in question. Furthermore, California Penal Code Section 11105 permits cities to obtain state summary criminal background information from the Department of Justice if the City Council has authorized such access and if the criminal background information is required to implement a statute, ordinance or regulation that contains requirements or exclusions based on specified criminal conduct. The City Council authorized the City to access and receive such information pursuant to Resolution Number 19579. Ineligibility for employment will be determined [after a conditional offer of employment has been made](#) in compliance with Section 2.36.035 of the Riverside Municipal Code, and in accordance with applicable federal and state law.
- 1.2. Criminal Record Background Checks - The City may obtain criminal conviction background information pursuant to the procedures set forth below on all prospective applicants for full-time, part-time, seasonal, temporary, or limited-term, volunteers, and unpaid interns, after a conditional job offer has been extended. The City will receive subsequent arrest notification records from the California Department of Justice for the duration of the individual's employment, or volunteer or unpaid internship.
- 2.3. General - The City will afford all applicants and candidates an individualized

determination regarding whether the person's criminal conviction history has a direct and adverse relationship to the specific duties of the position sought, justifying rejection or disqualification of the applicant or candidate for the position. The City shall not inquire into or consider the criminal conviction history of an applicant until after a conditional offer of employment has been made. The City will not consider arrests not followed by convictions (except as permitted by Labor Code section 432.7), referrals to or participation in a pretrial or posttrial diversion program, or convictions that have been sealed, dismissed, expunged, or statutorily eradicated by law, or any other criminal history it is prohibited from considering under Labor Code section 432.7.

The individualized assessment shall include consideration of:

- a. The nature and gravity of the offense or conduct,
- b. The time that has passed since the offense and/or completion of the sentence, and
- c. The nature of the job held or sought.

Prior to making a final decision to disqualify an applicant based on criminal history, the City shall provide written notice of the preliminary decision, which will include the specific conviction(s) the City believes is disqualifying, a copy of the background check report, and notice of the applicant's right to challenge the accuracy of the report and/or respond with evidence of rehabilitation or mitigating circumstances. The applicant will be afforded the time period within which to respond within the time-period-as required by Government Code Section 12952. The City shall consider any information submitted by the applicant before making a final decision, including, any evidence of rehabilitation or mitigating circumstances submitted by the applicant.

If the City makes a final decision to deny an application based on the applicant's conviction history, the City shall notify the applicant in writing of the City's final decision, any existing procedure the City has for an applicant to challenge the decision or request reconsideration, and the right to file a complaint with the California Civil Rights Department.

The aforementioned procedures are not applicable in the following circumstances:

- The City is otherwise required by law to conduct a conviction history background check.
- A position with a criminal justice agency, as defined in Section 13101 of the Penal Code.
- A position where the City is required by any state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history.

4. Specific Convictions and Positions

- A. For applicants, including existing employees seeking promotion or a change of position and existing employees subjected to criminal history review because of a change in management, policy, or practice, The preceding convictions

conviction history may only be used to disqualify an applicant if the applicant's conviction history has a direct and adverse relationship with the specific duties of the job.

- B. With respect to all full-time, part-time, seasonal, temporary, or limited-term employees, volunteers, and unpaid interns, a "violent" or "serious" strike conviction enumerated in -of any of the following California Penal Code sections 667.5(c) and 1170.12(a)-(c), or a crime of moral turpitude willmayl -be grounds for disqualification or termination.:

Section 68:	Asking for, receiving, or agreeing to receive bribes
Section 72:	Presentation of fraudulent claims
Section 73, 74:	Bribes for appointment to office
Section 187, 189:	Murder
Section 209:	Kidnapping for ransom, extortion or robbery
Section 211:	Robbery - taking personal property in possession of someone by force or fear
Section 245:	Assault
Section 261:	Rape
Section 459:	Burglary
Section 484:	Theft
Section 490.5:	Larceny (shoplifting)
Section 503:	Embezzlement - fraudulent appropriation of property by a person to whom it has been entrusted
Section 518:	Extortion - obtaining property by a wrongful use of force or fear or under a color of official right

- ~~B. With respect to all applicants for and current employees and volunteers in positions that work with or supervise minors, in addition to "A" above, a conviction of any of the following code sections will be grounds for disqualification or termination:~~

