

**City of Minneapolis**  
**Background Check Procedures**  
 (Links to [Policy](#) and [Form](#))

**Governing Policy:** [Background Check](#)

**Synopsis:** Establishes roles, responsibilities and procedures for conducting background checks on prospective and current employees and contract personnel.

**Procedure History: Department Approval:** July 2007; **City Council Approval (Received & Filed):** October 19, 2007

**Last Revision Date:** December 11, 2012 (Section IV. A. 2. – Timing)

**Links to Related Regulations:** [Minnesota Statutes Chapter 364 - Criminal Offenders, Rehabilitation](#)

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## City of Minneapolis Background Check Procedures - Roles and Responsibilities

Employees and candidates for positions with the City of Minneapolis play important roles to ensure compliance with the Background Check policy. City employees must perform the responsibilities as outlined below and in accordance with the procedures developed for this policy.

Role	Responsibility
Hiring Authority	<ol style="list-style-type: none"> <li>1. Know which positions under their responsibility require a criminal check, qualifications check or both.</li> <li>2. Where required, ensure that background checks are completed prior to a person starting work (new employee and contract personnel) or before a current employee is detailed, transferred or promoted into a position.</li> <li>3. Ensure that individuals being considered for positions that require a background check review and sign an <a href="#">Informed Consent form</a> (a.k.a. <i>Disclosure and Release of Information Authorization</i>) <b>prior</b> to the candidate's information being forwarded to the third party vendor conducting the background check.</li> <li>4. Provide a copy of the completed <a href="#">Informed Consent form</a> to the candidate immediately after signing.</li> <li>5. Ensure the third party vendor is paid for background check related services.</li> </ol>
HR Associate	<ol style="list-style-type: none"> <li>1. Order background checks for positions that require a criminal check, qualifications check or both. (After receipt of completed <a href="#">Informed Consent form</a>.)</li> <li>2. Review background check information received from the third party vendor.</li> <li>3. Request information from candidates when conviction information is received from the third party vendor and in accordance with Minnesota Statutes Chapter 364.</li> <li>4. Notify hiring authority when the background check has been completed and to inform them of the candidate's continued eligibility (or ineligibility) for the position.</li> <li>5. When disqualification occurs because of a job related criminal conviction and/or due to the lack of required qualifications, the HR Associate notifies the individual of their disqualification in writing.</li> </ol>
HR Generalist	<ol style="list-style-type: none"> <li>1. Oversee and manage the staffing related services being delivered to assigned customer departments.</li> <li>2. Review conviction information received from the third party vendor to determine if the conviction is job related and should disqualify the candidate for the position being sought.</li> <li>3. Review qualifications information received from the third party vendor to determine if the candidate is qualified for the position being sought.</li> <li>4. Provide advice and counsel hiring authorities on the Background Check policy and procedures.</li> </ol>
HR Director	<ol style="list-style-type: none"> <li>1. Develop and maintain procedures for implementation and ongoing maintenance of the Background Check Policy.</li> <li>2. Ensure HR Staff are carrying out their responsibilities.</li> <li>3. Ensure that the City is complying with Minnesota Statutes Chapter 364.</li> <li>4. Determine the appropriate means of communicating the Background Check policy and procedures to all employees.</li> </ol>
Third Party Vendor	<ol style="list-style-type: none"> <li>1. Deliver background check related services in accordance with State and Federal Laws and as described in the contract between the vendor and the City of Minneapolis.</li> </ol>

## **PROCEDURES FOR CONDUCTING BACKGROUND CHECKS FOR POTENTIAL AND CURRENT CITY EMPLOYEES**

The procedures outlined below determine the process for conducting background checks for all positions under the jurisdiction of the Mayor and Minneapolis City Council. Background checks for potential and current city employees and contract personnel may include a criminal background check or a qualifications check or both.

### **I. TYPES OF BACKGROUND CHECKS**

The procedures for criminal checks are intended to comply with Minnesota Statutes Chapter 364 governing the rehabilitation of criminal offenders. The procedures for qualifications checks are intended to comply with the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681, et seq. Nothing herein shall be construed as limiting the rights of the hiring authority to determine a candidate's suitability for employment.

