

AN INTER-AGENCY STUDY OF
PRE-EMPLOYMENT BACKGROUND
CHECK PRACTICES



OFFICE OF LEGISLATIVE OVERSIGHT
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EXECUTIVE SUMMARY

Conducting a “pre-employment background check” can involve a range of activities, including researching a job applicant’s education and employment history; conducting a criminal, credit, or driving records check; conducting a social security number trace; interviews with employers, friends, and neighbors; and/or a psychological, polygraph, or drug screening test.

Employers conduct background checks because they want to reduce the chances of hiring undesirable employees, avoid negligent hiring lawsuits, discourage applicants who have “something to hide,” or just to know more about new hires. An estimated 80% of private and a growing number of public employers use pre-employment background checks.

The value of background checks must be kept in perspective. No reliable research evidences whether pre-employment background checks are an effective method for predicting future employee conduct. Formal records may not provide a full picture of a person’s conduct, and a “clean” background cannot guarantee a person’s future behavior. An employer may also open themselves up to the possibility of discriminatory hiring charges.

In Maryland, State law and regulations require criminal records checks for certain positions, e.g., law enforcement officers, jobs that involve working with children or dependent adults, firefighters/paramedics. In large part, local agency practices revolve around the State-mandated requirements.

All of the County, bi-County, and County-funded State agencies verify applicants’ education and check references. However, other pre-employment background check practices vary widely in terms of: the types of checks conducted; factors that disqualify individuals from employment; the timing of background checks in the hiring process; rules on whether employees can begin work before the results are known; and who conducts and who pays for the background checks.

OLO recommends that the Council facilitate a multi-step process that results in new or revised written background check policies adopted by each agency. Each agency’s policy document should be clear, complete, readily available to job applicants, and consistent with relevant laws.

OLO recommends the Council first request a legal opinion from the County Attorney to guide the development of fair, consistent, and lawful background check policies. The Council should then adopt policy guidance to the agencies on acquiring and using background information on job applicants in the hiring process. Policy issues for the Council’s guidance to address include:

- Whether to recommend that agencies require a standard package of background information be compiled for all prospective employees, regardless of position, e.g., education and previous job verification, reference checks;
- Whether to recommend that agencies require additional types of background checks (e.g., criminal, credit, driving records checks) for certain types of jobs;
- Whether to recommend when in the hiring process to conduct background checks; and
- Whether to recommend that job applicants pay for some of the cost of conducting background checks.

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I. INTRODUCTION

A. Authority

Council Resolution 14-1395, *FY 2003 Work Program of the Office of Legislative Oversight*, adopted July 30, 2002.

B. Scope and Organization of Report

This Office of Legislative Oversight (OLO) report examines the pre-employment background check practice of the County, bi-County, and County-funded State agencies:

- County Government
- Office of the Sheriff
- Office of the State's Attorney
- Montgomery County Public Schools (MCPS)
- Montgomery College
- Maryland-National Capital Park and Planning Commission (M-NCPPC)
- Washington Suburban Sanitary Commission (WSSC).

In this report, the term “agencies” is defined to include all seven County, bi-County, and County-funded State agencies listed above. The report is organized as follows:

- II. Overview of Pre-Employment Background Checks**, reviews the different types of background checks, the legal framework for obtaining and using background information in the hiring process; reasons for and caveats on the value of conducting background checks, the role of private credit reporting agencies, and facts on the different types of criminal records checks.
- III. Background Checks Mandated in State Law**, identifies the different types of background checks that are required by State law and regulations for certain positions.
- IV. Agency Background Check Practices**, provides an overview of the current pre-employment background practices of the County Government departments and other County, bi-County, and County-funded State agencies. Appendices A through O contain more details about the practices of individual departments/agencies.
- V. Comparative Information**, provides some limited comparative information about the background check practices of other public sector employers, including the federal government, State of Maryland, and a sample of other local governments.

Chapters VI and VII present the Office of Legislative Oversight's findings and recommendations. Chapter VIII presents agency comments on the final draft report.

C. Methodology

Office of Legislative Oversight staff members Karen Orlansky and Craig Howard conducted this study. Assistance was also provided by Scott Brown, Shveta Geddam, Ben Stutz, and Teri Busch. OLO gathered information from document reviews and individual and group interviews. The background and comparative information came from Internet research and telephone interviews with other jurisdictions.

OLO conducted interviews with staff from multiple County Government Departments, the Office of the Sheriff, the State's Attorney's Office, Montgomery County Public Schools, Montgomery College, M-NCPPC, and WSSC. OLO consulted with representatives from the federal Office of Personnel Management, the State of Maryland's Office of Personnel Services and Benefits, and human resource staff from Fairfax County, Arlington County, Anne Arundel County, Carroll County, Howard County, and several private credit reporting agencies.

D. Acknowledgements

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II. OVERVIEW OF PRE-EMPLOYMENT BACKGROUND CHECKS

This chapter provides an introduction to pre-employment background checks and reviews some general issues about obtaining and using background screening in the hiring process.

Part A lists the different types of pre-employment background checks;

Part B reviews the major reasons employers cite for conducting pre-employment background checks;

Part C discusses some of the issues employers must consider before deciding whether to conduct pre-employment background checks;

Part D explains the services available through private “credit reporting agencies” and summarizes key requirements of the Federal Credit Reporting Act; and

Part E discusses some of the special issues involved with conducting criminal background checks.

A. Types of Pre-Employment Background Checks

When organizations report that they conduct “pre-employment background checks,” it generally means they are doing more than placing a few telephone calls to personal references identified by job applicants. However, there is no universally adopted definition of what it means to conduct a “pre-employment background check.”

In practice, a pre-employment background check can include one or more of the following methods of research into a job applicant’s education, previous employment, and other personal history:

- Verification of education;
- Verification of professional licenses;
- Verification of past employment;
- Verification of military service;
- A criminal records check;
- A civil records search;
- A motor vehicle records check, including a person’s record of driving violations, date of birth, physical description, and license validity;
- A consumer credit history check;
- A social security number trace (which includes verification of name, date issued and previous addresses);
- Drug screening;
- A psychological test;
- Interviews with an applicant’s personal references, including current or former employers, neighbors, and other acquaintances.

In a relatively small number of hiring situations, background screening can include a polygraph test.¹ For purposes of this study, pre-employment medical exams are not considered part of the background checking process.

B. Reasons for Conducting Pre-Employment Background Checks

For a limited number of positions, State law and/or regulations mandate that employers conduct certain types of background checks.² For jobs where the law does not require a background check, it is up to the hiring organization to decide the extent of pre-employment research into a job applicant's education, work experience, and personal history.

Articles in human resources newsletters and journals report it is becoming more common for private and public employers to conduct one or more types of pre-employment background checks. Many organizations decide that it is a good business practice to invest the time and resources upfront in obtaining information that might prevent a wrong hiring decision. Further, as more public records become Internet accessible, the cost and time involved with conducting background checks is decreasing.

Employers generally cite one or more of the following reasons as their motivation for conducting pre-employment background checks:

- **Because research indicates that not all applicants are truthful about their background.** The published estimates of resume fraud range from as low as 10% to as high as 44%. A resume inaccuracy can be something relatively small such as listing a volunteer position never held, or something material related to an individual's education, previous employment, or professional license. There is general agreement in the human resources field that when the job markets gets tighter, applicants become more tempted to falsify their resumes.
- **To reduce chances for undesirable employee behavior, e.g., theft, sexual harassment, violence, insubordination, drug use.** Employers find it reassuring that new hires, for example: do not have a criminal record, have good credit, and a good driving record. Private firms that conduct background checks report that they routinely find undisclosed criminal records on 5-13% of people screened.
- **To discourage job applicants that have something to hide.** It is generally held that individuals who have something "undesirable" in their background may be deterred from applying for a job in an organization that announces upfront its intent to conduct pre-employment background checks.

¹ With some exceptions, federal law (the Polygraph Protection Act) prohibits the use of polygraph tests as an employment screening device for private employers. Maryland law also prohibits their use for public employers, except when hiring employees for law enforcement agencies and when hiring certain correctional employees in ten counties (not including Montgomery County) specified in State Code.

² See the next chapter beginning on page 11 for a detailed explanation of what background checks are required under Maryland law.

Another frequently cited reason for conducting pre-employment background checks is the desire to avoid negligent hiring lawsuits. The legal theory of negligent hiring is that an employer can be held responsible for injuries caused by their employees if it can be demonstrated that the employer failed to make “reasonable inquiries” into the employee’s background. A negligent hiring lawsuit maintains that an employer failed to conduct appropriate research (e.g., criminal records search, reference checks) that would have revealed an employee’s previous misconduct, and that the employer was therefore negligent for exposing members of the public or other employees to “potentially dangerous individuals.”

Although court decisions show that employers are not liable for every possible violent act committed by an employee, there are cases where employers are found liable for violent acts or harassment committed by an employee when it can be demonstrated that the employer could have foreseen the action that occurred, and “should have known” about the risk.

Courts that have found employers negligent in their hiring process have imposed substantial financial penalties. Examples cited in the literature include an employer found liable for negligent hiring in situations when an employee with a history of criminal violence attacked a co-worker, or an employee with a felony record harmed a client.

While conducting pre-employment background checks to avoid negligent hiring lawsuits, employers must be careful to use information in ways that avoid charges of employment discrimination. There are some Equal Employment Opportunity Commission cases (state and federal) that have found an employer’s practice of making hiring decisions linked to information obtained through criminal records checks discriminated against a protected class of individuals. This issue is identified below, along with a number of other caveats and concerns related to conducting background checks.

C. Issues to Consider Before Deciding to Conduct Pre-Employment Background Checks

This section discusses some of the limits and issues surrounding pre-employment background checks. In sum:

- Conducting pre-employment background checks takes time and resources, and can increase both the length and total cost of an organization’s hiring process.
- Background checks are not a proven, reliable predictor of job performance or employee conduct.
- Depending upon the way information gathered in a background check is used, an employer opens up the possibility of a legal challenge based upon discriminatory hiring practices.

- Compiling background information on job applicants raises privacy and civil liberty issues; some well-qualified persons will be deterred from applying to organizations whose background screening practices are perceived as intrusive.

1. Background checks are not a proven, reliable predictor of job performance or employee behavior

No type of check can guarantee employers against making a bad hiring decision. Formal records do not necessarily provide a full picture of an individual's previous conduct. A person could have a history of violent behavior, but never be convicted of a crime that evidences this trait. Or, a person convicted of a violent crime may never offend again. In addition, even the most thorough check of an applicant's background cannot guarantee that a person who has a "clean" history will not behave differently in the future.

The research on organizational selection practices shows that certain types of selection methods such as cognitive ability tests, structured interviews, work samples and personality tests are valid predictors of a worker's future performance. Other reliable predictors of job success include educational qualifications, skills, measures of ability, personality, and previous work experience. The purpose of such "positive" screening devices is to identify job applicants who, if hired, would be high performers.

There is no reliable research, however, that demonstrates the predictive value of "negative" selection methods such as criminal background checks or drug screening. The primary purpose of these background investigations is to verify that information provided by the applicant is true and to potentially learn something negative about an applicant's history.

The lack of reliable research on the predictive value of background checks is largely because organizations that conduct background investigations do not generally hire applicants for which something negative shows up. As a result, there are no data to indicate whether those applicants would or would not have turned out to be successful employees.³

2. Background screening raises privacy and civil liberty issues and the potential for employment discrimination charges

Employers who choose to conduct certain types of background investigations may face criticism of infringing on job applicants' privacy or civil liberties. In terms of conducting criminal records checks, it is argued by some that a person who has served time for a crime has paid his/her debt to society and it is unfair to continually punish a person for their past behavior. Many rehabilitated offenders wish to forget their past deeds, seek gainful employment, and contribute to society.

³ Terpstra, David, R. Bryan Dethley, Richard Foley, and Tam Limpaphayom, 2000. "The Nature of Litigation Surrounding Five Screening Devices," *Public Personnel Management* 29(1).

Policies that automatically deny employment to certain groups of individuals pose the potential for charges of unfair hiring practices. To avoid litigation, employers must examine whether there is a sound business reason not to hire a person with a criminal or “bad” credit history. Employers need to take into consideration how the information affects the person’s ability to perform the job.

Another issue to consider is that some well-qualified persons with perfectly “clean” records will view an organization’s background investigation practices as intrusive and choose not to submit a job application. Consequently, an organization’s hiring policy may deter “well-qualified” individuals.

D. The FCRA and Services Available through Credit Reporting Agencies

The Federal Credit Reporting Act (FCRA) is the primary federal law that governs the acquisition and use of background information on job applicants as well as current employees.⁴ **The FCRA applies only to reports prepared by a “consumer reporting agency” and not to reports compiled by employers who conduct their own background checks.** In sum, the stated purposes of the FCRA are to:

- Protect the privacy of consumer report information; and
- Guarantee that information provided by credit reporting agencies is as accurate and up to date as possible.

Under federal law, a consumer reporting agency (CRA) is any business or individual that compiles, aggregates and assembles “consumer report” information for other businesses; a consumer report can be provided either orally or in writing. In turn, a “consumer report” is broadly defined to include information about an applicant or employee’s credit worthiness, credit standing, character, general reputation, personal characteristics, when such information is used in whole or in part for “employment purposes.”

Given such broad definitions, the FCRA applies to almost any information obtained by a CRA through, for example: a criminal records check, a motor vehicle records check, credit history check, employment verifications, and interviews with former employers, co-workers, and/or employee’s friends or neighbors. In some situations, even drug test results are considered a “consumer report” and covered by the FCRA.

The FCRA prohibits CRAs from providing any adverse information that is more than seven years old (10 years old in the case of bankruptcies) for employment-related purposes where the annual salary is less than \$75,000. There are no restrictions upon reporting adverse information for jobs with salaries more than \$75,000. In addition, a 1998 amendment to the FCRA eliminated any restrictions on the reporting of criminal convictions.

⁴ For the complete text of the FCRA see Federal Trade Commission, see website www.ftc.gov/os/statutes/fcra/sum.htm.

By law, employers who rely on reports compiled by a CRA must adhere to certain procedures when obtaining and using information on job applicants and employees for employment related decisions. Before requesting a consumer or investigative report from a CRA, an employer must:

- Provide the applicant with clear written notice that a consumer/investigative report may be requested;
- Notify the applicant how and when he/she can request a copy of the report; and
- Obtain written authorization from the applicant. (This authorization is often referenced as the “disclosure form”.)

After the report is received, an employer must:

- Explain any adverse action (e.g., denying the applicant a job, terminating an employee, denying a promotion) taken as a result of information learned through the report;
- Provide the person being investigated a copy of the report (if requested); and
- Provide the applicant with the opportunity to dispute and correct any inaccurate information contained in the report.

State Laws on Credit Reporting Agencies. In addition to the FCRA, many states also regulate the obtaining and use of background information compiled by a consumer credit reporting agency. Maryland’s law (Commercial Law Article, § 14-1201) essentially mirrors the requirements outlined in federal law, and assigns State oversight and enforcement responsibility to the Commissioner of Financial Regulation of the Department of Labor, Licensing, and Regulation.⁵

Services Available from a Credit Reporting Agency (CRA). An entire industry exists of background screening companies. Most of these companies meet the federal definition of credit reporting agency (CRA), and as such, are regulated by federal and state law.

CRA’s provide different types of background screening services. The typical array of services includes obtaining information on an individual’s criminal record, credit history, and motor vehicle records. CRA’s will also verify an applicant’s educational and other professional credentials, previous employment, social security number, and conduct interviews with former employers, co-workers, neighbors, or other references.

