

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-15-65 LGL 2015-0013
TITLE: CRIMINAL BACKGROUND CHECKS EFFECTIVE DATE: March 6, 2015 REVISION DATE N/A	

1.0 GENERAL

1.1 To ensure the hiring practices of the City of Spokane provide applicants with arrest and conviction records an equal opportunity to obtain employment with the City, 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. This policy outlines the City's requirements for Criminal Background Checks prior to employment.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

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

2.1.1 Positions in the Spokane Police Department (SPD).

2.1.2 Positions requiring a limited Police Commission.

2.1.3 Sworn positions in the Spokane Fire Department.

2.1.4 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.

2.1.5 Positions governed by the Washington Child Protection Check Act.

2.1.6 Positions involving the practice of law governed by the Washington Supreme Court or positions subject to other federal or state background requirements.

2.1.7 Elected Judges.

3.0 REFERENCES

4.0 DEFINITIONS

4.1 "Appointing Authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City, or designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.

4.2 "Criminal Background Check" shall generally mean an investigation into a person's conviction history to determine whether, in the last ten (10) years, the person had been convicted of a felony, unless federal state or local law require a different definition for specific types of jobs. A "Criminal Background Check" may require fingerprinting and/or record checks of criminal convictions; it does not include consideration of arrest records that did not result in convictions.

4.3 "Official Personnel File" refers to the employee file maintained in the Civil Service department.

4.4 "Conviction" shall mean an adjudication of guilt that includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

4.5 "Employing unit" shall mean any department of the City and, within the Executive and Legislative Departments, any office created by ordinance.

4.6 "External applicant" shall mean an applicant for employment with the City who is not a regularly appointed employee.

4.7 "Vulnerable adults" shall mean adults of any age who lack the functional, mental, or physical ability to care for themselves. It shall also include any person who fits within the definition of "vulnerable adult" as that term is defined in RCW 74.34.

5.0 POLICY

- 5.1 It is the Policy of the City of Spokane that no person shall be disqualified from employment with the City solely or in part because of prior felony conviction that occurred within the past ten (10) years – unless that crime or crimes for which convicted directly relates to the position of employment sought. It is further the Policy of the City of Spokane that the use of applicant criminal conviction information will be based on consideration of the relationship between past felony conviction and the potential risk to the City and its employees, residents and customers. The City will also comply with any federal or state law or regulation pertaining to background checks.
- 5.2 Offers of employment for City positions that fall under the following categories **shall be** conditioned upon a criminal background check as mandated by state and/or federal law. The extent of the background check will be dictated by the applicable state or federal law.
- 5.2.1 Positions with access to the Federal Criminal Justice Information System (CJIS).
 - 5.2.2 Positions at City Water & Hydroelectric with unsupervised access to electric generating facilities.
 - 5.2.3 Positions that require a Special Police Commission.
 - 5.2.4 Positions in a licensed day-care facility.
 - 5.2.5 Positions that will have unsupervised access to children under the age of sixteen, developmentally disabled persons or vulnerable adults in facilities or operations that are licensed, relicensed or contracted by the State.
- 5.3 Offers of employment for City positions that fall under the following categories **may be** conditioned upon a criminal background check because of the City's interest in protecting City operations, residents, employees and customers.
- 5.3.1 Senior leadership positions (e.g. the Appointing Authority or senior managers reporting to the Appointing Authority).
 - 5.3.2 Positions that handle significant amounts of cash, typically more than \$500 per week.
 - 5.3.3 Positions with access to confidential identity information which includes a name associated with a social security number, bank account information, credit card information, or other combination of information that could be used for identity theft or related criminal activity.
 - 5.3.4 Positions that may involve unsupervised access to children under the age of sixteen, developmentally disabled persons or

vulnerable adults other than in a state licensed or contracted facilities or operations.

5.3.5 Positions with unsupervised access to homes of residents, meaning they work alone without direct supervision or they do not work in pairs or teams of employees.

5.3.6 Positions with major fiduciary responsibilities (e.g., employees charged with investing City funds).

5.3.7 Under limited circumstances, positions with broad, unsupervised access to City facilities after hours.

5.4 All costs and fees associated with the criminal background check process shall be paid by the employing unit.

6.0 PROCEDURE

6.1 Employing units will obtain a criminal background check report only with written permission of the applicant. Records received pursuant to the criminal background check shall be used only as part of the employment process and will be maintained in the employees Official Personnel File upon hire or in the recruiting file if the candidate is not hired. Employing units shall extend the job offer before the criminal background check is conducted, with the job offer being contingent on the results of the background check report.

6.2 When applying for positions under section "**SHALL**" (Section 5.2), all applicants are required to successfully complete the criminal background check process, pursuant to federal and state laws. Nothing in this policy is intended to supersede applicable federal and state laws relating to criminal background checks.

6.3 When the employing unit receives conviction information for positions listed under section "**MAY**" (Section 5.3), it will assign a staff member to determine the relation of the conviction to the position sought. The staff member will review the requirements of the job, the background check report and any relevant information in determining whether the conviction directly relates to the position of employment sought.