#### **A. Criminal Checks**

The procedures outlined below determine the process for conducting criminal background checks for all positions under the jurisdiction of the Mayor and Minneapolis City Council. The criminal background check procedures do not apply to:

1. Positions in the Minneapolis Police Department (MPD);
2. Sworn positions in the Minneapolis Fire Department (MFD) including Firefighter Cadet. See Appendix A;
3. Employees in positions who have physical access to Criminal Justice Information Systems (CJIS) equipment, terminals, screens, interfaces, circuits, programs, manuals, codes, and/or data contained within CJIS. See Appendix B;
4. Positions governed by the Minnesota Child Protection Background Check Act;
5. Positions involving the practice of law governed by the Minnesota Supreme Court or positions subject to other federal or state background requirements;
6. Election Judges.

Procedures for Criminal Background Checks for positions in the MFD and MPD are covered by department policy and as described in Appendix A and B respectively.

Pursuant to Minnesota Statutes Chapter 364, no person may be disqualified from employment with the City solely, or in part, because of a prior conviction of a crime or crimes unless the crime or crimes for which the individual was convicted directly relate to the position of employment sought.

#### **B. Qualifications Checks**

The procedures outlined below determine the process for conducting qualifications checks for all positions under the jurisdiction of the Mayor and Minneapolis City Council which require the obtainment of post-secondary education, a license or certificate. Nothing herein shall be construed as limiting the rights of the hiring authority to determine a candidate's suitability for employment.

These procedures regarding qualifications checks do not apply to positions in the Minneapolis Police Department.

### **II. JOB ANNOUNCEMENT BACKGROUND CHECK NOTICE**

Every job announcement for a job title requiring a criminal background check or a qualifications check must contain a notice substantially as follows:

“The City has determined that a criminal background check and/or qualifications check may be necessary for certain positions with this job title. Applicants may be required to sign an informed consent form allowing the City to obtain their criminal history and/or verify their qualifications in

connection with the position sought. Applicants who do not sign the informed consent form will not be considered further for the position.”

This statement will also be presented in writing to potential temporary employees before the City hires them.

The failure of a job announcement to include a notice of a criminal background check or qualifications check shall not preclude the City from conducting these checks.

### **III. RESPONSIBILITIES FOR CONDUCTING BACKGROUND CHECKS**

Background Check includes a criminal background check and/or qualifications check. Staff of the Minneapolis Human Resources Department will not perform criminal background checks. Human Resources may obtain the services of the Minneapolis Police Department or other qualified service providers in conducting and completing criminal background checks and verifying qualifications.

Only the Human Resources Department will have access to the background check information supplied by the third party vendor. Human Resources staff will inform the hiring authority whether a candidate passes or fails the criminal background check and/or the qualifications check. Background check information obtained on contract personnel will be stored by the contracting department or the Human Resources Department.

### **IV. REQUIREMENTS FOR A BACKGROUND CHECK**

#### **A. Criminal Checks**

1. **Criteria:** Positions that require at least one of the following duties will be subject to a criminal background check. The corresponding crimes are examples of crimes which might disqualify a person from employment. These crimes are only examples and the analysis would not be limited to those crimes listed.
  - a) Handles cash or cash equivalent, credit card numbers, checks, securities or has access to financial data, bank or investment accounts. (e.g. theft, identity theft, simple or aggravated robbery, false tax statement, perjury, shoplifting, embezzlement, etc.)
  - b) Is a caregiver for children or vulnerable adults that are not governed by the Minnesota Child Protection Background Check Act. (e.g. terroristic threats, indecent exposure, exhibition, abduction, criminal sexual conduct, etc.)
  - c) Enters private homes or secure areas of businesses, as part of their job responsibilities. (e.g. solicitation of juveniles, criminal sexual assault, simple or aggravated robbery, use of drugs to insure or facilitate crime, harassment, stalking, etc.)
  - d) Has regular access to drugs or controlled substances. (e.g. adulteration, manufacture or delivery of drugs or drug paraphernalia, illegal drug sales, distribution of drugs, etc.)
  - e) Has access to secure areas restricted to the public and other City employees, such as financial and public safety areas. (e.g. theft, receiving stolen property, issuance of dishonored checks, arson, burglary, unauthorized computer access, etc.)
  - f) Has a position involving large volume supply and material handling, such as stock clerk, storekeeper, buyer and related positions. (e.g. theft, racketeering, bribery, misusing credit card to secure services, etc.)
  - g) Has access to the following types of data: Date of Birth, Social Security Numbers, Home Addresses, Driver's License Information, medical information, etc. (e.g. theft, identity theft, simple or aggravated robbery, false tax statement, perjury, shoplifting, embezzlement, etc.)
2. **Timing:** The criminal background check may be completed at any of the following stages of the selection process in accordance with Minnesota Statutes Chapter 364:
  - a) When an applicant has been selected for an interview, or
  - b) When finalists are determined, or