Outsourcing background screening can be more or less expensive than using in-house staff, depending upon the number of employees being hired, the services desired, and the costs, availability, and capacity of in-house staff. Some employers retain certain tasks in-house (e.g., interviewing previous employers), but outsource other time-consuming tasks

⁵ Maryland’s law has not been amended to incorporate the 1997 amendments to the FCRA, which included the requirement that employers must obtain written consent from the applicant before a consumer report is requested. Nonetheless, because it is outlined in federal law, the authorization requirement applies in Maryland.

that require specialized knowledge and resources (e.g., checking an applicant's criminal, credit, and/or motor vehicle records).

If an employer chooses to hire a CRA to conduct a criminal records search, the employer needs to understand and decide the characteristics of the search being purchased. The typical fee structure is based upon the number of different locations that are searched and types of searches conducted. In particular, employers must decide:

- Whether circuit, county, and or municipal court systems will be searched;
- The number of counties that will be searched;
- Whether the search will track back to all previous counties (and perhaps surrounding counties) where the person lived;
- The number of years the check will go back (the Federal Credit Reporting Act limits checks to the most recent seven years);

E. Special Issues Related to Conducting a Criminal Records Check⁶

There are different types of criminal records searches that can be conducted. In addition, the types of criminal records searches that a law enforcement agency conducts differ from those that a private company conducts. There are also views on which type(s) of criminal records searches are most appropriate for employment-related purposes.

Certain databases are accessible only by criminal justice agencies. Federal and state laws set forth parameters on the access to and use of information from the National Crime Information Center, Criminal Justice Information System (NCIC/CJIS). NCIC is a computerized index of criminal justice information, i.e., criminal record history information, fugitives, stolen properties, missing persons. Data contained in NCIC is provided by the FBI, federal, state, local, and foreign criminal justice agencies and authorized courts.

NCIC/CJIS is available only to federal, state, local law enforcement, and other criminal justice agencies and operates 365 days a year, 24 hours a day. The primary purpose of NCIC is to provide a computerized database that is readily available to criminal justice agencies for prompt disclosure of information about crimes and criminals. Access is restricted to those with a "need to know" in order to perform their official duties.

The so-called backbone of the CJIS-Central Repository is the computerized link between a "reportable event" and an individual's fingerprints that are submitted by a criminal justice agency. Fingerprint searches of CJIS are conducted only by expert fingerprint technicians employed by the State Police and FBI. Because no two persons have exactly the same arrangement of ridge patterns on their fingers, fingerprints identification is seen by law enforcement as an infallible method of personal identification and one of the most important tools for accurately determining the number of previous arrests and convictions that a person has had.

⁶ For simplicity, the term "criminal records check" is used interchangeably with "criminal history records check" throughout this report.

Publicly accessible criminal records. Contrary to popular belief, there is no single publicly available nationwide source for records of criminal convictions that can be computer-searched using a person's name, date-of-birth, and/or social security number. Although most states have automated central repositories, many criminal records are still only accessible by a hand search of records maintained in the more than 10,000 local courthouses across the country.

As reviewed above, private companies that conduct criminal records searches are defined and regulated by federal law as "credit reporting agencies". Organizations that hire a credit reporting agency (CRA) to conduct applicant background checks must comply with the requirements of the Federal Credit Reporting Act. (See page 8)

Legal limits on use of criminal records information. There are also legal limits on how employers can use criminal records information for employment-related purposes. Examples of limits cited in the human resources literature are:

- Courts have found that a policy of automatically denying employment to a person with a criminal record can result in discrimination against certain groups; and
- Only convictions and pending case information can be considered. Employers may not consider information about arrests or detentions that did not result in convictions or from considering crimes that have been sealed or expunged.⁷

⁷ Elzey, Laura, 2002. "Criminal Background Checks; a Checklist of the Pros and Cons." *Society for Human Resources Management White Paper*.
(www.shrm.org/hrresources/whitepapers_published/CMS_000379.asp)

III. BACKGROUND CHECKS MANDATED IN STATE LAW

This chapter identifies the State laws and regulations affecting pre-employment background checks. It includes a summary of the different types of background checks that are required by State law and regulations for certain positions. For some positions, the law also specifies employment “disqualifiers.” Appendix P (©50) contains an expanded description of each law and regulation cited in this chapter.

General Authority for Local Governments to Receive Criminal Record Information

State regulations on the Criminal Justice Information System (CJIS) Central Repository (COMAR, 12.15.01) provide general authority to local units of government to receive criminal record information on prospective employees. Specifically, the regulation states that the “appointing authority of the federal, State, or local unit of government” may receive conviction and nonconviction criminal records for “the purpose of determining suitability for employment or eligibility for security clearances.”

Background Check Requirements for Specific Positions

State law and regulations mandate pre-employment background checks for a number of specific jobs, e.g., law enforcement officers, child care workers, public school employees, firefighters. Table 1 (page 12) lists the types of positions and the type(s) of background checks mandated by law or regulation.

For most positions, the State-mandated requirement is for a criminal records check based upon the applicant’s fingerprints. Additional types of background screening are required, however, for school vehicle drivers, law enforcement officers, and correctional officers.

Table 1 also indicates whether the law or regulation specifies “disqualifiers.” A disqualifier is something in an applicant’s background that automatically disqualifies him/her from being hired. When disqualifiers are not listed, it falls to the hiring agency to determine whether information obtained about a prospective employee’s background should disqualify the person from employment. Examples of disqualifying factors mandated by the State include:

- An applicant for a position in a public school is disqualified if the person has ever been convicted of a crime against children (e.g., child abuse or neglect, sexual abuse, contributing to the delinquency of a minor).
- A school bus driver applicant is disqualified if the person has ever been convicted of driving while intoxicated or driving under the influence of drugs/alcohol.
- A law enforcement officer applicant is disqualified if the person has exceeded specified limits on past drug use (e.g., used marijuana more than 20 times).
- A correctional officer applicant is disqualified if the person has been convicted of certain felonies, such as aggravated assault, robbery, or a weapon-related violation.

TABLE 1
SUMMARY OF STATE-MANDATED PRE-EMPLOYMENT BACKGROUND CHECKS

Position	Type(s) of Background Check Required	Does law establish any employment “disqualifiers”?	State Law/Regulation
Positions that care for or supervise children	criminal records	No	<ul style="list-style-type: none"> • Family Law Article, §5-560 – §5-568 • COMAR, 12.15.02
Noncertified school personnel	criminal records	Yes	<ul style="list-style-type: none"> • Education Article, §6-113
Certified school personnel	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 13A.12.01
School vehicle driver	criminal records, driving records, drug test	Yes	<ul style="list-style-type: none"> • COMAR, 13A.06.07
School vehicle attendant	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 13A.06.07
Positions that care for or supervise dependent adults	criminal records	No	<ul style="list-style-type: none"> • Health-General Article, §19-1901 – §19-1912 • COMAR, 12.15.03
Law enforcement officers	criminal records, credit history, drug test, military service verification, education verification, reference checks	Yes	<ul style="list-style-type: none"> • COMAR, 12.04.01
Correctional officers	criminal records, credit history, drug test, military service verification, education verification, reference checks	Yes	<ul style="list-style-type: none"> • COMAR, 12.10.01
Firefighters, Rescue squad members, Paramedics	criminal records	Yes (for paramedics)	<ul style="list-style-type: none"> • Article 38A Fires and Investigations, §7A • COMAR, 30.02.04
Drug and alcohol treatment program employees	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 10.47.01

Source: Annotated Code of Maryland and Code of Maryland Regulations, 2003.

IV. AGENCY BACKGROUND CHECK PRACTICES

This chapter summarizes the pre-employment background check practices of:

- Montgomery County Government;
- Office of the Sheriff;
- State's Attorney's Office;
- Montgomery County Public Schools;
- Montgomery College;
- Maryland-National Capital Park and Planning Commission; and
- Washington Suburban Sanitary Commission.

Overview

While all agencies conduct some form of pre-employment background check on prospective employees, the practices vary in terms of the:

- Types of background checks conducted;
- Background factors that disqualify individuals from employment;
- The timing of background checks in the hiring process and whether employees can begin work before the results are received;
- Who conducts the background checks; and
- Who pays for the background checks.

The most consistent pre-employment background screening practices across the agencies are education/license verification and reference checking. All agencies report that they routinely verify prospective employees' education and professional license when a certain degree or license is required. Although the approaches vary, agency staff also routinely conduct some type of reference checking on all new hires, regardless of position.

Information on each agency's approach to background checks is summarized below. The Appendix contains more details on the background check practices of each agency.

COUNTY GOVERNMENT

Background checks practices vary across County Government departments. In general, hiring County Government employees is a process that is partially-centralized in the Office of Human Resources, and partially-decentralized in the many different departments/offices. The County Government's background checking practices parallel this blend of centralized and decentralized activities.

Type of Background Checks Conducted. OLO's review identified nine County departments/offices that routinely conduct some type of pre-employment background check (on some or all new hires) in addition to education/license verification and reference checks. In addition, the Office of the County Executive reports that a package of background checks (criminal records, credit history, and motor vehicle records check) are conducted on non-merit appointees.

Table 2 (page 16) lists the County Government departments that conduct pre-employment criminal records checks on some or all new hires, and indicates whether the checks are mandated by law. Most also conduct drug screens and motor vehicle driving records checks, and four conduct credit history checks. With few exceptions, the department doing the hiring pays for the staff time and other costs associated with conducting the background check.

State law and regulations mandate many of the components of background checks for public safety personnel. With several exceptions, the other departments that conduct additional pre-employment background checks also reflect State mandates for criminal records, drug screening, and/or motor vehicle records checks for certain jobs, e.g., positions that involve caring for children or vulnerable adults, public school employees.

Responsibility for conducting background checks. The Department of Police, Fire and Rescue Service, and Department of Correction and Rehabilitation conduct extensive pre-employment background checks on prospective employees as part of a multi-step selection process. These three departments rely primarily on in-house staff to conduct background checks. Credit checks, however, are ordered from a credit reporting agency; and by necessity, the applicant's fingerprints are sent to the State Police and FBI for criminal records checks.

For most non-public safety positions in County Government, the Office of Human Resources routinely verifies the education and professional licenses of prospective employees, and the hiring department conducts the reference checks. The approach to conducting other types of background checks varies. For example, the Department of Liquor Control, Department of Public Works and Transportation, and Department of Finance contract with a private credit reporting agency to do criminal records searches; the Department of Recreation uses in-house staff to roll fingerprints, which are then sent to the State Police and FBI.

Written policies. County law authorizes the adoption of personnel regulations that include methods of determining qualifications and methods of selection for positions. The County Government does not, however, have an agency-wide background check policy document.

In some cases, departments list the background check requirement in a job announcement and/or position classification document, or have partial written policies, e.g., a written list of disqualifiers.

The Police Department, Department of Correction and Rehabilitation, and Fire and Rescue Service have written documents that set forth one or more components of the department's background check practices. The Fire and Rescue Commission also has a formal policy for criminal background checks of volunteer applicants and LFRD employees (see Appendix Q, ©53). The Department of Finance and Department of Recreations are in the process of developing formal written policies. Departments that do not have specific disqualifying factors either in written policy or provided by state law or regulation tend to review each applicant's background information on a case-by-case basis.

Costs. The cost of pre-employment background screening varies depending on what types of checks are conducted and who is assigned the responsibility. Most departments do not track the costs of conducting background checks.

For departments that use in-house staff, the costs of background checks is primarily the cost of personnel assigned to compile the requested information. The Police Department estimates that it costs approximately \$1,000 in staff time to conduct a full background investigation on applicants for law enforcement officer jobs.

For departments that use private credit reporting agencies (CRA), costs depend on the specific services requested in each case. Using a CRA can cost as little as \$8-10 for a credit history check, or \$12-15 for a criminal records check of a single state's publicly accessible records. Because CRAs charge by the number and types of checks conducted, the costs of obtaining information from a CRA can increase substantially if a department wants a more comprehensive criminal records check and/or other types of records or reference checks.

The County's general practice is that the departments doing the hiring absorb the cost of staff time and/or other fees associated with conducting the background check. In some situations, the Police Department's background investigations unit assists another department with conducting a background check on a prospective employee. When this occurs, the Police Department does not "charge back" the other department for the time or resources involved.

TABLE 2
SUMMARY OF COUNTY GOVERNMENT PRE-EMPLOYMENT BACKGROUND CHECKS
 (IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Department/Positions	State Mandated	Criminal Records ¹	Motor Vehicle Records	Credit History	Drug Screen
Board of License Commissioners					
Inspectors	No	✓			✓
Department of Correction and Rehabilitation					
Correctional Officers	Yes	✓	✓	✓	✓
Positions with "inmate contact"	No	✓	✓	✓	✓
Positions without "inmate contact"	No	✓	✓	✓	✓
Department of Finance					
All positions ²	No	✓	✓	✓	
Department of Health and Human Services					
Positions that care for or supervise children	Yes	✓	✓ ³		✓
Positions that care for or supervise dependent adults	Yes	✓			✓
Positions that work in a drug/alcohol treatment program	Yes	✓			✓
Department of Liquor Control					
Retail store positions	No	✓			✓
Warehouse positions	No	✓	✓ ⁴		✓
Department of Police					
Police Officers	Yes	✓	✓	✓	✓
Civilian/non-uniform positions	No	✓	✓	✓	✓
Department of Public Works and Transportation					
Bus Operators	No	✓	✓		✓
Department of Recreation					
All non-administrative employees	Yes	✓			✓ ⁵
Fire and Rescue Service					
Career Firefighter/Rescuer	Yes	✓	✓		✓
Volunteer Firefighters	Yes	✓			
Non-uniform positions	No	✓			
Office of the County Executive					
Non-merit appointees across departments	No	✓	✓	✓	

¹ The BLC, Finance Dept., DLC, DPWT, and Office of the CE rely on a computer-based criminal records search based upon a prospective employee's name, date of birth, and social security number. The other departments do a fingerprint-based criminal records search, which involves rolling an applicant's fingerprints and sending them off to the State Police and FBI.

² The Finance Department is in the process of sorting all positions into different tiers, which would be associated with different types of background checks.

³ Only for all Child Welfare Services positions.

⁴ Only for truck driving positions.

⁵ Only for Recreation Specialists, Community Activity Coordinators, and all aquatic positions.

Timeframe. The timeframe for receiving criminal record check results varies depending on whether the check is fingerprint or computer-based and on who conducts the check. State law and regulation often requires the use of fingerprints to conduct criminal record background checks. Additionally, certain state mandates require both State and national criminal checks. The only method to check fingerprint records is to request CJIS/NCIC examination through the State and FBI.

Departments required to conduct checks under these mandates report that there is a considerable time lapse before the fingerprint results are received. Current estimates are that it takes between one week and two months to receive results from the State, and between one to three months to receive results from the FBI.

As a result of the lengthy turnaround time, except for public safety departments (Police, MCFRS, DOCR), the general County Government practice is to allow employees to begin working contingent upon the receipt of successful criminal record results. Department staff report that it would be impractical and would disrupt service delivery if employees could not start until the criminal records results were received.

Computer-based criminal record checks, done through use of an applicant's name, date of birth, and social security number, can be completed much more quickly. Law enforcement agencies have trained and certified staff that can directly access State and national computerized criminal records databases. Although it depends upon staff availability, law enforcement is generally able to produce same day results.

Private credit reporting agencies (CRAs) have access to various publicly-available criminal record databases. Although there is considerable debate in the law enforcement community as to the completeness of these criminal records checks, CRAs typically promise to deliver results to their clients within 24-72 hours.