6.4 If the employing unit determines that the information disqualifies the candidate, they shall notify the Human Resources Department in writing specifying how the conviction information directly relates to the position of employment. A Human Resources Analyst will review the requirements of the job, the background check report and any relevant information in determining whether the conviction directly relates to the position of employment sought. The Human Resources Analyst will submit a confidential recommendation to the Human Resources Director.

- 6.5 Before any decision is made not to hire a candidate based on conviction information, the candidate will be notified by the Human Resources Department of the employing units proposed action to not offer the position based on the conviction report, given a copy of the report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act". The applicant will have ten (10) working days to respond to the proposed action after receiving written notification of the action.
- 6.6 The Human Resources Director will make the final determination as to whether such information disqualifies the external applicant for employment and shall notify the employing unit. The Human Resources Director shall notify the Chief Examiner so that a determination may be made as to whether the candidate's name will be removed from the eligible register for the Civil Service classification.
- 6.7 Should the City reject the applicant due, partially or solely, to the finalist's prior conviction of a crime, the Employing Units Human Resources Analyst shall notify the finalist in writing of 1) the name, address, and phone number of the outside agency that supplied the report and 2) a statement that the outside agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it, 3) a notice of the applicant's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional, free consumer report upon request. Additionally, If the candidate's name is removed from the eligible register for a classified position, Civil Service shall notify the candidate of the removal and any appeal rights under the Civil Service Rules.

6.8 **CRITERIA**

In order to aid with the determination of passing or failing a criminal background check, the following criteria are provided. These examples and crimes are examples only and the analysis would not be limited to those crimes listed.

- 6.8.1 For positions handling cash or cash equivalent, credit card numbers, checks, securities or having access to financial data, bank or investment accounts. (e.g. crimes including, but not limited to, the unauthorized control over the property or services of another including theft, counterfeiting, improperly obtaining financial information, forgery, identity theft, robbery and possession of stolen property; other crimes of dishonesty such as false information, criminal impersonation and perjury; and possession, possession with the intent to manufacture, or delivery of a controlled substance.
- 6.8.2 For positions as a caregiver for children or vulnerable adults that are not governed by federal or state law (e.g., indecent exposure, rape, indecent liberties, child molestation, custodial sexual misconduct, communication with minor for immoral

purposes, sexual exploitation of a minor, kidnapping, harassment, stalking).

- 6.8.3 For positions that enter private homes or secure areas of businesses as part of their job responsibilities. (e.g.—rape, indecent liberties, molestation, custodial sexual misconduct, communication with minor for immoral purposes, sexual exploitation of a minor, kidnapping, robbery, harassment, stalking).
- 6.8.4 For positions that have regular access to drugs or controlled substances. (e.g. possession, possession with the intent to manufacture).
- 6.8.5 For positions that have 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, unlawful issuance of bank checks or drafts, arson, burglary, computer trespass).
- 6.8.6 For positions involving large volume supply and material handling. (e.g. theft, criminal profiteering, bribery, extortion, misusing credit card to secure services).
- 6.8.7 For positions with 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, counterfeiting, improperly obtaining financial information, forgery, identity theft, robbery and possession of stolen property; other crimes of dishonesty such as false information, criminal impersonation and perjury; and possession, possession with the intent to manufacture, or delivery of a controlled substance).

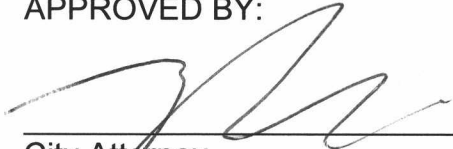
7.0 RESPONSIBILITIES

The Human Resources and Civil Services Departments shall administer this policy and procedure.

8.0 APPENDICES

Authorization To Release Information
Notice of Intent and Authorization
Certification of Compliance
Notice of Adverse Action
Summary of Consumer Rights

APPROVED BY:



City Attorney

2/12/15

Date



Civil Service Director

2/18/15

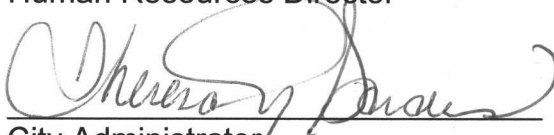
Date



Human Resources Director

2-16-15

Date



City Administrator

2/19/15

Date

City of Spokane
808 West Spokane Falls Boulevard
Spokane, Washington 99201-3327
Authorization to Release Information

I, _____, do hereby authorize the City of Spokane to provide a copy of all of its records concerning my employment history to:

Name:

Company:

Address:

I hereby release the City of Spokane, its officers, employees, and agents, from any and all claims I may have arising out of furnishing such information.