- c) When a final candidate to whom an offer of employment or promotion is expected to be made, including offers of temporary employment, or
  - d) When an employee is considered for transfer to a position or reassignment to duties that require a criminal background check. (**Note:** Reassignment includes employees who are placed in the Return to Work Program and placement to a transitional work assignment is being considered)
  - e) Before contract personnel begin providing services to the City and before being granted access to City property, equipment, computer systems, etc.
3. **Frequency:** Criminal background checks for current employees shall be conducted no more than once every 12 months. Employees being considered for a transfer, detail or promotion, who have successfully completed a criminal background check, shall not be required to complete a second criminal background check in the following 12 months.
  4. **Expenses:** The department requesting the background check bears all costs related to the criminal background check. (**Note:** The only exception to this is for employees being considered for placement into a transitional work assignment through the Return to Work Program. In those instances the employee's department will be responsible for the cost of the background check not the department where the transitional work assignment is located.)
  5. **Consent Form:** Prior to conducting the criminal background check, the Human Resources Department will ensure that the hiring authority requires candidates to complete the [Informed Consent form](#). A conditional job offer can be made prior to completion of the criminal background check. However, if a pre-employment medical examination is required, all criminal background checks must be completed prior to the conditional job offer. The definition of medical examination includes a pre-employment drug and alcohol test. Where a criminal background check is required, the candidate may not begin work, be detailed, transfer or promote to another position until the background check process has been completed.
  6. **Vendor:** Upon completion of the [Informed Consent form](#), the Human Resources Department will direct a background investigation service provider (third party vendor) to complete a criminal history check for crimes that may result in a jail sentence.
  7. **Relation of Conviction to Position:** Upon receipt of the candidate's criminal conviction history, the Human Resources Department shall determine the relation of the conviction to the position sought. No person shall be disqualified from employment with the City solely or in part because of a prior conviction of a crime or crimes, unless the crime or crimes for which convicted directly relate to the position of employment sought. In determining if a conviction directly relates to the position of employment sought the Human Resources Department shall consider the:
    - a) Nature and seriousness of the crime or crimes for which the individual was convicted;
    - b) Relationship of the crime or crimes to the purposes of regulating the position of public employment sought;
    - c) Relationship of the crime or crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

If the Human Resources Department determines that the criminal conviction history does not disqualify the candidate or does not directly relate to the position of employment sought Human Resources will notify the hiring authority and advise the Department to proceed with the hiring process.

If the Human Resources Department determines that a conviction directly relates to the position of employment sought, the Human Resources Department shall request the candidate show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the employment or assignment. Sufficient evidence of rehabilitation may be established by the production of:

- a) A copy of the local, state, or federal release order; and

- b) Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or
- c) A copy of the relevant Department of Corrections discharge order or other documents showing completion of probation or parole supervision.

In addition to the documentary evidence, the Human Resources Department shall also consider any verbal or written evidence presented by the candidate regarding:

- a) The nature and seriousness of the crime or crimes for which convicted;
- b) All circumstances relative to the crime or crimes including mitigating circumstances or social conditions surrounding the commission of the crime or crimes;
- c) The age of the person at the time the crime or crimes were committed;
- d) The length of elapsed time since the crime or crimes were committed; and
- e) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the candidate since the candidate's release from any local, state, or federal correctional institution.

8. **Determination and Notification:** If after considering the factors set forth above, the Human Resources Department determines that the candidate is qualified for the position or assignment sought, it shall notify the hiring authority and advise them that they may proceed with the hiring process.

Should Human Resources conclude that the candidate is disqualified from consideration for the position sought, it shall immediately notify the hiring authority.

Human Resources will notify the individual of their disqualification in writing within five (5) business days of the disqualification. In addition, the written notice shall notify the individual of the following:

- a) The grounds and reasons for the denial or disqualification;
- b) The applicable complaint and grievance procedures as set forth in Section 364.06 of Minnesota Statutes;
- c) The earliest date the person may reapply for a position of public employment;
- d) That all competent evidence of rehabilitation presented will be considered upon reapplication.