More details on each of the County Government departments identified as conducting additional pre-employment background checks are in the Appendix:

- Board of License Commissioners (Appendix A, ©2)
- Department of Correction and Rehabilitation (Appendix B, ©3)
- Department of Finance (Appendix C, ©7)
- Department of Health and Human Services (Appendix D, ©9)
- Department of Liquor Control (Appendix E, ©11)
- Department of Police (Appendix F, ©13)
- Department of Public Works and Transportation (Appendix G, ©18)
- Department of Recreation (Appendix H, ©20)
- Fire and Rescue Service (Appendix I, ©22)

OFFICE OF THE SHERIFF

The Sheriff's Office has standardized background check practices for all positions. In-house staff conduct extensive pre-employment background checks on prospective employees as part of a multi-step selection process. State regulations mandate many of the components of the background checks for Deputy Sheriff positions. Candidates for non-sworn positions undergo similar background checks, although the checks for these positions are not mandated.

The types of background checks conducted for all positions in the Office of the Sheriff include:

- Criminal record checks;
- Motor vehicle record checks;
- Credit history checks;
- Drug screens;
- Education/license verification; and
- Reference checks.

In 2000, the Sheriff's Office adopted a written Special Operating Procedure (SOP) that outlines the pre-employment background checks conducted for Deputy Sheriff applicants. The Sheriff's background investigations SOP includes a section that lists disqualifiers, most of which come directly from State regulations.

The Office of the Sheriff estimates that a typical background investigation for a Deputy Sheriff job candidate costs approximately \$1,000. Staff report an average turnaround time of four weeks for fingerprint criminal record results, and prospective employees for sworn positions may not begin working until all background check results are received.

For more on the Office of the Sheriff's background check practices, see Appendix J, ©26.

STATE'S ATTORNEY'S OFFICE (SAO)

The SAO's background check practices differ for attorney and non-attorney job candidates. The SAO does not conduct background checks on attorney candidates, other than reference checks. However, applicants for attorney positions must be members of the Maryland State Bar, which conducts its own background check as part of the licensing process. The State Bar background check includes:

- Criminal and civil record checks;
- Driving history checks;
- Education verification; and
- Reference checks.

The SAO does not have an agency-wide background check policy document. The SAO conducts a computer-based criminal records check and reference checks for non-attorney job positions. In-house staff, who are trained and certified to search CJIS/NCIC, conduct these checks.

For more on the SAO's background check practices, see Appendix K, ©31.

MONTGOMERY COUNTY PUBLIC SCHOOLS (MCPS)

MCPS' background check practices are centralized and standardized. **MCPS conducts criminal records background checks on all prospective employees.** All hires are subject to fingerprint-based criminal history record checks and reference checks; certain positions are subject also to other checks such as education and certification verification, drug/alcohol screening, and driving records checks.

State law and regulation establish the parameters of background check practices for all public school systems in Maryland. The law prohibits public schools from hiring applicants who have been convicted of a crime against children, a crime of violence, a crime involving a controlled dangerous substance, or a crime involving the use of alcohol while driving (for school bus driver positions).

MCPS accomplishes background checks using a combination of in-house staff, a contractor, and the State Police/FBI. A private firm, on contract to MCPS, conducts the pre-employment drug screening for school bus driver applicants. An in-house staff member rolls all prospective employees' fingerprints, and sends them to the State and FBI for a CJIS/NCIC criminal records check.

Each new employee is required to pay \$54 for the criminal records check. MCPS allows employees to begin working, on a contingent basis, before the results of the criminal records search is received. This is due to the turnaround time involved with getting results back from the FBI.

The following table summarizes the background checks conducted on the different types of MCPS employees; those requiring professional certification (such as teachers, administrators, and specialists), those without professional certification (such as office support staff and school bus attendants), and school bus operators. MCPS does not have a formal policy document that outlines agency-wide background check practices for the different positions.

For more details on MCPS' background check practices, see Appendix L, ©33.

TABLE 3
SUMMARY OF MCPS PRE-EMPLOYMENT BACKGROUND CHECKS
(IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Position	State Mandated	Criminal Records	Motor Vehicle Records	Credit History	Drug Screen
Certified (teacher, administrator)	Yes	✓			
Non-certified (support staff)	Yes	✓			
School bus operator	Yes	✓	✓		✓

MONTGOMERY COLLEGE

Montgomery College conducts reference checks and education/license verification on all prospective employees. Applicants for selected positions must also undergo a criminal records and/or motor vehicle records checks.

Childcare, security, and locksmith positions require a criminal record checks, and positions that involve driving College-owned vehicles require a motor vehicle records check. In addition, the College plans to begin conducting criminal record checks for positions that involve working with financial information, e.g. benefits and financial aid specialists.

The College's background check procedures are partially centralized within the Office of Human Resources and partially decentralized in individual departments. For criminal records, prospective employees are required to obtain a set of fingerprints from the County Police Department. The College then forwards the fingerprints to the State and FBI for a criminal records check of CJIS/NCIC.

The College pays for the cost of the checks, except that applicants for security officer jobs are required to pay approximately \$50 for the criminal records check. All employees except for security officers may begin work prior to receipt of the criminal record results. The College does not have a formal policy document that set forth the agency's background check practices.

For more details on the College's background check practices, see Appendix M, ©36.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (M-NCPPC)

M-NCPPC’s current pre-employment background check practices are a blend of centralized and decentralized activities. The specific background checks required vary by the type of position. M-NCPPC Administrative Procedures 03-03 (dated May 21, 2003) sets forth a general framework for how the agency conducts criminal history record checks (Appendix V, ©83).

For Park Police positions, similar to other law enforcement jobs across County agencies, in-house staff conduct extensive pre-employment background checks as part of a multi-step selection process. State law and regulation mandate many components of the background check for Park Police officer positions. Civilian employees may begin work before the criminal history record results are known; Police Officers and Dispatchers may not.

Consistent with State law and regulations, M-NCPPC conducts criminal history records checks for persons (paid or volunteer) who will be caring or supervising children at a M-NCPPC facility or who have access to a child who is cared for or supervised at a M-NCPPC facility. Applicants’ fingerprints are forwarded to the State Police and FBI for a search of CJIS/NCIC. New employees may begin work, on a contingent basis, before the criminal history record results are known.

The following table summarizes the background checks conducted for certain positions in addition to education/license verification and reference checks and whether State law or regulation mandates the checks for each position

TABLE 4
SUMMARY OF M-NCPPC’S PRE-EMPLOYMENT BACKGROUND CHECKS
 (IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Position	State Mandated	Criminal Records	Motor Vehicle Records	Credit History	Drug Screen
Park Police Officer	Yes	✓	✓	✓	✓
Park Police Dispatcher	No	✓	✓	✓	✓
Park Police civilian position	No	✓			
Position that care for or supervises children	Yes	✓			
Equipment operators	No				✓
Park rangers	No				✓
Tree maintenance supervisors and tree climbers	No				✓

For more details on M-NCPPC’s background check practices, see Appendix N, ©38.

WASHINGTON SUBURBAN SANITARY COMMISSION (WSSC)

WSSC's background check practices vary depending upon the position and the request from a hiring bureau or team chief. WSSC has an agency-wide background check policy in the form of a Standard Operating Procedure (SOP), adopted in 1994. (Appendix S, ©67)

The SOP lists the job classifications that require a background check as part of the hiring process. Additionally, the policy states that any position not explicitly listed can receive a background check at the request of the hiring manager and the Office of Human Resources. The procedure authorizes hiring managers to choose the specific background areas to be investigated. According to the policy, background checks can include:

- Criminal and civil records checks;
- Credit history checks;
- Motor vehicle records checks;
- Education verification; and
- Employment verification

While decisions on the type of background check(s) is delegated to the hiring managers, WSSC's Security and Safety Services Unit is assigned responsibility for conducting the background checks requested.

For WSSC Police Officer positions, similar to other law enforcement jobs across the agencies, in-house staff conduct extensive pre-employment background checks as part of a multi-step selection process. State law and regulation mandate many components of the background checking process for WSSC Police Officer positions. Police Officers may not begin work before all background information is received. WSSC staff report that the average turnaround time for fingerprint checks from the State Police and FBI is one month.

For prospective employees in non-police positions, criminal/civil records check are conducted by a WSSC investigator who searches local courthouse public records. WSSC pays for the costs associated with background checks for all positions.

For more details on WSSC's background check practices, see Appendix O, ©44.

V. COMPARATIVE INFORMATION

This chapter presents information about the background check practices of other employers in two parts:

- Part A summarizes the limited published survey data on the types of pre-employment background checks being conducted by private and public employers; and
- Part B reviews the background check practices of the federal government, State of Maryland, and five other local governments in the Washington metropolitan area.

A. The Prevalence of Conducting Background Checks

There are only limited published data on the number of employers who routinely use pre-employment background screening as part of their hiring process. Most articles on the topic report that at least 80% of all United States corporations conduct some form of background checks on job applicants. Highlights from the handful of published survey results are summarized below.

One survey of private sector hiring practices found that, of the firms who do pre-employment screenings:

- 81% verify education;
- 79% verify previous employment;
- 59% check references;
- 50% conduct drug testing;
- 37% conduct criminal records checks; and
- 21% conduct motor vehicle records checks.¹

According to a survey of public and private sector employers, conducted by the Bureau of National Affairs:²

- 52% of employers use reference checks to screen job candidates – reference checks usually involve contacting a job applicant’s former employer or coworkers and asking questions about the individual’s performance, personality, or potential problems.

¹ Connerley, Mary, Richard Arvey, and Charles Bernardy, 2001. “Criminal Background Checks for Prospective and Current Employees” *Public Personnel Management* 30(2).

² Terpstra, David, R. Bryan Dethley, Richard Foley, and Tam Limpaphayom, 2000. “The Nature of Litigation Surrounding Five Screening Devices,” *Public Personnel Management* 29(1).

- 26% of employers conduct some type of “background investigation” for certain jobs – for purposes of the survey, BNA defined a background investigation as looking into an applicant’s criminal history, driving record, credit history, education, employment history, and/or conducting interviews to compile information about an applicant’s reputation and lifestyle.
- 26% of employers use drug testing as a pre-employment screening device – the purpose of drug testing is to identify job applicants who abuse alcohol and drugs. The use of drug tests for employment-related purposes is subject to federal and state laws.
- 6% of employers use polygraph tests as a routine part of their hiring process to assess the honesty and integrity of job candidates – the federal Polygraph Protection Act of 1988 outlaws the use of polygraphs by most organizations. However, the law exempts federal, state, and local government from this prohibition, along with certain private employers such as firms that provide security services, transport radioactive or toxic waste, or dispense controlled substance.

A 2001 article on pre-employment screening acknowledged how little is known about public-sector entities practices in the area of background checks.³ In an effort to learn more about the practices of public sector employers, the three authors conducted an informal survey of 114 government agencies in the United States; 62 of the agencies responded. In sum, the survey found that:

- 50% of the agencies conduct criminal background checks on all prospective employees; five of these respondents were law enforcement agencies.
- 50% of the agencies do not conduct background checks on all prospective employees, but do conduct them on positions that: are of a sensitive nature; involve public safety activities; handle money; have significant fiduciary responsibilities; have access to confidential data; or work with vulnerable adults.
- 65% of the agencies conduct criminal background checks using in-house staff; nine (15%) outsource the function; and four (6%) use a combination of in-house and outside staff.
- 35% of the agencies conduct criminal background checks only on candidates being considered for hire; 16 (26%) conduct them only after making a contingent job offer; and four (6%) allow employees to begin working pending the outcome of the background check.

³ Connerley et. al, 2001.

B. Background Check Practices of the Federal Government, State of Maryland, and Five Other Counties in the Washington Area

This section summarizes the background check practices of the federal government, state government, and five other counties in the Washington metropolitan area. OLO obtained the information presented through telephone interviews and Internet research.

1. Federal Government

The federal government's background check policies are outlined in Executive Order No. 10450. Consenting to a background records check is a prerequisite for being hired as a federal employee, regardless of position. The majority of federal agencies (except for the CIA and FBI) rely upon the Office of Personnel Management's Division of Investigation Services to conduct background checks on prospective employees.

All federal government positions are sorted into three major categories, and each category is associated with different levels of background screening. The three categories are:

- National Security/Sensitive;
- Public Trust; and
- Non-Sensitive.

Employees in National Security/Sensitive and Public Trust positions typically access confidential, national security, or classified information; prospective employees for these jobs are subject to criminal, financial, medical, and family record investigations. The more sensitive the information involved, the more stringent the background check. Positions classified as Non-Sensitive receive less stringent background checks, e.g., reference checks and education verification.

Office of Personnel Management staff report that the federal government does not have a pre-established list of background disqualifiers. Eligibility requirements depend on the position and each hiring agency reviews candidates' background information on a case-by-case basis. For example, an individual who is bankrupt may not be considered for positions dealing with money, but may be eligible for other federal government jobs.

2. State Government

Although there are State laws and regulations that mandate background checks for certain positions, there are no separate laws that outline the pre-employment background check practices for other State employees. Each agency determines which positions (in addition to the positions that require a background check by law) will be subject to a background check.

According to the Office of Personnel Services, some State agencies conduct fingerprint-based criminal records checks on all new hires, regardless of position. The fingerprinting process usually occurs at a Maryland State Police barracks. However, the Department of Health and Mental Hygiene provides fingerprinting services in-house. The hiring agency then forwards the fingerprints prints to the State Police and FBI.

Some State agencies also conduct other types of background checks. For example, the Field Enforcement Division within the Comptroller's Office searches income tax and MVA records for all prospective employees.

3. Summary of Practices in Five Other Counties

OLO spoke to staff from three Maryland Counties (Anne Arundel, Carroll and Howard) and two Virginia Counties (Fairfax and Arlington).

a. Anne Arundel County, Carroll County and Howard County

In Maryland, state law establishes the Criminal Justice Information System (CJIS) as the State's central repository of criminal records information. The law authorizes the Department of Public Safety and Correctional Services to issue regulations governing access to and dissemination of information maintained in CJIS.

The related regulations (COMAR 12.15.01.12) issued by the Department of Public Safety and Correctional Services list the federal, State, and local units of governments as among the agencies eligible to receive criminal records information from CJIS for "the purpose of determining suitability for employment or eligibility for security clearances."

State law (Criminal Procedures Article, Part IV, Sections 10-231 through 233) includes special language regarding requests for criminal history records checks for prospective employees in three Maryland counties -- Anne Arundel, Carroll, and Howard. Because of this special enabling language, OLO selected these three counties to contact for more information about their respective background check practices.

Anne Arundel County

State law includes the following provision regarding criminal history records checks for prospective Anne Arundel County employees:

In accordance with guidelines that the Anne Arundel County Council adopts by resolution, the Director of Administration of Anne Arundel County may request a State and national criminal history records check form the Central Repository for a prospective employee of Anne Arundel County. (Criminal Procedures, Section 10-231)

To date, according to the County's Personnel Department staff, the Anne Arundel County Council has not adopted the guidelines authorized by State law.

In practice, Anne Arundel conducts the criminal records and other background checks, as required by State law, for individuals being hired as law enforcement officers, firefighters, correctional department employees, or into positions that involve working with children, persons who are elderly, and/or persons who are disabled.

Carroll County

The State law governing criminal history records checks for Carroll County employees is comparatively the most prescriptive. The law provides explicitly that the County Commissioners of Carroll County may request a State and national criminal history records check from the Central Repository for the following current or prospective employee or contractor:

- (1) A current or prospective employee of Carroll County who is or will be assigned to a position that involves:
 - i. inspections;
 - ii. approval or denial of a permit, license, or other grant of authority;
 - iii. work in the office of the County Commissioners, sheriff, State's Attorney, circuit court, or county attorney; or
 - iv. collecting or handling money; or

- (2) A current or prospective employee of a person that has a contract with Carroll County if the contract involves work in a place that requires security of personnel or files, including the county courthouse, the local correctional facility, the State's Attorney's office, a county commissioner's office, and the county attorney's office. (Criminal Procedures, Section 10-232)

According to the County's Human Resources Department staff, criminal records checks are conducted for all of the positions identified in State law. The County's Human Resources staff fingerprints prospective employees and submits the prints to the State Police and FBI. The County also performs pre-employment drug testing on individuals whose job requires them to have a commercial drivers license.