EMPLOYEE SIGNATURE

WITNESS SIGNATURE

PRINTED NAME OF EMPLOYEE

PRINTED NAME OF WITNESS

Date _____

Date _____

**City of Spokane
808 West Spokane Falls Boulevard
Spokane, Washington 99201-3327**

**'NOTICE OF INTENT' AND 'AUTHORIZATION'
TO OBTAIN AN INVESTIGATIVE CONSUMER REPORT**

FOR EMPLOYMENT PURPOSES

The undersigned applicant/employee is hereby notified that the **City of Spokane** may obtain an investigative consumer report for employment purposes through AcraNet. Such report may include information as to character, general reputation, history of criminal convictions, employment, education, professional license, credit and/or driver's record history. Applicant/employee acknowledges that he/she is herein informed of his/her right to request within a reasonable period of time after receiving this notice, a complete and accurate disclosure of the nature and scope of the investigation requested. Such disclosure will be mailed or otherwise delivered to applicant within five days from the date of the applicant/employee's request for disclosure or such report was first requested by employer, whichever is the later.

The applicant/employee further authorizes the City of Spokane to obtain an investigative consumer report through AcraNet for employment purposes at this time or anytime during the applicant/employee's tenure with employer.

Print Name: _____

Signature: _____ Date: _____

Social Security Number: _____

Driver's License #: _____ State of Issue: _____

Date of Birth: _____

(In order for factual information to be obtained and reported, your date of birth and social security number are requested. This information is used solely for verification purposes in compliance with the Fair Credit Reporting Act.)

**City of Spokane
808 West Spokane Falls Boulevard
Spokane, Washington 99201-3327**

**CERTIFICATION OF COMPLIANCE FOR USE OF INVESTIGATIVE
CONSUMER REPORTS FOR EMPLOYMENT PURPOSES**

Pursuant to the Fair Credit Reporting Acts, 15 U.S.C. Section 1681, et seq., as amended and RCW 19.182, et seq., as amended (collectively "federal and state law"), the undersigned employer certifies that the investigative consumer report requested to be supplied on (Name) _____ is to be used for employment purposes only; that the employer has complied with the disclosure requirements of federal and state law as amended, by making clear and conspicuous disclosure in writing to the applicant/employee that an investigative consumer report may be obtained for employment purposes and the applicant/employee has authorized such procurement in writing on a document that consists solely of such disclosure; and that pursuant to federal or state law, as amended that the employer shall not use the investigative consumer report in violation of any other applicable federal or state equal opportunity law or regulation, and that the employer shall not take adverse action against the applicant/employee based in whole or part on the investigative report without providing the applicant/employee with a copy of the report, the name, address and telephone number of AcraNet as listed below, a description in writing/employee's summary of rights under federal and state law, as amended, and a reasonable opportunity to respond to any information in the report as disputed by the applicant/employee.

EMPLOYER: CITY OF SPOKANE, WASHINGTON

AUTHORIZED SIGNATURE: _____

DATED: _____

Consumer Reporting Agency:

AcraNet
521 W. Maxwell
P.O. Box 5393
Spokane, WA. 99205-0393
Phone: Local (509) 324-1287
Toll Free: (800) 572-3218, Ext. 1287

City of Spokane
808 West Spokane Falls Boulevard
Spokane, Washington 99201-3327

NOTICE OF ADVERSE ACTION
PROVIDED UNDER THE FAIR CREDIT REPORTING ACT

Date:

Dear

Thank you for applying for the position of _____
with the City of Spokane, WA. The decision not to hire you was based in whole or
part on information included in a consumer report that was obtained from:

AcraNet
521 W. Maxwell
P.O. Box 5393
Spokane, WA. 99205-0393
Phone: Local (509) 3324-1287
Toll free: (800) 572-3218, Ext. 1287

The reporting agency did not make the hiring decision.
Under the Fair Credit Reporting Act, you have the right to obtain a free copy of your
investigative consumer report if you make the request to AcraNet within sixty (60)
days from your receipt of this notice. You have the right to dispute the accuracy or
completeness of any information in this report with AcraNet.

Thank you again for applying with the City of Spokane; and we wish you well in your
job search.

Sincerely,

SUMMARY OF CONSUMER RIGHTS

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRA's are credit bureaus that gather and sell information about you – such as if you pay your bills on time or have filed bankruptcy – to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. §§1681-168u, at the Federal Trade Commission's web site (<http://www.ftc.gov>). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contract a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you – such as denying an application for credit, insurance, or employment – must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.
- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.
- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its finds to the CRA. (the source also must advise national CRA's – to which it has provided the data – of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.
- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the CRA is not required to remove accurate data from your files unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.
- **You can dispute inaccurate items with the source of information.** If you tell anyone – such as a creditor who reports to a CRA – that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.
- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA – usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your consent.

You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.

You may seek damage from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court. The FCRA gives several different federal agencies authority to enforce the FCRA:

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
CRA's Creditors and Others Not Listed below	<i>Federal Trade Commission</i> <i>Consumer Response Center-FCRA</i> Washington, DC 20580 202-326-3761
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	<i>Office of the comptroller of the Currency</i> Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks and federal branches/agencies of foreign banks)	<i>Federal Reserve Board</i> Division of Consumer & Community Affairs Washington, DC 20551 202-452-3639
<i>Savings associations and federally chartered savings banks</i> (word "federal or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-518-6360
State chartered banks that are not member of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 800-943-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board of Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20290 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator – GIPSA Washington, DC 20250- 202-720-7051
Consumers residing in the State of Washington	Washington State Attorney General P.O. Box 40100 Olympia, WA 98584 800-551-4636