

**SUBJECT: CIVILIAN CRIMINAL BACKGROUND CHECKS AT THE CITY OF MADISON**

Purpose: The following Administrative Procedure Memorandum (APM) outlines the policy for background checks on potential employees, volunteers, and contractors.

Background: The City hires over 500 permanent and hourly employees annually. In addition, the City utilizes a number of volunteers and contractors throughout its 26+ agencies to accomplish its mission. These employees, volunteers, and contractors all represent the City in the performance of their duties, and individuals may have one-on-one access to vulnerable populations, may be expected to enter private property in their official capacity, or may have access to taxpayer funds and secure computer systems.

Definitions:

**Contractor** - One who performs service under a written contract with the City but is not employed by the City. A contractor may be selected through a formal bid process and generally is paid on a project basis. This policy does not apply to contractors doing work on a public works contract bid by the Board of Public Works.

**Employee** - One who has been hired by and works for the City, either permanent or hourly, and receives compensation for that work consistent with City of Madison Personnel Rules. This includes, but is not limited to, employees who work under employment contracts.

**Volunteer/Unpaid Intern** - One who performs work for the City without expectation of pay.

Policy: In order to maintain public trust, it is important that criminal background checks be completed as appropriate on potential employees, volunteers, and contractors performing specifically assigned duties. Each category will be discussed below.

**Employees:** All employees who are involved in the following as part of their regular assigned duties will have a pre-employment criminal background check completed and, if necessary, reviewed through the Office of the City Attorney:

- Employees who handle cash or have the ability to alter/manipulate City financial records or computer systems.
- Employees who have direct, unsupervised contact with vulnerable populations, including children and the elderly.
- Employees who regularly access personal, private property as part of their job duties, such as inspectors, appraisers, etc.
- Employees who have access to the programming associated with the City's internal computer systems.
- Employees who work under employment contracts or any position where a background check is established as a requirement for the position.

All employees in the Police and Fire Departments will undergo a pre-employment background check administered by their respective departments. In addition, employees of other departments who are expected to perform work at Police facilities, such as custodians and facilities maintenance technicians, will undergo the Police Department background check process.

Hiring managers may also request criminal background checks on employees in substantially similar roles not identified above.

Current City employees moving into a position that meets any of the above criteria will have a criminal background check completed, regardless of whether a check was completed when the employee was initially hired. Background checks are position and duty-specific. It is possible that information on a background check would not disqualify someone from a certain position, but may disqualify them from other positions.

Hourly/seasonal employees who are recalled for employment annually are not required to complete a criminal background check every year. However, if an hourly employee has not worked for the City for two (2) years and then returns, a new background check will be performed for a position that meets at least one of the above criteria.

**Arrests Or Convictions:** Consistent with [APM 2-33](#), employees who work for the City will be required to report to Human Resources (HR) any arrests or convictions that happen following the start of their employment. Police Department employees and commissioned Fire personnel will continue to follow their internal policies regarding reporting. Such information will be kept confidential to the extent allowable under this policy. Arrests and convictions should be reported directly to the HR Director. Upon receiving this information, HR will review with the City Attorney's Office to determine whether there is a nexus to the employee's current job. If so, following an arrest, the employee may be placed on leave pending the outcome of the case. Following a conviction, if the conviction is substantially related to the duties of the position, additional action may be taken, including removal from the position. Failure to report arrests or convictions may result in discipline, up to and including termination.

**Contractors:** Consistent with the categories outlined above, the contractor's staff will also undergo a criminal background check prior to performing work for the City. Specifically, all contractor's staff working at the Library, contractor's staff with access to Police Department facilities, contractor's staff who will perform work unsupervised in property owned by the City (e.g., CDA Housing facilities), and contractor's staff who will have access to City networks or financial systems should all have criminal background checks completed. Contractors who work for the City on a regular basis will have a background check completed once every calendar year. When contractors are hiring personnel, contractors are required to conform to the "Ban the Box Ordinance," MGO 39.08.

**Volunteers:** Volunteers should undergo a criminal background check consistent with [APM 2-44](#). Specifically, all volunteers/interns who will have direct contact with the public, especially children and those in vulnerable conditions, should have a criminal background check before beginning their volunteer/intern position. Departments can choose to do background checks on other volunteers/interns depending upon the nature of the volunteer activity. Questions regarding background checks for volunteers/interns should be referred to Human Resources. Volunteers/interns who volunteer on a regular basis will have a background check completed once every calendar year.

Process: For those employees working for or at Police Department facilities, the Police Department will manage the background check process. For employees of the Fire Department, the Fire Department will manage the background check process.

Criminal background checks will be completed consistent with the City's [Ban the Box Resolution](#) for all other employees. This means that agencies should not be completing background checks on candidates, including reviewing social media or looking up information on the Wisconsin Consolidated Court Automation Program (CCAP). Rather, *once an agency has made a conditional offer of employment*, the hiring manager will contact the assigned HR Analyst, who will then reach out to the candidate to obtain the necessary information to perform the check. All checks will be completed through HR and the Police Department. HR will be responsible for obtaining records through the Wisconsin Online Record Check System (WORCS), the Department of Justice database, and will run any necessary driving checks. The Police Department will obtain City and County violations that otherwise will not show up on the WORCS report and obtain out-of-state records as available.

If information is found on a background check, the HR Analyst will first review the information with the HR Director or their designee. If the HR Director or their designee has concerns that convictions on the background check may have a nexus to the applicable City position, the information will be reviewed with the City Attorney or their designee, who will make the final determination. In all cases, the review will focus on whether there is a substantial relationship or nexus between the conviction(s) on the report and the job duties the employee performs or will perform. While the primary focus will be on recent convictions, the entire background may be evaluated and considered when determining whether a substantial relationship or nexus is present.

If a candidate will be disqualified because their conviction(s) are substantially related / have a nexus to the position, HR will inform the candidate of that fact, and state specifically what conviction in the background check is substantially related to the job. This will allow the candidate an opportunity to provide clarifying information or contest the accuracy of the report. A conviction that may be relevant for one position may not have the same relevance for another position.

A similar process will be used to run background checks on volunteers and contractors. However, individual agencies will be expected to collect names and dates of birth from the volunteer or contractor to provide to HR in order to run the check. In addition, the agency will be expected to inform contractors or volunteers if they are not being selected because of the information in a background check.

Authority: The HR Director, in consultation with the City Attorney's Office, will be responsible for interpreting and applying this policy.



Satya V. Rhodes-Conway  
Mayor

APM No. 2-54  
February 8, 2022

Original APM dated 2/8/22