The County also requires pre-employment drug testing on parks and recreation personnel. Prospective employees that test positive for drug use are ineligible to work with children. Individuals cannot begin work before the background check results are known.

Howard County

State law includes the following provision regarding criminal history records checks for prospective Howard County employees:

The County Administrator of Howard County may request a State and national criminal history records check from the Central Repository for a prospective employee of Howard County. (Criminal Procedures, Section 10-233)

According to the County's Human Resources Department staff, Howard County has routinely performed background checks on selected "high risk" positions for the past 12 years. These are positions identified in addition to those already named in State law as requiring background checks, i.e., law enforcement officers, jobs that involve caring for children.

Table 5 (page 30) lists the positions identified by Howard County and the associated types of pre-employment background checks that are required. The County uses a private credit reporting agency for the credit checks, a computer-based criminal records search, and motor vehicle records search. For fingerprint criminal records checks, the Howard County Police Department takes the fingerprints, which are then forwarded to the State Police and FBI. An employee cannot begin working until the background check is completed.

b. Arlington County and Fairfax County

Virginia state law establishes the Central Criminal Records Exchange as the central repository of criminal records information. The Code of Virginia (Section 19.2-389) provides Virginia's counties with the legal basis to conduct background checks on prospective employees. OLO identified two counties in Virginia that follow different approaches. In sum, Arlington County conducts background checks on all new employees, and Fairfax County conducts background checks on certain classes of employees, identified by their job-related characteristics.

Arlington County

State law (Section 15.2-709.1) provides Arlington County Government with specific authority to conduct pre-employment fingerprint-based checks of federal and state criminal records. Appendix T (©72) contains a copy of Arlington County's background check procedures.

All new Arlington County employees hired into permanent positions are subject to fingerprint-based criminal checks. Newly hired temporary and contract employees working with children, elderly people, or persons with disabilities, financial or payroll systems, confidential/sensitive information also require criminal record checks. The Arlington County's Sheriff's Department performs the fingerprinting service.

When determining whether a prospective employee's criminal history should adversely influence a hiring decision, Arlington County (by law) must consider criteria such as the:

- Type of crime;
- Relationship of the crime to the position's duties;
- Extent to which the position might offer opportunities to engage in further criminal activity;
- The amount of time elapsed since the conviction; and
- Evidence of rehabilitation.

Employees (permanent, temporary, or contract) that handle cash are subject to pre-employment credit history checks. These employees are rechecked every two years. The County also conducts pre-hire and annual rechecks on all non-Commercial Driving Licenses and non-Public Safety employees that drive County vehicles.

Since July 2002, current employees transferred into positions that work with children, elderly, or persons with disabilities, financial or payroll work or have access to other confidential or sensitive information also require criminal record checks. Employees pay the cost of the background checks.

Fairfax County

Fairfax County enacted a local law that identifies the types of positions that are subject to pre-employment criminal checks. Appendix U (©80) contains a copy of Fairfax County's law.

The positions that require criminal records checks are mostly jobs that involve working with children, elderly and other vulnerable residents, and/or positions that require the employee to enter private property on a regular basis. Examples include social workers, daycare center teachers, mental health therapists, carpenters, locksmiths, building maintenance workers, and housing managers.

The Code requires that the criminal records check must only report whether a person holds a conviction for:

- Murder,
- Sexual assault,
- Abuse and neglect of children,
- Obscenity offenses,
- Possession or distribution of drugs,
- Crimes against property, and
- The use of a firearm in the commission of a felony.

If convictions are found, the County must provide the person an opportunity to respond to the accuracy of the information. The person must also be given the chance to present reasons for why the background information should not disqualify him/her from the position.

Fairfax also conducts pre-employment drug testing on employees who will be driving County-owned vehicles. Also, candidate employees that work with money are subject to credit history checks and state fingerprint checks.

**TABLE 5
BACKGROUND INVESTIGATIONS REPORTED BY HOWARD COUNTY**

Position	Short Personal History Questionnaire*	Fingerprints	Credit Check	Computer Check for Job Related Convictions and Arrests	Motor Vehicle Administration Report
Finance Department (Key Staff – To Be Determined by Appointing Authority)	X		X	X	
Information Systems Office Analysts and Operators	X	X	X	X	
Dispatcher	X	X			
Security Guard	X	X		X	X
Firefighters		X		X	X
Mail Clerk				X	X
Office of Consumer Affairs Investigators				X	X
Recreation & Parks (Full Time – To Be Determined by Appointment Authority)				X	X
Office of Human Rights Investigators				X	X

Source: Howard County OHR

*Short Personal History Questionnaire will consist of:

- Interview 3 previous employers
- Highest academic achievement and/or attendance
- Verify professional licenses

VI. FINDINGS

The Office of Legislative Oversight's findings are presented in three sections:

- General findings on the legal framework, reasons for and concerns about conducting employment background checks, and the role of private credit reporting agencies;
- Findings on the current pre-employment background check practices of County, bi-County, and County-funded State agencies; and
- Findings on the pre-employment background check practices of the federal government, State of Maryland, and a sample of other local government jurisdictions.

GENERAL FINDINGS

Finding #1: A “pre-employment background check” involves research into one or more aspects of a job applicant’s education, employment, and/or personal history.

When organizations report that they conduct “pre-employment background checks,” it can mean substantially different things. In practice, a pre-employment background check can include one or more of the following:

- Verification of education;
- Verification of professional licenses;
- Verification of past employment;
- Verification of military service,
- A criminal records check;
- A civil records search;
- A motor vehicle records check;
- A consumer credit history check;
- A social security number trace (which includes verification of name, date issued and previous addresses);
- Drug screening;
- A polygraph test¹;
- A psychological test;
- Interviews with an applicant’s personal references, including current or former employers, neighbors, and other acquaintances.

¹ With some exceptions, federal law (the Polygraph Protection Act) prohibits the use of polygraph tests as an employment screening device for private employers. Maryland law also prohibits their use for public employers, except when hiring employees for law enforcement agencies and when hiring certain correctional employees in ten counties (not including Montgomery County) specified in State Code.

For purposes of this study, pre-employment medical exams are not considered part of the background checking process.

Finding #2: The limited data available indicate that many private companies and an increasing number of public sector employers conduct one or more types of background checks on potential new hires.

There are only limited published data on the number of employers who routinely use pre-employment background screening as part of their hiring process. Most articles on the topic report that at least 80% of all United States corporations conduct some form of background checks on job applicants.

A survey of private sector hiring practices found that, of the firms who do pre-employment screenings: 81% verify education; 79% verify previous employment; 59% check references; 50% conduct drug testing; 37% conduct criminal records checks; and 21% conduct motor vehicle records checks.

A survey of 62 government agencies' hiring practices found that half conduct criminal records checks on all prospective employees.² The other half conduct criminal records checks only on positions that: are of a sensitive nature; involve public safety activities; handle money; have significant fiduciary responsibilities; have access to confidential data; or work with vulnerable adults.

Finding #3: No type of background check can guarantee employers against making a bad hiring decision. In addition, there is no reliable empirical research on the predictive value of pre-employment background checks.

Even the most thorough check of an applicant's background cannot guarantee that a person who has a "clean" history will not behave differently in the future. Further, formal records do not necessarily provide a full picture of a person's conduct, e.g., a person could have a history of violent behavior, but never been convicted of a crime that evidences this trait.

Although many employers see value in conducting background checks (see Finding #5), there is no reliable empirical research that evidences whether pre-employment background checks are an effective method for predicting future employee conduct. This is largely because organizations that routinely do pre-employment background checks do not generally hire applicants for which something negative shows up. As a result, there are no data to analyze that would indicate whether those applicants would or would not have turned out to be successful employees.

² Five of the respondents were public safety agencies.

Finding #4: State law and regulations require pre-employment background checks for certain types of jobs. For some positions, the law also specifies employment “disqualifiers.”

State law and regulations mandate pre-employment background checks for a number of specific jobs, e.g., law enforcement officer, child care worker. The table below lists the types of positions and the type(s) of background checks mandated by law or regulation.

The table also indicates whether the law or regulation specifies what is known as “disqualifiers.” A disqualifier is something in an applicant’s background that automatically disqualifies him/her from being hired. For example, a school bus driver applicant is disqualified from further consideration if he/she has been convicted of child abuse or neglect.

**TABLE 6
SUMMARY OF STATE-MANDATED PRE-EMPLOYMENT BACKGROUND CHECKS**

Position	Type(s) of Background Check Required	Does law establish any employment “disqualifiers”?	State Law/Regulation
Job involves working with children	criminal records	No	<ul style="list-style-type: none"> • Family Law Article, §5-560 – §5-568 • COMAR, 12.15.02
Noncertified school personnel	criminal records	Yes	<ul style="list-style-type: none"> • Education Article, §6-113
Certified school personnel	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 13A.12.01
School vehicle driver	criminal records, driving records, drug test	Yes	<ul style="list-style-type: none"> • COMAR, 13A.06.07
School vehicle attendant	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 13A.06.07
Job involves working with dependent adults	criminal records	No	<ul style="list-style-type: none"> • Health-General Article, §19-1901 – §19-1912 • COMAR, 12.15.03
Law enforcement officers	criminal records, credit history, drug test, military service verification, education verification, reference checks	Yes	<ul style="list-style-type: none"> • COMAR, 12.04.01
Correctional officers	criminal records, credit history, drug test, military service verification, education verification, reference checks	Yes	<ul style="list-style-type: none"> • COMAR, 12.10.01
Firefighters, Rescue squad members, Paramedics	criminal records	Yes (for paramedics)	<ul style="list-style-type: none"> • Article 38A Fires and Investigations, §7A • COMAR, 30.02.04
Drug and alcohol treatment program employees	criminal records	Yes	<ul style="list-style-type: none"> • COMAR, 10.47.01

Source: Annotated Code of Maryland and Code of Maryland Regulations, 2003.

Finding #5: Employers conduct pre-employment background checks because they want to reduce the chances of hiring undesirable employees, avoid negligent hiring lawsuits, discourage job applicants who have “something to hide,” or just “know more” about who they are hiring.

Even when not legally mandated to do so, many employers decide that it is worth investing the time and resources upfront in obtaining information that might prevent a wrong hiring decision. Further, as more public records become Internet accessible, the cost and time involved with conducting many types of background checks is decreasing.

Employers generally cite one or more of the following reasons as their motivation for conducting pre-employment background checks:

- **Research indicates that not all applicants are truthful about their background.** The published estimates of resume fraud range from as low as 10% to as high as 44%. A resume inaccuracy can be something relatively small such as listing a volunteer position never held, or something material related to an individual’s education, previous employment, or professional license.
- **To reduce chances for undesirable employee behavior, e.g., theft, violence, drug use, especially in certain types of jobs.** Employers find it reassuring that new hires, for example, do not have a criminal record, have good credit, and have a good driving record. This can be especially true for jobs that involve certain activities, such as caring for children or vulnerable adults, or routine access to money or confidential information. Private firms that provide background checking services report that they routinely find undisclosed criminal records on 5-13% of people screened.
- **To discourage job applicants that have something to hide.** Individuals who have something “undesirable” in their background may be deterred from applying for a job in an organization that announces upfront its intent to conduct pre-employment background checks.
- **To avoid negligent hiring lawsuits.** Although court decisions show that employers are not liable for all acts committed by an employee, there are cases where employers are found liable for violent acts or harassment committed by an employee when it can be demonstrated that the employer could have foreseen the action that occurred, and “should have known” about the risk.

Finding #6: Before deciding whether to conduct pre-employment background checks, employers need to consider a number of recruitment, privacy, and legal issues.

In addition to the fact that no background check can guarantee an employer against making a bad hiring decision and the lack of evidence on their predictive value, (See Finding #2), employers need to consider a number of recruitment, privacy, and legal issues before deciding to conduct pre-employment background checks. Specifically:

- Conducting pre-employment background checks takes time and resources, and can increase both the length and total cost of an organization's hiring process.
- Some well-qualified persons with perfectly "clean" records will view an organization's background investigation practices as intrusive and choose not to submit a job application.
- A background check might reveal something about a job applicant that leads an employer not to hire him/her, even though if hired, the applicant would be an exemplary employee. In terms of a person's criminal history, one perspective is that a person who has completed their punishment for a crime has paid their debt to society, and deserves the opportunity to seek gainful employment.
- Depending upon the way information gathered in a background check is used, an employer opens up the possibility of a legal challenge based upon discriminatory employment practices.

Finding # 7: Some employers use in-house staff to conduct background checks while other hire a "consumer reporting agency" to obtain some or all of the information desired.

Employer practices vary in terms of who conducts pre-employment background checks. While some employers assign the responsibility to in-house staff, others rely heavily upon an outside background screening company to compile background information on potential new hires. Most companies that provide background checking services meet the federal definition of a "credit reporting agency," and as such, are regulated by federal and state laws. (see Finding #8)

The package of services offered by a CRA typically includes obtaining information on an individual's criminal record, credit history, and motor vehicle records. Most CRAs will also verify an applicant's educational and other professional credentials, previous employment, social security number, and conduct interviews with former employers, co-workers, neighbors, or other references.

Outsourcing background screening can be more or less expensive than using in-house staff, depending upon the number of employees being hired, the services desired, and the costs, availability, and capacity of in-house staff. One survey of 62 government agencies found that over half (65%) conduct criminal background checks using in-house staff; nine (15%) outsource the function; and four (6%) use a combination of in-house and outsourcing.

Finding # 8: With respect to conducting criminal records checks, certain databases are accessible only by criminal justice agencies.

There is no single publicly available nationwide source for records of criminal convictions that can be computer-searched using a person's name, date-of-birth, and/or social security number. Although most states have automated central repositories, many criminal records are still only accessible by a hand search of records maintained in the more than 10,000 local courthouses across the country.

The National Crime Information Center, Criminal Justice Information System (NCIC/CJIS) is a computerized index of criminal justice information, i.e., criminal record history information, fugitives, stolen properties, missing persons. Data contained in NCIC is provided by the FBI, federal, state, local, and foreign criminal justice agencies and authorized courts.

NCIC/CJIS is available only to federal, state, local law enforcement, and other criminal justice agencies. Fingerprint searches of CJIS are conducted only by expert fingerprint technicians employed by the State Police and FBI. Law enforcement agencies hold that checking fingerprints is the best method of personal identification and one of the most important tools available for determining an individual's criminal record.

Finding # 9: Federal and state laws govern the acquisition and use of background information that is prepared by a "consumer reporting agency."

The Federal Credit Reporting Act is the primary federal law that governs the acquisition and use of background information on job applicants as well as current employees. The FCRA applies only to reports prepared by a "consumer reporting agency" and not to reports compiled by employers who conduct their own background checks.

The FCRA applies to almost any information obtained by a CRA through, for example: a criminal records check, a motor vehicle records check, credit history check, employment verifications, and interviews with former employers, co-workers, and/or employee's friends or neighbors.

The FCRA prohibits CRAs from providing any adverse information that is more than seven years old (10 years old in the case of bankruptcies) for employment-related purposes where the annual salary is less than \$75,000. There are no restrictions upon reporting adverse information for jobs with salaries more than \$75,000. In addition, a 1998 amendment to the FCRA eliminated any restrictions on the reporting of criminal convictions.