In addition to the above, the written notice shall notify the disqualified individual of their rights, if any, to appeal their disqualification to the Minneapolis Civil Service Commission and through the arbitration process, if applicable.

## B. Qualifications Checks

1. **Positions Covered:** Positions which require at least one of the following will be subject to qualifications checks:
  - a) Post-secondary education,
  - b) A license<sup>1</sup>,
  - c) A certificate.
2. **Timing:** Qualifications checks may be completed at any stage of the selection process, including:
  - a) When the entire list of eligibles is created, or
  - b) When names of eligibles are sent to the department for hire or promotion, or
  - c) When finalists are determined, or

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<sup>1</sup> Note: License here means a professional license required to perform the duties of certain occupations. License does not include driver's license although the hiring authority may request that the driver's license of a candidate be checked as part of the qualifications check where a driver's license is a minimum qualification.

- d) When a final candidate to whom an offer of employment or promotion is expected to be made, or
  - e) When an employee is considered for transfer to a position or reassignment to duties that requires a qualifications check.
3. **Frequency:** A qualifications check only needs to be done once every 12 months. However, a qualification check shall be completed whenever the minimum requirements are different **and** where the qualifications have not been verified before. Where qualifications have been checked before, the qualifications check will be restricted to checking professional licenses and certificates that can lapse/expire and need to be valid for the person to be deemed qualified.
  4. **Expenses:** The department requesting the qualifications check bears all costs related to that check.
  5. **Job Offer:** A conditional job offer can be made prior to completion of the qualifications check. However, if a pre-employment medical examination is required, all qualifications checks must be completed prior to the conditional job offer. The definition of medical examination includes a pre-employment drug and alcohol test. Where a qualifications check is required, the candidate may not begin work, be detailed, transfer or promote to another position until the background check process has been completed.
  6. **Initial Disclosures and Written Authorization (a.k.a. Informed Consent):** Before a qualification check is ordered, the Human Resources Department must disclose to the candidate that a qualification check (i.e. a consumer report) will be obtained. The disclosure must be in writing and must include the authorization. The [disclosure and authorization \(Informed Consent\)](#) shall be a separate document and cannot be combined with any other document such as the application form or a notice and consent form to conduct a background check under state law. The candidate must authorize in writing the procurement of the qualifications check.

If the City also requests an investigative consumer report, (i.e., a report where an investigator actually talks with people and goes beyond simply verifying information) then the City must:

- a) Disclose to the candidate that the City is requesting an investigative consumer report within three (3) days of asking the consumer reporting agency to conduct the investigation.
  - b) Provide to the candidate a copy of "A Summary of Your Rights under the Fair Credit Reporting Act" as provided by the Federal Trade Commission, and
  - c) Respond to any request by the candidate for additional information by the candidate no more than five (5) business days after the request was made by the candidate or after the report was first requested, whichever is later.
7. **Vendor:** Upon receipt of the signed authorization the Human Resources Department will direct a background investigation service provider to complete a qualifications check and verify that the candidate has the requisite education, license or certificate.
  8. **Preliminary-Adverse Action Notification:** If the Human Resources Department determines that adverse action (not hiring, detailing, transferring, promoting or retaining a candidate) is being **considered** based in whole or part on the consumer report, or the investigative consumer report, the City shall:
    - a) Notify the candidate that an adverse employment decision is being considered.
    - b) Provide a copy of the background report to the candidate,
    - c) Provide a copy of "A Summary of Your Rights under the Fair Credit Reporting Act" as provided by the Federal Trade Commission, and,
    - d) Provide the candidate with the name, address and toll-free number of the consumer reporting agency who prepared the report.

Following the preliminary adverse action notice, the City shall give the candidate no less than five (5) business days in which to explain or dispute the information before final adverse action is taken.

9. **Post-Adverse Action Notification:** Upon receipt of candidate information from the qualifications check, the Human Resources Department shall determine the continued eligibility of the candidate in relation to the minimum qualifications of the position sought. If the Human Resources Department determines that a candidate is disqualified from consideration for the position sought, it shall immediately notify the hiring authority.

If adverse action is taken (applicant is not hired, detailed, transferred, promoted or retained) *and* the decision is based in whole or part on the consumer report, or the investigative consumer report, Human Resources shall, in writing:

- a) Notify the candidate that the City is taking an adverse employment action based on the report.
- b) Provide the name, address, and phone number of the Consumer Reporting Agency that supplied the report.
- c) Notify the candidate that the Consumer Reporting Agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it.
- d) Notify the candidate of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and the right to an additional free consumer report from the agency upon request within 60 days.
- e) Notify the candidate of their rights, if any, to appeal their disqualification to the Minneapolis Civil Service Commission or through the arbitration process, if applicable.