- ~~1. Violations or attempted violations of Penal Code Sections 220, 261.5, 262, 273a, 273d, or 273.5, 288, or any sex offense listed in Section 290.~~
- ~~2. Any crime described in the California Uniform Controlled Substances Act (Division 10 [commencing with Section 11000] of the California Health and Safety Code).~~
- ~~3. Any felony or misdemeanor conviction within 10 years of the City's request for criminal conviction information for a violation or attempted violation of Chapter 3 of Title 8 of the Penal Code (commencing with Section 207), Sections 211 through 215, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that offense, Section 217.1, Chapter 8 of Title 8 of the Penal Code (commencing with Section 236), Chapter 9 (commencing with Section 240), and for violation of any of the offenses specified in subdivision (c) of Section 667.5.~~
- ~~4. Any felony or misdemeanor conviction under Penal Code Section 311, et seq., including photographic use of children relative to sexual conduct.~~

- ~~C. With respect to all applicants for current employees and volunteers in positions that work with public funds or public records, in addition to "A" above, a conviction~~

~~of any of the following Penal Code sections will be grounds for disqualification or termination:~~

~~Section 115, 115.3: Use of a false or forged public record or alteration of a certified copy of a public record~~

~~Section 424: Embezzlement and falsification of accounts~~

~~Title 13, Chapter 4: Any violation of forgery and counterfeiting~~

5. Responsibility of Applicant, Employee or Volunteer - Upon acceptance of a conditional offer, it is the responsibility of an applicant to report any conviction or arrest pending final adjudication to the City as part of the pre-employment background investigation process. Arrest pending final adjudication means an arrest for which the employee or applicant is out on bail or on their own recognizance pending trial, pursuant to Labor Code 432.7(a). If any convictions or arrests pending final adjudication occur while the employee or volunteer is working for the City, the employee or volunteer shall report that information to their supervisor who shall forward the information to the Department Head or designee and the Human Resources Director. Alternatively, the employee or volunteer may report the information directly to the Human Resources Director.
6. Confidentiality - Summary of criminal history information is confidential and will not be disclosed, except to those individuals designated to make employment decisions. ~~form~~
7. Existing Employee Review - Through an individualized assessment, upon receipt of information regarding a conviction and/or arrest pending final adjudication, the Human Resources Director and/or the City Attorney will evaluate the effect and potential effect of the employee's or volunteer's record or arrest on their position of employment, fellow employees and the public. The Human Resources Director ~~will may take appropriate action to maximize public safety and minimize potential liability while respecting the rights of the employee or volunteer. take appropriate action if the employee or volunteer's conviction history has a direct and adverse relationship with the specific duties of the job.~~

~~5.~~ 8. Record Security

Pursuant to Penal Code Section 11077, the Attorney General is responsible for the security of Criminal Offender Record Information (CORI) and has the authority to establish regulations to assure the security of CORI from unauthorized disclosures. The following are requirements as prescribed by the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security for any agency that maintains or receives criminal history information:

- A. Records Security - Any inquires regarding the release, security or privacy of Criminal Offender Record Information (CORI) is to be resolved by the Human Resources Director or designee.
- B. Record Storage - CORI shall be under lock and key (or stored in an encrypted, access-restricted electronic format) and accessible only to the Department Head

or designee who shall be committed to protect CORI from unauthorized access, use or disclosure. Fingerprint records such as fingerprint cards, "no criminal history" notifications and CORI history shall be destroyed by shredding once a hiring decision or volunteer qualification/disqualification determination has been made.

- C. Record Dissemination - CORI shall be used only for the purpose for which it was requested by the hiring department.
- D. Record Destruction - Upon determination of employment, CORI and copies of the same shall be destroyed to the extent the identity of the person can no longer be reasonably ascertained.
- E. Record Reproduction - CORI may not be reproduced for dissemination.
- F. Training - The Department Head and employees with access to CORI are required:
 - 1. To read and abide by this policy.
 - 2. To have on file a signed copy of the Employee Statement Form for the Use of Criminal Record Information, which acknowledges an understanding of laws prohibiting misuse of CORI.
- G. Penalties - Misuse of CORI is a criminal offense. Violation of this policy regarding CORI may result in suspension, dismissal and/or criminal or civil prosecution.