By law, employers who rely on reports compiled by a CRA must adhere to certain notification and disclosure procedures. These include obtaining the applicant's written authorization to request a background report, and explaining any adverse action (e.g., withdrawing a job offer) taken as a result of information learned through the report.

Maryland law. Maryland's law (Commercial Law Article, § 14-1201) essentially mirrors the requirements outlined in federal law, and assigns State oversight and enforcement responsibility to the Commissioner of Financial Regulation of the Department of Labor, Licensing, and Regulation.

FINDINGS ON THE AGENCIES' CURRENT PRE-EMPLOYMENT BACKGROUND CHECK PRACTICES

The following set of findings come from OLO's review of current pre-employment background check practices of the County Government, Office of the Sheriff, Office of the State's Attorney, Montgomery County Public Schools, Montgomery College, M-NCPPC, and WSSC.

Finding #10: Pre-employment background check practices vary across agencies and departments.

While all agencies conduct some form of pre-employment background check on prospective employees, the practices vary in terms of the:

- Types of background checks conducted;
- Background factors that disqualify individuals from employment;
- The timing of background checks in the hiring process and whether employees can begin work before the results are received;
- Who conducts the background checks; and
- Who pays for the background checks.

The most consistent pre-employment background screening practices across the agencies are education/license verification and reference checking. All agencies report that they routinely verify prospective employees' education and professional license when a certain degree or license is required. Although the approaches vary, agency staff also routinely conduct some type of reference checking on all new hires, regardless of position.

The background checks practices of agencies reviewed are summarized below.

COUNTY GOVERNMENT

Background checks practices vary across County Government departments. In general, hiring County Government employees is a process that is partially-centralized in the Office of Human Resources, and partially-decentralized in the many different departments/offices. The County Government's background checking practices parallel this blend of centralized and decentralized activities.

OLO's review identified nine County departments/offices that routinely conduct some type of pre-employment background check (on some or all new hires) in addition to education/license verification and reference checks. In addition, the Office of the County Executive reports that a package of background checks (criminal records, credit history, and motor vehicle records check) are conducted on non-merit appointees.

Three of the nine departments that do regular background screening are the County's core public safety departments: Department of Police, Fire and Rescue Services, and Department of Correction and Rehabilitation. For these departments, in-house staff conduct extensive pre-employment background checks on prospective employees as part of a multi-step selection process. State law and regulation mandate many of the components of background checks for public safety personnel.

For most non-public safety positions in County Government, the Office of Human Resources routinely verifies the education and professional licenses of prospective employees, and the hiring department conducts the reference checks. With several exceptions, the additional background checks conducted (e.g., criminal records, drug screening, and/or motor vehicle records) are mandated by State law for specific positions, e.g. jobs that involve caring for children or vulnerable adults.

Table 7 (page 39) lists the County Government departments that conduct pre-employment criminal records checks on some or all new hires, and indicates whether the checks are mandated by law. Most also conduct drug screens and motor vehicle driving records checks. Four also conduct credit history checks. With few exceptions, the department doing the hiring pays for the staff time and other costs associated with conducting the background check.

Who conducts the background checks also varies across departments. Three departments (Department of Liquor Control, Department of Public Works and Transportation, and Finance) pay a private credit reporting agency to compile background information on applicants for certain positions. The Police Department, Department of Correction and Rehabilitation, and Fire and Rescue Services rely primarily on in-house staff to conduct background checks. The Department of Recreation uses in-house staff to roll fingerprints, which are then sent to the State Police and FBI for a criminal records check.

TABLE 7
SUMMARY OF COUNTY GOVERNMENT PRE-EMPLOYMENT BACKGROUND CHECKS
 (IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Department/Positions	State Mandated	Criminal Records ³	Motor Vehicle Records	Credit History	Drug Screen
Board of License Commissioners					
Inspectors	No	✓			✓
Department of Correction and Rehabilitation					
Correctional officers	Yes	✓	✓	✓	✓
Positions with "inmate contact"	No	✓	✓	✓	✓
Positions without "inmate contact"	No	✓	✓	✓	✓
Department of Finance					
All positions ⁴	No	✓	✓	✓	
Department of Health and Human Services					
Positions that care for or supervise children	Yes	✓	✓ ⁵		✓
Positions that care for or supervise dependent adults	Yes	✓			✓
Positions that work in a drug/alcohol treatment program	Yes	✓			✓
Department of Liquor Control					
Retail store positions	No	✓			✓
Warehouse positions	No	✓	✓ ⁶		✓
Department of Police					
Police officers	Yes	✓	✓	✓	✓
Civilian/non-uniform positions	No	✓	✓	✓	✓
Department of Public Works and Transportation					
Bus operators	No	✓	✓		✓
Department of Recreation					
All non-administrative employees	Yes	✓			✓ ⁷
Fire and Rescue Service					
Career firefighters/rescuers	Yes	✓	✓		✓
Volunteer firefighters	Yes	✓			
Non-uniform positions	No	✓			
Office of the County Executive					
Non-merit appointees across departments	No	✓	✓	✓	

³ The BLC, Finance Dept., DLC, DPWT, and Office of the CE rely on a computer-based criminal records search based upon a prospective employee's name, date of birth, and social security number. The other departments do a fingerprint-based criminal records search, which involves rolling an applicant's fingerprints and sending them off to the State Police and FBI.

⁴ The Finance Department is in the process of sorting all positions into different tiers, which would be associated with different types of background checks.

⁵ Only for all Child Welfare Services positions.

⁶ Only for truck driving positions.

⁷ Only for Recreation Specialists, Community Activity Coordinators, and all aquatic positions.

The County does not allow uniformed employees to begin work until all background checks results have been received and reviewed. For all other positions, departments generally follow the same rule, except that persons can begin work on a conditional basis before the results of a criminal records check based upon fingerprints are received. This is because of the lengthy turnaround time for results from the State Police and FBI - see Finding #14.

OFFICE OF THE SHERIFF

The Sheriff's Office has standardized background check practices for all positions. In-house staff conduct extensive pre-employment background checks on prospective employees as part of a multi-step selection process. A Special Operating Procedure governs the background check process for all Deputy Sheriff positions.

State regulations mandate many of the components of the background checks for Deputy Sheriff positions. Candidates for non-sworn positions undergo similar background checks, although the checks for these positions are not mandated. The types of background checks conducted for all positions include:

- Criminal record check;
- Motor vehicle record check;
- Credit history check;
- Drug screen;
- Education/license verification; and
- Reference checks.

STATE'S ATTORNEY'S OFFICE (SAO)

The SAO's background check practices differ for attorney and non-attorney job candidates. The SAO does not conduct background checks on attorney candidates, other than reference checks. However, applicants for attorney positions must be members of the Maryland State Bar, which conducts its own background check as part of the licensing process. The State Bar background check includes:

- Criminal and civil record checks;
- Driving history checks;
- Education verification; and
- Reference checks.

The SAO conducts a computer-based criminal records check and reference checks for non-attorney job positions. In-house staff, who are trained and certified to search CJIS/NCIC, conduct these checks.

MONTGOMERY COUNTY PUBLIC SCHOOLS (MCPS)

MCPS' background check practices are centralized and standardized. **MCPS conducts criminal records background checks on all prospective employees.** All hires are subject to fingerprint-based criminal history record checks and reference checks; certain positions are subject also to other checks such as education and certification verification, drug/alcohol screening, and driving records checks.

State law and regulation establish the parameters of background check practices for all public school systems in Maryland. The law prohibits public schools from hiring applicants who have been convicted of a crime against children, a crime of violence, a crime involving a controlled dangerous substance, or a crime involving the use of alcohol while driving (for school bus driver positions).

MCPS accomplishes background checks using a combination of in-house staff, a contractor, and the State Police/FBI. A private firm, on contract to MCPS, conducts the pre-employment drug screening for school bus driver applicants. An in-house staff member rolls all prospective employees' fingerprints, and sends them to the State and FBI for a CJIS/NCIC criminal records check.

Each new employee is required to pay \$54 for the criminal records check. MCPS allows employees to begin working, on a contingent basis, before the results of the criminal records search is received. This is due to the turnaround time involved with getting results back from the FBI.

The following table summarizes the background checks conducted on the different types of MCPS employees; those requiring professional certification (such as teachers, administrators, and specialists), those without professional certification (such as office support staff and school bus attendants), and school bus operators.

TABLE 8
SUMMARY OF MCPS' PRE-EMPLOYMENT BACKGROUND CHECKS
 (IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Position	State Mandated	Criminal Records	Motor Vehicle Records	Credit History	Drug Screen
Certified (e.g, teacher)	Yes	✓			
Non-certified (e.g., support staff)	Yes	✓			
School bus operator	Yes	✓	✓		✓

MONTGOMERY COLLEGE

Montgomery College conducts reference checks and education/license verification on all prospective employees. Applicants for selected positions must also undergo a criminal records and/or motor vehicle records checks.

Childcare, security, and locksmith positions require a criminal record checks, and positions that involve driving College-owned vehicles require a motor vehicle records check. In addition, the College plans to begin conducting criminal record checks for positions that involve working with financial information, e.g. benefits and financial aid specialists.

The College's background check procedures are partially centralized within the Office of Human Resources and partially decentralized in individual departments. For criminal records, prospective employees are required to obtain a set of their fingerprints from the County Police Department. The College then forwards the fingerprints to the State and FBI for a criminal records check of CJIS/NCIC.

The College pays for the cost of the background checks, except that applicants for security officer jobs are required to pay approximately \$50 for the criminal records check. All employees except for security officers may begin work prior to receipt of the criminal record results.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (M-NCPPC)

M-NCPPC's current pre-employment background check practices are a blend of centralized and decentralized activities. The specific background checks required vary by the type of position. M-NCPPC Administrative Procedures 03-03 (dated May 21, 2003) sets forth a general framework for how the agency conducts criminal history record checks (Appendix V, ©83).

For Park Police positions, similar to other law enforcement jobs across County agencies, in-house staff conduct extensive pre-employment background checks as part of a multi-step selection process. State law and regulation mandate many components of the background check for Park Police officer positions. Civilian employees may begin work before the criminal history record results are known; Police Officers and Dispatchers may not.

Consistent with State law and regulations, M-NCPPC conducts criminal history records checks for persons (paid or volunteer) who will be caring or supervising children at a M-NCPPC facility or who have access to a child who is cared for or supervised at a M-NCPPC facility. Applicants' fingerprints are forwarded to the State Police and FBI for a search of CJIS/NCIC. New employees may begin work, on a contingent basis, before the criminal history record results are known.

The following table summarizes the background checks conducted for certain positions in addition to education/license verification and reference checks and whether State law or regulation mandates the checks for each position

TABLE 9
SUMMARY OF M-NCPPC'S PRE-EMPLOYMENT BACKGROUND CHECKS
 (IN ADDITION TO EDUCATION/LICENSE VERIFICATION AND REFERENCE CHECKS)

Position	State Mandated	Criminal Records	Motor Vehicle Records	Credit History	Drug Screen
Park Police Officer	Yes	✓	✓	✓	✓
Park Police Dispatcher	No	✓	✓	✓	✓
Park Police civilian position	No	✓			
Position that care for or supervises children	Yes	✓			
Equipment operators	No				✓
Park rangers	No				✓
Tree maintenance supervisors and tree climbers	No				✓

WASHINGTON SUBURBAN SANITARY COMMISSION (WSSC)

WSSC's background check practices vary depending upon the position and the request from a hiring manager. WSSC has an agency-wide background check policy in the form of a Standard Operating Procedure (SOP), adopted in 1994 (Appendix S, ©67). WSSC pays for the costs associated with background checks for all positions.

The SOP lists the job classifications that require a background check as part of the hiring process. Additionally, the policy states that any position not explicitly listed can receive a background check at the request of the hiring manager and the Office of Human Resources. In-house staff (WSSC's Security and Safety Services Unit) is assigned responsibility for conducting the background checks requested, which can include:

- Criminal and civil records checks;
- Credit history checks;
- Motor vehicle records checks;
- Education verification; and
- Employment verification

For WSSC Police Officer positions, similar to other law enforcement jobs across the agencies, in-house staff conduct extensive pre-employment background checks as part of a multi-step selection process. Police Officers may not begin work before all background information is received. WSSC staff report that the average turnaround time for fingerprint checks from the State Police and FBI is one month.

Finding #11: Background checks for prospective public safety employees are more comprehensive compared to background checks for other employees.

Background checks for public safety agencies are comprehensive and highly regulated by State law and regulations. The law requires that applicants for the position of Police Officer, Deputy Sheriff, or Correctional Officer must undergo:

- Computer and fingerprint-based criminal record checks;
- A credit history check;
- A motor vehicles administration (MVA) records check;
- Extensive reference checks from a combination of neighbors, family, friends, co-workers, and employers;
- Verification of education, licenses held, and previous military service; and
- Screening of current and past drug use.

Candidates for career firefighter positions also undergo the above checks, excluding the credit history check, although State law only mandates the criminal records check. All public safety departments in the County also routinely verify applicant data with other public safety agencies where the applicant has applied.

Finding #12: With a few exceptions, most background check practices are not set forth in formal policy documents.

The formal written policy documents on background checks currently in place are:

- A Standard Operating Procedure on background checks adopted by WSSC in 1994;
- A Special Operating Procedure on background investigations issued by the Sheriff's Office in 2000;
- A Policy and Procedure on criminal records checks for prospective volunteer firefighters, adopted by the Fire and Rescue Commission in 2000; and
- An Administrative Procedure on criminal history record checks issued by M-NCPPC in 2003.

A number of additional County Departments (Police Department, DOCR, MCFRS) have written documents that set forth one or more components of the department's background check practices. Staff from the Department of Finance and Department of Recreation report they are in the process of developing formal written policies on background checking. In addition, background check requirements are often listed in a job announcement or position classification document.

Finding #13: The cost of pre-employment background screening varies depending on what types of checks are conducted and who is assigned the responsibility.

Most agencies and departments do not track the costs of conducting background checks. For agencies or departments that use in-house staff, the cost of background checking is primarily the staff time assigned to compile the requested information. For agencies or departments that use private contractors, the costs depend on the specific background checks requested for each applicant.

The Police Department and Office of the Sheriff estimate that it costs approximately \$1,000 per applicant in staff time to conduct a full background investigation for law enforcement officer jobs. In comparison, using a private credit reporting agency (CRA) can cost as little as \$8-10 for one credit history check, or \$12-15 for a criminal records search of a single state's publicly accessible records. Because CRAs charge by the number of checks conducted, the costs of obtaining information from a CRA can increase substantially if an employer wants a more comprehensive criminal records check and/or other types of background screening.

Finding #14: The timeframe for receiving results from a criminal records check depends on whether the check is fingerprint or computer-based, and whether the check is conducted by law enforcement or a credit reporting agency.

As reviewed above, state law and regulations often require criminal records checks based upon an applicant's fingerprints. Additionally, certain state mandates require both State and national criminal records checks. The only method available to check fingerprint records is to request a CJIS/NCIC examination through the State and FBI.

Agency staff report that there can be considerable time lapse before the fingerprint results are received. Current estimates are that it takes between one and eight weeks to receive results from the State Police, and between one and three months to receive results from the FBI.

As a result of the turnaround time, the general practice is to allow employees to begin working contingent upon the receipt of "successful" criminal record results. Agency staff report that it would be impractical and severely disrupt service delivery if employees could not start until the criminal records results were received.

Computer-based criminal record checks, done through use of an applicant's name, date of birth, and social security number, can be completed more quickly. Law enforcement agencies have trained and certified staff, who can directly access State and national computerized criminal records databases. Although it depends upon staff availability, law enforcement is generally able to produce same day results.

Private credit reporting agencies (CRAs) have access to various publicly-available criminal record databases. Although there is considerable debate in the law enforcement community as to the completeness of these criminal records checks, CRAs typically promise to deliver results to their clients within 24-72 hours.