Notices to the candidate under this section shall be postmarked within 14 (fourteen) calendar days of the adverse action.

10. **Approval to Hire Notification:** If the Human Resources Department determines that the qualifications check does not disqualify the candidate, Human Resources staff will notify the hiring authority and advise the department to proceed with the hiring process.
11. **Contract Personnel:** The qualifications check portion of the Background Check procedures do not apply to contract personnel. However, nothing in these procedures prevents the contracting department from ensuring that contract personnel are deemed qualified prior to services being delivered to the City.

## **V. PROCESS FOR CONDUCTING BACKGROUND CHECKS FOR EMPLOYEES PROMOTING INTO OR ASSUMING DUTIES FOR WHICH A BACKGROUND CHECK IS REQUIRED**

- A. **Process:** Prior to a current employee promoting into or assuming duties which requires a criminal and/or qualifications check, the hiring authority shall notify the Human Resources Department and request that a check be conducted on the employee. The Human Resources Department shall follow the procedures set forth in Section IV above.
- B. **Employee Rights:** An employee who is disqualified from the position sought shall not be removed from their current position unless the check reveals information not previously known which is related to their ability to successfully perform the duties of their current job. No employee shall be removed from their current position based on a conviction which occurred prior to the effective date of the City of Minneapolis Background Check Policy.

## **VI. EMPLOYEE RESPONSIBILITY TO NOTIFY HUMAN RESOURCES DIRECTOR (OR THEIR DEPARTMENT MANAGEMENT) OF CRIMINAL CONVICTIONS**

- A. **Reporting a Conviction:** For positions that require a criminal background check, it is the duty of all employees in such positions to affirmatively notify the Human Resources Director of a criminal conviction that occurred anytime after they assumed the position. The conviction must be reported

within two weeks after it is officially entered into court records. For purposes of this policy, conviction includes any conviction which has not been expunged and for which a jail sentence could have been imposed.

- B. **Criteria:** The Human Resources Department shall follow the above procedures to determine the job relatedness of the criminal conviction to the performance of the duties of the position.
- C. **Potential Sanctions:** Intentional failure of the employee to notify the Human Resources Director (or their department management) of a criminal conviction may be grounds for employment sanctions up to and including suspension and termination, regardless of when the omission is discovered. Such failure may be grounds for suspension and termination of employment regardless of whether it is determined that such conviction is of a nature that would have disqualified the employee from the position of employment in question.

## **VII. RETENTION AND ACCESSIBILITY OF BACKGROUND CHECK RECORDS**

The Human Resources Department shall maintain records and related documents compiled by the City on individuals in response to background checks. The City of Minneapolis Records Retention policies, the Minnesota Data Practices Act, and applicable Federal and State laws shall govern the storage, use and dissemination of such records. Where the use of such records are not addressed by the foregoing standards, the use and dissemination of such records, such as their availability to hiring authorities, shall be within the discretion of the Human Resources Director. The retention period assigned to these records and the Data Practices Act classification are identified in the General Retention Schedule.

## Appendix A - Background Checks for Minneapolis Firefighter Cadet Candidates

### Purpose

Firefighters are placed in positions of public trust. The Minneapolis Fire Department (MFD) is obligated to hire individuals who are worthy of such trust. Background information provides objective information about job applicants that the MFD can use to identify individuals who are exceptionally qualified to become firefighters.

### Information to be collected:

1. Verification of valid driver's license;
2. Conviction record for relevant felony, gross misdemeanor and misdemeanor crimes.

### Process Used to Collect Background Information

On the initial application, all applicants will be clearly warned of the existence of automatically disqualifying events (i.e. automatically disqualifying convictions). Neither the MFD nor the City of Minneapolis Human Resources (HR) Department will investigate any applicant at the initial application stage nor make any subjective determination regarding an applicant's further eligibility. Only clearly disqualifying events disclosed by the applicant will be considered at the application stage. After the applications are reviewed, any applicant who is no longer eligible for hire based on self-disclosed information will be notified by the HR Department.