COMPARATIVE FINDINGS

The following findings summarize OLO's limited comparative research into practices of the federal government, the State of Maryland, three other Maryland counties (Anne Arundel, Howard, and Carroll), and two Virginia counties (Fairfax and Arlington).

Finding #15: All prospective federal employees must consent to a background records check. Federal government positions are sorted into three major categories associated with different levels of background screening.

The federal government's background check policies are outlined in an Executive Order. Consenting to a background records check is a prerequisite for being hired as a federal employee, regardless of position.

All federal positions are sorted into three major categories, associated with different levels of background screening. Positions in the "national security" or "public trust" categories are subject to a thorough criminal, financial, medical, and family record background investigation. Prospective employees applying for jobs classified as "non-sensitive" are subject to less stringent background checks, e.g., reference checks and education verification.

The Office of Personnel Management reports that the federal government does not have a list of pre-established "disqualifiers". Eligibility requirements depend on the position and the background of job candidates are considered on a case-by-case basis.

Finding #16: The State of Maryland delegates decisions about pre-employment background checks to each agency. Some State agencies conduct fingerprint-based criminal records checks on all prospective employees.

Although there are State laws and regulations that mandate background checks for certain positions (see Finding #2), there are no separate laws that outline the pre-employment background check practices for other State of Maryland employees.

Each State agency makes its own decision about the types of pre-employment background checks to be performed. According to the Office of Personnel Services, some State agencies conduct fingerprint-based criminal records checks on all new hires, regardless of position. The fingerprints are taken at one of the State Police barracks and checked against state and federal criminal records.

Finding #17: OLO's limited sample of other local governments in the area suggests there is currently a wide range of background check practices.

OLO obtained information from two Virginia counties (Fairfax and Arlington) and the three Maryland counties (Anne Arundel, Carroll, and Howard) that have special enabling legislation in State law concerning pre-employment background checks. In sum:

Arlington County conducts criminal records background checks on all new employees hired into permanent positions. Temporary and contract employees who work with children, elderly persons, or persons with disabilities, financial or payroll systems, and/or confidential information also require criminal records checks. All employees (permanent, temporary, or contract) that handle cash are also subject to pre-employment credit checks.

Fairfax County designates (by law) the types of positions that are subject to pre-employment criminal checks. The list includes individuals who work with children, elderly, or other vulnerable persons, as well as inspectors and other staff whose duties include entering private property. Fairfax conducts credit history and criminal records history checks on all job applicants whose duties involve working with money.

The three Maryland counties surveyed all conduct the criminal records checks as required under State law, e.g., for law enforcement officers, for positions that involve caring for children or vulnerable elderly. In addition:

Carroll County conducts criminal records checks on all prospective employees whose duties involve: inspections; approval or denial of a permit or license; collecting or handling money; or work in the office of the County Commissioners, the Sheriff, State's Attorney, Circuit Court, or the County Attorney.

Howard County conducts criminal records and credit history checks on IT and finance department employees. Newly hired dispatchers, security guards, firefighters, mail clerks, consumer affairs investigators, and recreation and parks staff are subject to a search of MVA records and state and national criminal databases for job related convictions and arrests.

VII. RECOMMENDATIONS

The Office of Legislative Oversight recommends that the Council establish policy guidance on acquiring and using information about job applicants' backgrounds in the hiring process, and encourage the respective agency heads to develop written background check policies that are consistent with the Council's guidance. Each agency's policy document should be clear, complete, readily available to job applicants, and consistent with all relevant federal and state laws.

For the County Government, Montgomery County Public Schools, Montgomery College, and State's Attorney's Office, this recommendation requires the development of a new agency-wide policy document. For the Office of the Sheriff and the two bi-County agencies (M-NCPPC and WSSC), this recommendation requires revising existing agency documents. To facilitate the development of new or revised background check policies, OLO recommends the Council endorse a five-step process. In sum:

Step	Who	Action	Target Date
1	County Attorney	Issue opinion that addresses legal questions about pre-employment background checks.	December 2003
2	Council	Develop policy guidance to the agencies on acquiring and using applicants' background information in the hiring process.	January 2004
3	<ul style="list-style-type: none"> • Chief Administrative Officer • Superintendent of Schools • President, Montgomery College • Executive Director, M-NCPPC • Executive Director, WSSC • State's Attorney • Sheriff 	Draft new or revised pre-employment background check policies.	September 2004
4	Council	Review the agencies' draft background check policies for consistency with the Council's policy guidance.	October 2004
5	<ul style="list-style-type: none"> • Chief Administrative Officer • Superintendent of Schools • President, Montgomery College • Executive Director, M-NCPPC • Executive Director, WSSC • State's Attorney • Sheriff 	Finalize background check policy documents.	December 2004

Each of these five steps is further explained below.

Step 1: The Council should request a formal legal opinion from the County Attorney on specific questions about pre-employment background checks.

There are numerous legal issues surrounding how employers obtain and use background information in hiring decisions. OLO recommends that the Council request the County Attorney issue a formal legal opinion that can help guide the development of agency background check policies and practices that are fair, consistent, and lawful.

OLO recommends the Council ask the County Attorney to address the following specific questions:

- ❑ What federal and state law requirements and restrictions must the agencies adhere to when developing policies on the acquisition of background information about a job applicant and the use of this information in making hiring decisions?
- ❑ In addition to what is legally mandated or restricted, what elements should the agencies include (or exclude) in their background check policies to best protect against negligent hiring lawsuits on one hand and charges of discriminatory hiring on the other?
- ❑ What additional State enabling legislation (if any) does the County need before moving ahead with conducting pre-employment background checks for positions not explicitly addressed in State law?

OLO recommends that the Council request that the County Attorney issue a legal opinion on the above issues by **DECEMBER 2003**.

Step 2: After review of the County Attorney's legal opinion, the Council should adopt a resolution that sets forth general policy guidance on acquiring and using job applicants' background information in the hiring process.

Hiring decisions are generally not a legislative responsibility. However, OLO believes it is appropriate for the Council to adopt a resolution that sets forth the Council's general policy guidance to the agencies on acquiring and using job applicants' background information in the hiring process. The four policy questions listed below should frame the MFP Committee's and full Council's discussion on this issue.

Policy Issue #1: Should the Council recommend that the agencies consider establishing a standard package of pre-employment background checks for all prospective employees, regardless of position?

Many organizations require a standard package (known in some places as "Tier I") of background information be compiled on all potential new hires, regardless of position.

The Council's policy guidance on this issue should indicate what types of background checks the Council deems reasonable for agencies to conduct on all prospective employees, such as:

- Verifying an applicant's education;
- Verifying an applicant's professional license (if required for the job);
- Verifying previous employment; and
- Completing at least three reference checks.

Policy Issue #2: Should the Council recommend that the agencies consider requiring criminal, credit, motor vehicle or other special types of pre-employment background checks for certain types of positions? For these jobs, should the Council also recommend that the agencies develop a list of pre-established disqualifiers?

As reviewed earlier, State law and regulations mandate pre-employment background screening (mostly State and federal criminal records checks) for certain positions, e.g., law enforcement officer, public school system employees, firefighters, paramedics. (For listing of positions, see table on page 33). The Council should discuss and decide whether to recommend that the agencies identify certain types of positions as appropriate for special types of pre-employment background checks.

Organizations can require different levels of screening for different types of jobs so long as all potential employees are treated fairly. For example, an applicant for a security guard job would not necessarily require the same types of background check as an applicant for an accountant job. However, all security guard applicants should be treated the same way and all accountant applicants should be treated the same way.

The types of background checks associated with each position should reflect both legal requirements and job-related responsibilities. One approach some employers use is to sort all positions into different categories (known as "tiers") of background screening based upon job-related responsibilities.

Examples of jobs frequently associated with certain types of background checks are listed below.

- A credit check – for positions that require the routine handling of money or other financial resources.
- A criminal records checks – for positions that involve access to persons' residences or other private property, access to confidential information, or working with persons unable to care for themselves.
- A motor vehicle records check – for positions that require the routine driving of agency-owned vehicles.
- Drug screening – for positions that involve regular access to drugs or other controlled substances.

After positions are identified for criminal or other types of background checks, a related issue is whether there is information about an applicant's background that should disqualify the applicant from further consideration in the hiring process. As reviewed earlier (see page 39), there are some positions for which State law already establishes disqualifiers. The Council should discuss and decide whether to recommend whether there are positions for which the agencies should consider establishing disqualifiers that are then consistently used in making hiring decisions.

Policy Issue #3: Should the Council develop guidance on when in the hiring process background checks should be conducted?

OLO's study found that current agency practices vary as to when during the hiring process background check(s) are conducted. The different time frames are:

- At some point during the selection process but before any job offer is made;
- After the candidate has otherwise been deemed the top candidate;
- Only after making a contingent job offer; or
- Allowing a new employee to begin work pending the outcome of the background check.

In terms of when background checks are conducted, there are public policy trade-offs to consider among time, cost, and potential risk or liability. At present, there is also the practical problem that it takes non-public safety agencies up to four months to get the results from an FBI criminal records check based upon a job applicant's fingerprints. The Council should discuss the issues related to the timing of background checks and decide whether to provide policy guidance on this issue.

Policy Issue #4: Should the Council develop guidance on whether the agencies and/or job applicants pay for the costs associated with conducting background checks?

OLO recommends the Council's policy guidance address the question of who should bear the cost of conducting pre-employment background checks. Depending upon the type of checks conducted and the assignment of responsibility, there are in-house staff costs and/or fees paid to a credit reporting agency, the State Police, and/or the FBI.

The State Police charge \$18 per criminal records search and the FBI charges \$24 per criminal records search. The cost of using a private background screening company varies significantly depending upon the types of records checks requested. (See Finding #13.)

With few exceptions, the agencies' current practice is to absorb the costs associated with conducting background checks. One of the few local examples where the costs are shared is with newly hired MCPS employees, who are required to pay \$54 to cover MCPS' costs of taking two sets of the employee's fingerprints and sending them to the

State Police and FBI for a criminal records search. With an estimated 4,000 new MCPS employees processed each year, this amounts to a significant cost sharing example.

Target Completion Date. OLO recommends the Council set a target of **JANUARY 2004** for approval of a Council Resolution that outlines policy guidance to the agencies on pre-employment background checks. Once the Council's policy guidance is established, the next three steps logically follow.

Step 3: The Council should request the agencies to draft new or revised background check policies, based upon the Council's resolution of policy guidance.

The Council should request the Chief Administrative Officer, Superintendent of Schools, Montgomery College President, Executive Directors of M-NCPPC and WSSC, the State's Attorney, and the Sheriff to draft new or revised background check policies, based upon the Council's resolution of policy guidance. The form that each policy document takes will likely vary by agency. For example, WSSC's existing background check policy was issued as a Standard Operating Procedure; the Chief Administrative Officer might decide to promulgate the background check policy for County Government as an amendment to the Personnel Regulations.

OLO recommends that the Council ask each agency head to consider including the following elements in their respective background check policies:

- A listing of the types of background checks that will be conducted for all new hires, and the additional types of background checks that will be required for specific positions due either to legal requirements and/or special job-related responsibilities. The policy should indicate the process for developing pre-established disqualifiers for specific jobs.
- An explanation of the agency's procedures for notifying job applicants that a background check will be conducted, obtaining written authorization from the applicant, and policies regarding how the agency will explain any adverse actions taken (e.g., not making a job offer) as a result of information obtained from the background check.
- A clear assignment of who within the agency is responsible for conducting background checks and who is authorized to make decisions about the use of information obtained through a background check. The policy should identify which aspects of background screening and related decision-making are centralized vs. decentralized; and which tasks will be assigned to in-house staff vs. a private credit reporting agency.
- A clarification of when in the hiring process the background checks will be conducted, and who will bear the costs of conducting background checks.

Target Completion Date. The time it takes for agencies to accomplish this task will vary depending upon how the number of different types of positions and how much work has been done already on this issue. OLO believes it is reasonable for the Council to request a progress report from the agencies in six months (**JULY 2004**), with the goal of finalizing a draft background check policy in nine months (**SEPTEMBER 2004**).

Step 4: The MFP Committee should review the agencies' draft background check policies for consistency with the Council's policy guidance.

The MFP Committee should hold a worksession, staffed by OLO, to review the agencies' respective draft background check policies for consistency with the Council's initial resolution of policy guidance. This will provide an opportunity for discussion of issues that arise during the course of developing the background check policies as well as a forum for Councilmembers to provide feedback on what has been drafted.

Target Completion Date. If steps 1-3 remain on schedule, the review of the agencies' draft background check policies would take place in **OCTOBER 2004**.

Step 5: The Council should request the agencies to finalize their respective background check policy documents.

The final step in this process is for each agency to finalize their respective background check policies. As stated earlier, each agency's document should be clearly written and readily accessible to prospective employees.

Target Completion Date. If steps 1-4 remain on schedule, the agencies should be in a position to finalize their respective background check policy documents by **DECEMBER 2004**.

VIII. AGENCY COMMENTS

The Office of Legislative Oversight circulated a final draft of this report in August 2003 to the seven County, bi-County, and County-funded State agencies reviewed in this report. The final report incorporates technical corrections provided by the agencies.

All written comments received by September 9th on the final draft report are included in their entirety, beginning on the following page:

- County Government, Office of the County Executive (see page 55)
- Montgomery College (see page 58)
- Washington Suburban Sanitary Commission (see page 59)
- Office of the Sheriff (see page 61)

During the comment period, M-NCPPC staff finalized the agency's written policy on criminal history record checks. M-NCPPC's Administrative Procedures 03-03 – *Criminal History Record Checks*, is attached at Appendix V (©83).

OLO greatly appreciates the time taken by staff to review and comment on the draft report and looks forward to discussing the issues raised in this study.



OFFICES OF THE COUNTY EXECUTIVE

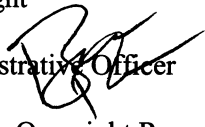
Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

MEMORANDUM

September 3, 2003

TO: Karen Orlansky, Director
Office of Legislative Oversight

FROM: Bruce Romer, Chief Administrative Officer 

SUBJECT: DRAFT Office of Legislative Oversight Report 2003-7: Inter-Agency
Study of Pre-Employment Background Check Practices

Thank you for the opportunity to review and comment on the DRAFT Office of Legislative Oversight (OLO) Report 2003-7: Interagency Study of Pre-Employment Background Check Practices. This Report is both comprehensive and timely. The expansion of pre-employment background checks and the challenges that could arise from such an approach is a current topic of discussion among County managers.

I have received comments from a number of departments and agencies. Their comments reflect a general agreement with the conclusions and recommendations presented in OLO Report 2003-7. The following comments are offered for your consideration:

- Once general policy guidelines are issued by the County Council, Montgomery County Government, as an agency, would develop and implement the County's pre-employment background check procedure according to the established schedule. The Chief Administrative Officer would be responsible for ensuring compliance with the established procedure and would provide periodic reports to the Council on the status of the compliance.
- The timing and nature of the background checks should be determined by the Office of Human Resources based on job class and hiring requirements.
- Careful consideration should be given to the fiscal impact that the expansion of background checks would have, should they be recommended by the Council.
- A combination of outsourcing and in-house processing of background checks, coordinated and administered by the Office of Human Resources, is the preferred mechanism for the conduct of a comprehensive background check program.

Again, thank you for the opportunity to provide these comments. I look forward to further discussions with the Council and other stakeholders on this subject.

BR/cv



DRAFT OLO REPORT 2003-7

SUMMARY OF DEPARTMENTAL COMMENTS

DEPARTMENT OF FINANCE:

- Finance would recommend further discussion regarding the applicability or appropriateness of requiring credit checks and criminal checks for non-mandated, non-public safety jobs. Actual instances of fraud or abuse are usually the result of a combination of motive and opportunity. Finance has taken the stance that we should do everything we can to limit opportunity, e.g., working for our Department, for those that may have motive, or past behaviors indicating the possibility for motive. For this reason, Finance has taken the position that both a credit check and a criminal records check (via a private company) should be required for all department positions. We reviewed the positions and functions throughout the department and have concluded that the risks and opportunities for fraud, theft, or other abuse go beyond the actual access or handling of cash. It also goes to the access to certain financial and confidential information and to the authority granted to so many department employees to conduct certain transactions electronically, via the County's financial systems or via outside systems.
- Finance also recommends further discussion of the benefits vs. risks and costs of conducting criminal checks via a private firm searching selected databases vs. a fingerprint check conducted through public safety resources. The former is much faster; the latter is more thorough in scope.
- Also, the issue as to what criteria to apply in the case of a credit check, or even in the case of a criminal check, where something shows up but there are mitigating circumstances (i.e. passage of time, current efforts to correct the problem, etc.) is a tricky one deserving much discussion.

Of course, these are details that could be addressed in the development of a County policy, rather than as comments on the OLO report. I offer this input for your use as you deem appropriate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES:

- Focusing on the material specific to HHS, our review indicates the information to be accurate/factual.
- In terms of the recommendations to create written policy documents within specific, prescribed time frames, creates a significant workload burden at a time when staff resources for these types of activities have been severely depleted. Prior to making those recommendations, we suggest that OLO conduct an analysis of the workload (WY's) that would be necessary to enact those recommendations so that an economic impact could be compared to any additional estimated benefit that would be derived.

DEPARTMENT OF RECREATION:

- There should be a driving record check on all employees (career and seasonal) who will be authorized to drive County vehicles.
- There should be credit history checks on staff responsible for accepting/depositing cash, checks, and credit charges.
- Ninety-nine percent of the policy and procedures document and 100% of the template needs to be developed by OHR and the other County Departments can then insert specifics.
- If there is any way possible, seasonal staff background checks should be done using the computer-based criminal record checks rather than fingerprinting or in addition to fingerprinting. Often times, seasonal staff have completed their assignments prior to the results of the background checks reaching the Department (from Maryland State Police). It would be a travesty if something happened to a child in the care of these seasonal workers, especially if it may have been prevented with a more timely background check.
- For now, do not change the policy that allows staff to work “conditionally” until the results of the background checks are sent to the Department.

OFFICE OF THE COUNTY ATTORNEY:

- I have read OLO's Draft Report on Pre-Employment Background Check practices, and I have discovered no problems with its content.

BOARD OF LICENSE COMMISSIONERS:

A. WRITTEN POLICIES AND RELEVANT LAWS

Yes- Relevant Laws: COMAR Section 12.15.01 12B; and the Office of Human Resources requirement that specific position classifications undergo criminal history back round investigations. [I provided this language to OLO on the first go around but they chose not to include it?]. The above cited COMAR Statue authorizes non-criminal justice agencies who are the appointing authority of a local government to receive from CJIS conviction, and non-conviction Criminal History Information for the purpose of determining suitability for employment. Although the COMAR statue is not BLC specific it is applicable and authorizes the BLC to secure such information. OHR has also incorporated in the ATEs job spec's, such a requirement[written policy].

ALL OTHER COMMENTS RE: THE BLC ON APPENDIX A , CIRCLE 2 OF THE DRAFT REPORT ARE FINE.

(This technical correction was sent to OLO and the correction will be made in the report.)



Montgomery
College

September 5, 2003

Ms. Karen Orlansky
Director, Office of Legislative Oversight
100 Maryland Avenue
Rockville, MD 20850

Dear Ms. Orlansky:

Montgomery College has reviewed the report prepared by The Office of Legislative Oversight responding to the County Council's request to examine the pre-employment background check practices of County and bi-County agencies. It is our understanding that the MFP Committee will review the report and recommendations at a worksession scheduled in September.

As a result of this study and other prompting legislation, such as the Gramm-Leach-Bliley Act, the Office of Human Resources is reviewing all of our current policies regarding pre-employment reference checks, criminal and financial background checks and motor vehicle record searches for applicants applying for positions such as child care providers, security officers, facilities staff, staff who handle large sums of money, and employees who have access to or handle non-public financial information.

All of the recommendations resulting from the current review will be directed to the Montgomery College Board of Trustees for appropriate action. Pursuant to Title 16 of the Educational Article of the Annotated Code of Maryland, the Board of Trustees has the responsibility and obligation to develop new policy for Montgomery College.

We look forward to any policy guidance the Council might recommend that could be taken under advisement by our Board of Trustees.

Sincerely,

Vivian M. Lawyer
Chief Human Resources Officer

cc: Mr. William E. Campbell
Ms. Lynda S. von Barga



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Sweitzer Lane • Laurel, Maryland 20707-5902

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Artis G. Hampshire-Cowan, Vice Chair
Prem P. Agarwal
Manuel R. Geraldo
Gerald J. Roper
W. Gregory Wims

GENERAL MANAGER
John R. Griffin

DEPUTY GENERAL MANAGER
P. Michael Errico

August 27, 2003

Ms. Karen Orlansky, Director
Office of Legislative Oversight
Montgomery County Government
100 Maryland Avenue
Rockville, MD 20850

Dear Ms. Orlansky:

Thank you for forwarding the Office of Legislative Oversight draft Report 2003-7 examining pre-employment background check practices of County and Bi-County agencies for review and comment.

As the draft report notes, the Washington Suburban Sanitary Commission has a written agency-wide background check policy in the form of Standard Procedure (SP) 94-03, adopted in 1994. This procedure sets forth certain job titles for which a substantive background check is required, specifies generally the types of information to be checked, and enables management to require a background check for other positions when deemed necessary. The procedure requires the written consent of the individual before a background check is undertaken. Where more extensive background checks are not required, verification of educational attainment and of any required certification and drug screening are standard pre-employment checks for all employees, as is a check of references.

The WSSC has undertaken a number of actions in the aftermath of the September 11, 2001 terrorist attacks as we have previously informed the Council. Our Internal Security Task Force has completed a Vulnerability Assessment Study to identify and reduce our risk from both internal and external sources. This study addressed both physical security requirements and the human security elements, and the study's findings and recommendations have been or are in process of implementation. Contractors, for example, who have access to our critical facilities are subject to background checks before they are allowed to commence work. As part of this process we are also looking at the level of background checks needed for our employees to enable the required level of security at an efficient price, consistent with law and with respect for an individual's rights. We anticipate that the present Standard Procedure for background checks will see significant revision as part of this process.

Ms. Karen Orlansky

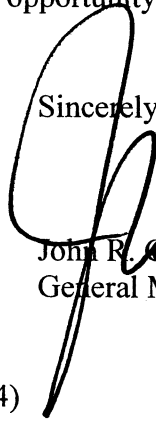
August 27, 2003

Page 2

The draft report sets forth recommendations and a timetable for Council development of a unified approach for background checks for County and Bi-County agencies. Should the Council determine that legislative action at the local level is needed to supplement current federal and state legal requirements, we respectfully ask that due consideration be given to the WSSC's particular circumstances and needs.

Thank you again for giving us this opportunity to review and comment upon the draft report.

Sincerely,



John R. Griffin
General Manager

cc: General Manager's Office (G-0374)
Chief of Mission Support Team
General Counsel
Security and Safety Services Group



Maryland's First
Nationally Accredited
Sheriff's Office

MONTGOMERY COUNTY
SHERIFF



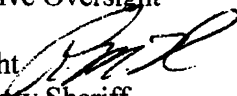
50 Maryland Avenue
Rockville, Maryland 20850-2306

Raymond M. Kight
Sheriff
240-777-7000

September 9, 2003

Memorandum

To: Karen Orlansky, Director
Office of Legislative Oversight

From: Raymond M. Kight 
Montgomery County Sheriff

Re: **OLO Report 2003-7**
Pre-Employment Background Checks

Thank you for the opportunity to review a draft version of the Office of Legislative Oversight's study of Pre-Employment Background Checks (OLO 2003-7). The study generally covers the pre-employment practices of a diverse group of County and Bi-County agencies as well as independent, county funded, State Offices including the Montgomery County Sheriff's Office.

As you are aware, the Office of the Sheriff in Montgomery County was created in 1777 by the Maryland Constitution as part of the Judicial Branch of Maryland State Government. The Montgomery County Sheriff's Office has been existence for over 226 years. The Sheriff is represented in most legal matters by the Maryland Attorney General. All of the Deputy Sheriff's in the office are sworn Maryland law enforcement officers, subject to detailed standards issued by the Maryland Police Training Commission (MPTC).

Pursuant to the MPTC regulations, the Sheriff's Office has promulgated directives covering the recruiting, testing and pre-employment background checks for deputy sheriff applicants, and grounds for temporary or permanent disqualification for employment. As required by MPTC regulations and authorized by Maryland Code, Labor & Employment Article, Section 3-702, deputy sheriff applicants are screened using a polygraph examination administered by the Montgomery County Police Department.

All of the applicants who successfully complete the background process and are offered employment as deputy sheriffs must successfully complete the Montgomery County Public Safety Academy's 6 month police recruit course and a three month field training program.

The study is the first attempt in Montgomery County to catalog and encourage a consistent structure for conducting pre-employment background checks. It is an excellent tool for benchmarking existing practices that are necessary in obtaining a qualified and reliable work force for government employers in Montgomery County, Maryland.

I believe that the thorough, detailed pre-employment checks conducted by my office have served to help ensure an excellent, reliable staff of civilian and sworn employees providing first class law enforcement services to the citizens of Montgomery County. Your study helps to encourage such an approach by all agencies in the county.

Congratulations to you and Craig Howard for preparing this timely report.

INTER-AGENCY STUDY OF BACKGROUND CHECK PRACTICES OLO REPORT 2003 - 7

LIST OF APPENDICES

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Pre-Employment Background Check Practices of County Government Departments		
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COUNTY GOVERNMENT**DEPARTMENT/OFFICE: BOARD OF LICENSE COMMISSIONER'S (BLC)****A. WRITTEN POLICIES AND RELEVANT LAWS**

The written position description for Alcohol & Tobacco Enforcement Specialists includes the requirement that applicants undergo a criminal record background investigation.

B. CRIMINAL RECORDS CHECKS

BLC requests a computer-based criminal records check for all Alcohol & Tobacco Enforcement Specialists. Prospective Alcohol & Tobacco Enforcement Specialists must authorize the release of personal information to BLC.

Montgomery County Police Department conducts the criminal records check for BLC. MCPD searches State and Federal criminal record databases. The Police Department does not charge BLC for this service and the average turnaround time to receive the results is about one week. BLC does not allow Alcohol & Tobacco Enforcement Specialists to begin work until the background check is completed.

C. DRIVING RECORDS CHECKS

BLC does not conduct formal driving records checks. However, applicants interviewed are requested to produce their driver's license at the interview.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

Alcohol & Tobacco Enforcement Specialists receive pre-employment drug/alcohol screening as part of their required medical examination.

F. EDUCATION/LICENSE VERIFICATION

The BLC Director completes informal education/license verification on all BLC employees.

G. REFERENCE CHECKS

The BLC Director completes informal reference checks on all BLC employees. The checks usually involve contacting two to three previous employers by phone.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: DEPARTMENT OF CORRECTION AND REHABILITATION (DOCR)

I. OVERVIEW

The Montgomery County Department of Correction and Rehabilitation conducts an in-depth pre-employment background investigation on all prospective employees. State regulations require certain components of the background investigation for Correctional Officer candidates.

A. Summary of selection process and background checks for Correctional Officers and other positions with “inmate contact”

The Department of Correction and Rehabilitation’s selection process for hiring employees is formal and extensive. For Correctional Officers applicants and applicants for other positions with inmate contact, the duration of the application process can take approximately six to eight months from an initial written examination to a final offer of employment. DOCR hires approximately 10% of Correctional Officer applicants. A pre-employment background investigation is a substantial component of the selection process.

As an applicant proceeds through the various steps in the selection process, DOCR compiles and reviews greater levels of information about that individual. The major steps of the selection process include:

- Step 1. *Written Examination for Correctional Officers*** – Applicants who possess the minimum qualifications participate in a written examination. Applicants must receive a score of Well-Qualified on the exam to continue in the process.
- Step 2. *Preferred Criteria*** – Review applications for preferred criteria to establish categories for the Eligibility List (Qualified or Well Qualified).
- Step 3. *Personal Interview*** – Applicants in the Well Qualified category are selected to continue in the process and receive a personal interview.
- Step 4. *Background Investigation*** – All applicants selected for further processing undergo an in-depth background investigation (described on the next page).
- Step 5. *Medical and Psychological Evaluation*** – Based upon a review of all collected materials a contingent job offer is extended to selected candidates; these applicants are scheduled to participate in a medical evaluation (including drug/alcohol screening) and a psychological evaluation.
- Step 6. *Final Job Offer*** – Background Investigation files for applicants recommended for employment after the medical examinations are checked again to ensure that background investigation information is still favorable. If so, DOCR/OHR extends a formal job offer.

Background investigation. As noted above in the third step of the selection process, DOCR conducts an in-depth background investigation on all prospective Correctional Officers and other applicants that have “inmate contact” that are selected to continue in the hiring process after the first two steps.

Applicants are required to complete a “Background Investigation” booklet and several forms authorizing the release of personal information and disclosure of records to DOCR. For example, applicants provide authority to DOCR to conduct a credit check and drug/alcohol screening. DOCR human resources staff conduct the background investigations. The background investigation includes:

- Computer and fingerprint-based criminal history records checks;
- A credit history check;
- A Motor Vehicles Administration (MVA) records check;
- Reference checks from a combination of neighbors, family, friends, co-workers, and employers;
- Verification of education, licenses held, and previous military service; and
- Confirmation of data from other public safety agencies with whom the applicant has applied.

DOCR reports that the psychological examination listed in step four of the application process is used in part to verify certain background information supplied by the applicant and to learn new background information previously withheld.

B. Summary of background checks for other employees.

The process for applicants for positions that do not have “inmate contact” as part of the position is similar but less extensive. Applicants for these positions also undergo a complete background investigation, but they are not required to take a psychological test.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Code of Maryland Regulations, 12.10.01
(*Correctional officers*)
- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

Corrections and Rehabilitation follows a structured process for conducting background investigations on all applicants. DOCR includes a statement of the need

to undergo a background investigation and potential disqualifying factors as part of the written position description.

State regulations provide a pre-established list of disqualifiers for Correctional Officer candidates. The disqualifiers include certain felony and misdemeanor convictions as well as a positive drug screen. The regulation states that a correctional unit may set higher criminal history disqualification standards than specified by the State Correctional Training Commission.

B. CRIMINAL RECORDS CHECKS

DOCR conducts pre-employment criminal records checks for all positions. Applicants for any DOCR position cannot begin work prior to the completion of the criminal records check. DOCR conduct the criminal records check after a job applicant has passed the written examination and the personal interview. The job applicant signs information release forms as part of the background investigation process.

All DOCR job candidates are subject to both computer-based and fingerprint-based criminal records checks. DOCR conducts its own computer checks of local, state, and federal records (NCIC and MILES) through CJIS. DOCR sends applicants' fingerprints to the State, the FBI, and RAFIS for fingerprint criminal records checks. DOCR employees at the Detention Center's Central Processing Unit do the fingerprinting. The average turnaround time for the fingerprint checks is four to six weeks. Fingerprints are also sent to Interpol if the applicant is foreign-born or has lived overseas. DOCR is not charged a fee for any of these criminal record checks.