All further background information will be collected by a private agency that specializes in background investigations, under contract to the HR Department. Background investigations will be conducted prior to conditional offers of employment. The investigating agency will provide a candidate background report, providing only the information listed on the candidate background form, to the City's HR Department and to the MFD. The HR Department and the MFD will decide, using the standards listed below, which candidates are automatically ineligible for hire, which candidates will be subject to further review, and which candidates are eligible for hire, based on the background check information.

### Eligibility Standards

#### 1. Drivers License

Status of License	Eligibility of Candidate
a. Valid at time of conditional offer	Eligible for Hire
b. Not Valid at time of conditional offer	Ineligible for Hire

#### 2. Criminal Conviction Record

- a) Felony convictions within the past seven (7) years for the following crimes, in any jurisdiction including any convictions for attempt of or conspiracy to commit the following crimes will make a candidate ineligible for hire:
  - i. Murder
  - ii. Arson
  - iii. Criminal Sexual Conduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible rape, or felonies involving the sexual or physical abuse of children, the elderly or the infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, or incest involving a child
  - iv. Robbery (simple or aggravated)
  - v. Burglary
  - vi. Federal or State Civil Rights Convictions
  - vii. Felony controlled substance crimes where intent to distribute is an element of the crime

b) All other convictions not listed in section a, above will be reviewed by HR and MFD.

### **Relation of Background Check to Essential Job Functions**

1. Possessing a valid driver's license is an essential job function of sworn personnel in the MFD because employees may be required to drive a fire vehicle during an assigned shift.
2. Criminal convictions of the nature specified above provide evidence that a candidate is unlikely to be worthy of public trust.

### **Standards for Review of Convictions**

1. For automatically disqualifying felonies, listed in 2 (a), above, the date on which the background check is completed is the date that will be used to measure the time period for considering criminal convictions.
2. A candidate's record of convictions will not automatically make the applicant ineligible for hire, except in the case of automatically disqualifying felonies, listed in 2 (a), above. A candidate's conviction record will be cause for rejection only if the number, nature and recency of the candidate's conviction(s) would cause the candidate to be unfit for the position.
3. A candidate who has been convicted of a crime shall not be disqualified or made ineligible for hire, except in the case of automatically disqualifying felonies, listed in 2 (a), above, if the candidate can show competent evidence of rehabilitation and present fitness to perform the duties of the position.
4. Pardoned Offenses will not be considered (Minnesota Statute Chapter 638).
5. Misdemeanor convictions which have been discharged pursuant to Minnesota Statute Chapter 609.135 or Minnesota Statute Chapter 152 will not be considered as convictions.
6. All convictions for automatically disqualifying felonies, listed in 2 (a), above, will result in the applicant's conditional offer being immediately withdrawn.
7. For all other unspecified convictions, HR staff will notify the candidate in writing of the need for the candidate to present evidence that the conviction(s) should not disqualify the candidate for the position, including any evidence of rehabilitation. Within five (5) business days of receiving the candidate background report, HR staff will notify a candidate of the need to demonstrate rehabilitation by a preponderance of the evidence. Within fourteen (14) calendar days of receiving such notification, the candidate must submit all evidence, in writing, that the candidate wishes to be considered.

### **Procedure for Review of Convictions**

Within five (5) business days of receiving evidence submitted by the candidate, one member of HR staff and one member of the MFD staff will consider the following factors in evaluating rehabilitation:

1. The nature and seriousness of the crime(s) for which convicted;
2. The relationship of the conviction to the requirements of the job of firefighter;
3. All circumstances relative to the crime(s), including mitigating circumstances surrounding the commission of the crime(s);
4. The age of the candidate at the time the crime(s) were committed;
5. The length of time elapsed since the crime(s) were committed; and
6. All other competent evidence of rehabilitation and present fitness, including but not limited to, letters of

reference by persons who have been in contact with the candidate since the candidate's release from any local, state, or federal correctional institution.

The reviewing staff will submit written findings regarding the candidate under consideration to the HR Director, and the MFD Chief immediately after considering a candidate's rehabilitation.

Within five (5) business days of receiving the staff decision, the decision will be reviewed and signed by the HR Director or the HR Director's designee. The HR Director can adopt the reviewing staff's recommendation, overrule the recommendation, or refer the recommendation back to staff for clarification.

Any candidate rejected by this process will be immediately notified by certified mail that the candidate may appeal the rejection to the Civil Service Commission. The notice to the candidate shall include a copy of the HR Director's decision and findings which shall state the reason why the candidate's particular conviction(s) would cause the candidate to be unfit for the position.

The candidate must appeal any decision to reject within five (5) business days of receiving the certified letter of rejection<sup>2</sup>. The Civil Service Commission will consider the matter based upon all relevant evidence submitted by the candidate. The Civil Service Commission is not limited to the evidence previously submitted by the candidate to the HR and MFD staff.

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<sup>2</sup> **Note:** The appeal process noted here was put into place as a result of the *Carter vs. Gallagher* lawsuit. Upon the expiration of the Firefighter Cadet eligible list created by Exam Plan #19769, the appeal process will be governed by Minneapolis Civil Service Commission Rules.

## **Appendix B - Minneapolis Police Department Backgrounds Process Employees with Access to Criminal Justice Information Systems (CJIS) Data**

Criminal Justice Information Systems (CJIS) data is subject to 28 U.S.C. § 534, which vests control of acquisition, collection, classification and preservation of criminal records in the U.S. Department of Justice, to be implemented by the Attorney General of the United States. The Attorney General has delegated responsibility for implementation to the FBI, which performs this function pursuant to 28 CFR 20.01. Control includes exchange of information to and from criminal justice organizations, such as the Minneapolis Police Department (MPD), and non-criminal justice contractors when performing criminal justice agency functions. For CJIS information security purposes, access means physical access to areas containing equipment in which CJIS data may be viewed, entered, copied, or stored. Access is specifically subject to cancellation if disseminated outside of the receiving department or related agencies. These regulations govern security requirements for access to some of the largest and most regularly used criminal justice information databases, such as NCIC and FIRS. The MPD, as a Control Terminal Agency (CTA) entered into a security agreement requiring it to abide by FBI and CJIS Advisory Policy Board rules, policies, and procedures as a condition of maintaining its access to CJIS information. The security agreement specifies the level of background check that must be conducted to satisfy FBI security requirements. At minimum, the security background check must include state and national arrest and fugitive file checks, review of criminal records for any record of a felony conviction or any misdemeanor conviction constituting general disregard for the law, contacts with present and former employers and personal references.

Employees hired in the MPD are subject to the department's backgrounds process. Employees of other City departments, agencies, contractors, etc. having access to CJIS will also require the same level of background checks as MPD employees. Positions include but are not limited to positions located at the Impound Lot, BIS employees, Department of Regulatory Services including licenses and consumer service employees, City Attorney's Office Criminal Division prosecutors and support staff, Public Works Radio Shop employees, Minneapolis Building Commission maintenance employees, contracted tow truck drivers, Human Resources personnel with access to CJIS terminals, and mechanics servicing MPD squads.

The MPD's background process is as follows:

1. For eligible lists created specifically for MPD, the job announcement for each position will clearly indicate that all candidates must be able to pass a full background investigation prior to hire. Candidates are given the information about the background check when interviewed by the hiring supervisor.
2. For eligible lists created for use by MPD and other departments, Human Resources certifies the eligible list to the MPD hiring supervisor, who interviews eligible candidates. Candidates for positions in the MPD are advised at the time of interview that they must pass a full background investigation. Hiring supervisors provide Police Human Resources with the identity of candidates who need background checks. Police Human Resources contacts the candidates and refers them to the Backgrounds Unit, which arranges for photographs and fingerprints, provides a backgrounds packet and completes initial paperwork. Once the backgrounds process is completed, the backgrounds supervisor notifies Police Human Resources and the MPD hiring supervisor. The MPD hiring supervisor then contacts the successful candidate(s) to continue the hiring process.

## Appendix C - Step by Step Procedures – HR Staff and Hiring Authority

1. **Hiring Authority** - Submits requisition in HRIS to begin the hiring process.
  - a) **Criminal Background Check** - The requisition includes Position Number(s) which is linked to whether a position requires a criminal background check and the type of check. (Regular, MPD Background, Executive or None)
  - b) **Qualifications Check** - The requisition is also linked to a Job Code in HRIS which is tied to a job specification in HRIS. Where post-secondary education, a license and/or a certificate are listed as a requirement (e.g. minimum qualification), a qualifications check will be conducted by the Third Party Vendor.)
2. **HR Generalist** - Approves requisition in HRIS.
3. **HR Associate** – Check Lay Off List (No one on Layoff List → Proceed to 4. If there is an employee on layoff, proceed to 18. For those positions requiring a background check, the check will need to be completed prior to the employee being recalled to work even in those cases where an employee has rights under a Collective Bargaining Agreement or Civil Service Commission rules as the employee must meet the requirements of the position.)
4. **HR Associate** – Check Job Bank (No one in Job Bank qualified and interested → Proceed to 5. Someone in Job Bank interested and qualified, follow Job Bank procedures.)
5. **HR Associate** – Check for existing non-expired eligible list. (No existing eligible list → Proceed to 6. Existing eligible list, certify eligibles to hiring authority per applicable Union Contract or CSC Rules)
6. **HRG Team** – Exam and Recruitment Plans prepared, job posting drafted and sent to Hiring Authority. Background Check Statement added to job posting where required.
7. **Hiring Authority** – Reviews draft job posting and recommends changes/approves job posting and notifies HRG Team.
8. **HRG Team** – Sends copy of job posting to union where required/appropriate.
9. **HRG Team** – Opens position for application. Monitors applicant flow to ensure a qualified and diverse applicant pool. If applicant pool contains sufficient quality and quantity the applications period closes. HRG Team may seek input from hiring authority to determine if application period should be extended and if so recruitment plan may be modified and application period extended.)
10. **HRG Team** – Applications Screened. HRG Team may seek input from hiring authority to assist in the screening of applications, developing rating guides, conducting ratings of training and experience, determining who is invited to the oral examination, etc.
11. **HRG Team** – Qualified applicants rated, scored and ranked.
12. **HR Associate** – Applicants notified of status. Statuses include: Test Results (Pass and Fail), Not Selected for Testing (NST) and notifications informing applicants they are not qualified for one or more reasons (Rejects)
13. **HR Associate** – Establishes Eligible List in HRIS.
14. **HR Associate** – Certifies names of candidates to hiring authority.
  - a) **Criminal Background Check** - For those positions requiring a criminal background check, the HR Associate sends the hiring authority a copy of the [Informed Consent form](#) with instructions directing

the hiring authority to have all interviewing candidates sign the form at the time of the job interview. Determines if check should be done pre or post-offer.

**b) Qualifications Check** - For those positions requiring a qualifications check, the HR Associate sends the hiring authority a copy of the [Informed Consent form](#) with instructions directing the hiring authority to have all interviewing candidates sign the form at the time of the job interview. Determines if check should be done pre or post-offer.

**c) Criminal Background Check and Qualifications Check** - For those positions requiring a criminal background check and a qualifications check, procedures under both “a” and “b” above must be completed.

15. **Hiring Authority** – Schedules and conducts job interviews. Ensures candidates sign the [Informed Consent form](#). Makes available a copy of the completed [Informed Consent form](#) to the candidate immediately after signing.
16. **Hiring Authority** – Determines which candidates will be asked to complete the criminal background check and/or qualifications check. Notifies the HR Associate by providing names of candidates along with a copy of the signed [Informed Consent form](#) for each candidate consenting to have the criminal background check completed by the Third Party Vendor. May extend conditional offer at this time if a pre-employment medical examination is **not** required.
17. **HR Associate** – Orders background checks from Third Party Vendor.
18. **Third Party Vendor** – Receives and processes order request from HR Associate.
19. **Third Party Vendor** – Completes criminal background check and/or qualifications check. Sends results to HR Associate.
20. **HR Associate** – Notifies hiring authority when the background check has been completed. Informs hiring authority of the candidate’s continued eligibility (or ineligibility) for the position.
  - a) **Criminal Background Check** - When criminal conviction information is received from the Third Party Vendor, the HR Associate will review the information with their immediate supervisor in accordance with Chapter 364 of Minnesota Statutes. When disqualification occurs because of a job related criminal conviction, the HR Associate notifies the individual of their disqualification in writing within five (5) business days of the disqualification. Rejects in HRIS for such.
  - b) **Qualifications Check** - When information is obtained from the qualifications check that shows that the person does not have the required post secondary education, license or certificate, the HR Associate will review the information with their immediate supervisor to determine the candidate’s continued eligibility for the position. When disqualification occurs because of a lack of required qualifications, the HR Associate notifies the individual of their disqualification in writing within 14 days of the disqualification. Rejects in HRIS for such.
21. **Hiring Authority** – Extends final job offer to candidate except for positions requiring a pre-employment medical examination. For these positions, a conditional job offer should be extended.