C. DRIVING RECORDS CHECKS

DOCR conducts a Motor Vehicle Administration driving records check on all applicants that advance to the background investigation stage. The checks are conducted in all states where the applicant has held a drivers' license.

D. CREDIT HISTORY CHECKS

DOCR conducts a credit check on all applicants who advance to the background investigation stage. The Montgomery County Police Department runs a credit history for each DOCR applicant through a private credit reporting firm; the Police Department does not charge DOCR for this service (the Police Department pays \$6.90 for each credit history). Each applicant signs a form authorizing DOCR to conduct a credit check.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all applicants. The medical evaluation is scheduled after a tentative job offer is made. The drug screen tests for substances at or above levels specified in State regulation for Correctional Officer candidates. Test results exceeding the specified limits

set by State of Maryland regulation disqualify a Correctional Officer candidate from employment.

State regulations also require the disqualification of Correctional Officer candidates with prior use of controlled substances, depending on the type of substance, the number of lifetime uses, and the timeframe of the most recent use.

F. EDUCATION/LICENSE VERIFICATION

All job applicants must present original high school and college (if applicable) diplomas and transcripts as part of the required application materials. Applicants who have served in the military also must submit copies of their discharge papers (DD-214). Copies of the above education/license are made and authenticity verified at the institution. Military service is also verified via Military Personnel Records Center and requests for evaluations and derogatory information are submitted.

G. REFERENCE CHECKS

The complete background investigation includes reference checks with a combination of previous/current employers, co-workers, family, friends, and neighbors. Reference checks are completed using a combination of in-person interviews, telephone interviews, and written reference forms. For Correctional Officer candidates, State regulations require interviews of:

- Personal references furnished by the applicant;
- Neighbors of the applicant within the last 5 years;
- Current and past employers within the last 5 years;
- Coworkers within the past 5 years.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

In addition to the various components reviewed above, the background investigation includes a psychological evaluation (for Corrections Officer candidates and other candidates for positions with inmate contact) after a tentative job offer is made. According to DOCR staff, applicants often provide or verify additional background information during this examination.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: DEPARTMENT OF FINANCE

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

The Department of Finance is currently working to develop a formal written background check policy. The Department intends to classify each position with a specific level of background check. Each position will be assigned to a Level-1 (less intensive) or Level-2 (more intensive) background investigation.

B. CRIMINAL RECORDS CHECKS

The Finance Department will conduct pre-employment criminal record checks on both Level-1 and Level-2 applicants.

The Finance Department conducts computer-based criminal records checks. Currently, the Department uses a private firm to conduct the criminal record checks. In the past, Finance has also used the Police Department to conduct the criminal checks.

The job applicant signs an authorization form to conduct the check and to have the information released to the Finance Department before the investigation is initiated. The cost for the criminal records checks is \$18 per County searched and \$12 per State searched.

Prospective employees cannot begin working before the results of the criminal records check are received.

C. DRIVING RECORDS CHECKS

Both Level-1 and Level-2 background checks will include a Motor Vehicle Administration check through a private contractor for the State in which the applicant is licensed. The cost for a motor vehicle history is \$3 per State.

D. CREDIT HISTORY CHECKS

Both Level-1 and Level-2 background checks will include a credit history check through a private contractor. The cost for a credit report is \$9.

E. PRE-EMPLOYMENT DRUG TESTING

None.

F. EDUCATION/LICENSE VERIFICATION

Both Level-1 and Level-2 background checks will include education verification through the Office of Human Resources. Any cost involved is borne by the applicant.

G. REFERENCE CHECKS

Finance Department staff conduct telephone reference checks on applicants for all positions.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

Staff estimate that the total cost for each background check, depending upon the level of information gathered, ranges between \$100 and \$200.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Note: The human resource functions of the Department of Health and Human Services, including background check functions, are in the process of being consolidated into the Office of Human Resources.

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Family Law Article, §5-560 – §5-568
(*Employees that care for or supervise children*)
- Annotated Code of Maryland, Health-General Article, §19-1901 – §19-1912
(*Employees that care for or supervise dependent adults*)
- Code of Maryland Regulations, 10.47.01
(*Employees of drug and alcohol treatment programs*)
- Code of Maryland Regulations, 12.15.02
(*Employees that care for or supervise children*)
- Code of Maryland Regulations, 12.15.03
(*Employees that care for or supervise dependent adults*)

2. Written background check policies

The Department of Health and Human Services (DHHS) background check procedures are based primarily on State law and regulation. The Department does not have any written criminal record disqualifiers. If not prescribed by State regulation, any background check issues are dealt with on a case-by-case basis.

B. CRIMINAL RECORDS CHECKS

DHHS conducts a fingerprint-based criminal record checks on all applicants for positions that work with children, dependent adults, and individuals involved in drug/alcohol treatment programs. This includes, but is not limited to, child welfare positions, social workers, community services aides, and school health services positions.

DHHS conducts the criminal records check after a conditional offer of employment is made. Applicants must obtain a set of fingerprints from the Police Department, and DHHS sends them to the Criminal Justice Information System (CJIS) Central Repository for a search of State criminal records. The cost is \$18, and is paid for by DHHS. The Department typically receives results of the State's record search within two to three months.

DHHS allows new hires to begin working before the results of the criminal records check are received, but must sign a statement acknowledging that their continued employment is contingent upon a successful records check. DHHS used to require the results before employees could begin work, but that became problematic due to the length of time it takes to receive results.

DHHS also checks two computerized databases, the Client Information System and the Maryland Sexual Offender Registry, for any information on an applicant. The Client Information System is a statewide database available to Child Welfare Services employees that tracks substantiated reports of child abuse or neglect.

C. DRIVING RECORDS CHECKS

HHS conducts Motor Vehicle Administration driving history checks on applicants for all Child Welfare Services positions. A formalized policy for driving record checks is under development.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

Occupational Medical Services conducts a pre-employment drug test on certain employees (such as Social Workers) as part of their physical examination. A positive result is an automatic disqualifier. Generally, positions in DHHS that work with vulnerable populations or with communicable disease exposure receive a pre-employment drug screen.

F. EDUCATION/LICENSE VERIFICATION

The Office of Human Resources routinely verifies all job applicants' education and license credentials for positions that have a specific degree or license as a prerequisite. OHR staff conduct the verification after a conditional job offer has been made.

G. REFERENCE CHECKS

DHHS supervisory staff conduct telephone reference checks on applicants for all positions.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

DHHS does not conduct background investigations on contractors; nor do they require contractors to provide verification of background checks conducted on the contractors' employees. All private contractors, however, are subject to the same laws and regulations for their employees as County Government.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: DEPARTMENT OF LIQUOR CONTROL

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

The Department of Liquor Control (DLC) does not have a formal written background check policy. However, the job announcements and application forms for DLC jobs indicate that a background check may be conducted.

B. CRIMINAL RECORDS CHECKS

DLC conducts a computer-based criminal records checks on all applicants for retail store and warehouse (including truck drivers) positions who come in for an interview. At the time of the interview, the applicant signs an authorization form and a form requiring self-disclosure of prior convictions.

DLC contracts with a private firm to conduct a criminal records check. The Department requests that the contractor conduct a Statewide Criminal Records Search for all states that the applicant has lived in for the past seven years. The contractor charges \$12.50 per state searched, and the cost is paid by DLC. The contractor e-mails the results of the criminal records search back to DLC within several days of receiving the signed waiver form.

The Department does not have a written list of disqualifiers. However, the Department's consistent practice has been not to hire anyone who has had a felony conviction. The decision to hire an applicant whose criminal records check indicates a prior conviction for a misdemeanor is made by DLC on a case-by-case basis.

Employees cannot begin working before the criminal records check results are received, but given the short turnaround from the contractor this has not been an issue for DLC.

C. DRIVING RECORDS CHECKS

DLC conducts Motor Vehicle Administration checks for all truck driver applicants. Applicants must bring an official copy of their current MVA record to their interview. In general, an applicant is disqualified if he/she has more than two current points on their driver's license; the Department has, on occasion, hired someone who has three current points.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

Occupational Medical Services conducts a pre-employment drug test on all potential DLC employees as part of their physical examination. A positive result is an automatic disqualifier.

F. EDUCATION/LICENSE VERIFICATION

The Office of Human Resources routinely verifies all job applicants' education and license credentials for DLC positions that have a specific degree or license as a prerequisite. OHR staff conduct the verification after a conditional job offer has been made.

In addition, applicants for a DLC truck driver position who are selected for an interview must bring a copy of their Commercial Driver's License (CDL) to their interview.

G. REFERENCE CHECKS

DLC supervisory staff conduct telephone reference checks on applicants for all positions.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

DLC formally conducted a fingerprint-based criminal background check on job applicants for positions in the retail stores and the warehouse. Because of the lengthy turnaround time involved with this process, the Department revised its practices several years ago and began conducting the computer-based check of criminal records (without fingerprints) through a private contractor.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: MONTGOMERY COUNTY POLICE DEPARTMENT

I. OVERVIEW

The Montgomery County Police Department conducts an in-depth background investigation on applicants for sworn and non-sworn positions. State regulations require certain components of the background investigations for law enforcement officer applicants.

A. Summary of selection process and background checks for Police Officers

The Montgomery County Police Department's selection process for hiring police officers takes approximately six months from an initial written examination to a final offer of employment. A background investigation is a substantial component of the selection process.

As a Police Officer applicant proceeds through the various steps in the selection process, MCPD compiles and reviews greater levels of information about that applicant. The major steps in the selection process include:

- Step 1. *Written Examination*** – Applicants who possess the minimum qualifications participate in a written examination. Applicants must score a 75% or higher on the written exam to receive further consideration.
- Step 2. *Oral Examination*** – Applicants who pass the written exam are subject to a structured oral examination. Applicants must achieve a rating of “well-qualified” to receive further consideration.
- Step 3. *Personality Trait Assessment*** – Applicants who pass the oral examination undergo a personality trait assessment. Candidates whose overall assessment meets the traits and characteristics previously defined as important by the department will continue in the process.
- Step 4. *Background Investigation*** – All applicants selected for further processing undergo an in-depth background investigation (described on the next page).
- Step 5. *Polygraph*** – Applicants selected for further processing after the background investigation must submit to a polygraph examination.
- Step 6. *Medical and Psychological Evaluation*** – Based upon a review of all collected materials and examination results, a conditional job offer is made to selected candidates; these applicants are scheduled to participate in a medical evaluation (including drug/alcohol screening) and a psychological evaluation.
- Step 7. *Final Job Offer*** – Applicants who successfully pass the above evaluations receive a final job offer.

Background investigation. As noted above in the fourth step of the Police Officer selection process, MCPD conducts a complete background investigation on all Police Officer applicants selected to continue in the hiring process after the first three steps. Prior to the initiation of the investigation, applicants fill out a “Confidential Questionnaire” that includes a formal authorization for the release of personal information and disclosure of records to MCPD. Staff from the MCPD Background Investigations Unit conduct the investigations. The background investigation includes:

- Computer and fingerprint-based criminal history records checks;
- A records check of local police departments where an applicant has lived;
- A credit history check;
- A Motor Vehicles Administration (MVA) records check;
- Maryland Automated Tracking System (MATS) records check;
- Reference checks from a combination of neighbors, family, friends, co-workers, and employers;
- Verification of education, licenses held, and previous military service;
- A review of information provided by the applicant; and
- Confirmation of data from other public safety agencies with whom the applicant has applied.

MCPD uses the polygraph exam described in step five to verify certain background information supplied by the applicant.

B. Summary of selection process and background checks for civilian employees

The application process for civilian employees is similar but less extensive to the process for police officer applicants. Applicants for civilian positions also undergo a complete background investigation. The most substantial difference in the process is that applicants for civilian positions are not required to undergo a personality trait assessment, a polygraph examination, or a psychological test.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Labor and Employment Article, §3-702
(*Use of lie detector tests*)
- Code of Maryland Regulations, 12.04.01
(*Law enforcement officers*)
- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

The Police Department has a structured process for conducting background investigations. MCPD includes this as a part of their written description of the Police Officer selection process.

MCPD has a written Standard Operating Procedure (SOP) – entitled Police Officer Candidate Guidelines for Disqualification – that provides a formal, pre-established list of disqualifiers for Police Officer applicants. The SOP includes disqualifiers in the areas of drug use and experimentation, driving/traffic record and history, and criminal history.

While some of the disqualifiers come directly from State regulations for law enforcement officers, MCPD's SOP expands beyond the minimum standards established by law. MCPD is currently in the process of updating the SOP on disqualifiers (last revised in 2000).

B. CRIMINAL RECORDS CHECKS

MCPD conducts pre-employment criminal records checks for all positions (sworn and non-sworn). Sworn employees cannot begin working before completion of the criminal records check.

MCPD conducts the criminal records check after a job applicant has passed the written and oral examinations and personality trait assessment. The applicant must sign the release form in the Confidential Questionnaire booklet prior to the initiation of the investigation.

All MCPD job applicants are subject to both computer-based and fingerprint-based criminal records checks. MCPD conducts its own computer checks of local, state, and federal criminal records through CJIS. MCPD sends applicants' fingerprints to the State, FBI, and RAFIS for fingerprint criminal records checks. The average turnaround time for the fingerprint checks is four weeks. MCPD is not charged for the fingerprint checks.

MCPD also sends a written form asking for any arrest or criminal activity records to the law enforcement agency from each jurisdiction an applicant has resided in and each educational facility an applicant has attended. Along with the form sent to the law enforcement agencies, MCPD includes a copy of the applicant's authorization for release of information. MCPD is not charged a fee by other law enforcement agencies for any of these criminal records checks.

C. DRIVING RECORDS CHECKS

MCPD conducts a Motor Vehicle Administration driving records check on all job applicants as part of the background investigation. The checks are conducted in all states where the applicant has held a drivers' license.

D. CREDIT HISTORY CHECKS

MCPD conducts a credit check on all applicants that advance to the background investigation stage. A credit history for each applicant is ordered through a private credit reporting agency; the current charge is \$6.90 for each credit history.

Each applicant signs an authorization in the Confidential Questionnaire for the Department to conduct a credit check.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all MCPD employees. The drug screen tests for substances at or above levels specified in State regulation for Police Officer candidates. Test results exceeding the specified limits set by State of Maryland regulation disqualify a Police Officer applicant from employment. The medical evaluation is scheduled after a conditional job offer is made.

State regulations and MCPD policy also regulate the prior use of controlled substances, depending on the type of substance, the number of lifetime uses, and the timeframe of the most recent use.

F. EDUCATION/LICENSE VERIFICATION

All MCPD job applicants must submit sealed copies of their high school and college (if applicable) diplomas and transcripts as part of the required application materials.

Applicants who have served in the military also must submit copies of their discharge papers. The complete background investigation includes an independent verification of an applicant's military service/discharge record.

G. REFERENCE CHECKS

The complete background investigation includes reference checks with a combination of previous/current employers, co-workers, family, friends, and neighbors. Reference checks are completed using a combination of in-person interviews, telephone interviews, and written reference forms. For Police Officers candidates, State regulation requires interviews of:

- Personal references furnished by the applicant;
- Neighbors of the applicant within the last 5 years;
- Current and past employers within the last 5 years;
- Coworkers within the past 5 years.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

In addition to the various components reviewed above, the background investigation includes:

- A review of the entire Confidential Questionnaire booklet completed by the applicant.
- A polygraph exam conducted by an MCPD certified polygraphist. The polygraph exam often verifies or challenges information provided by the applicant during the background process.

MCPD estimates that a typical background investigation for a Police Officer Candidate costs approximately \$942 in FY 03. This is based on an estimate of personnel costs as well as service costs (e.g. credit check, printing, postage). It does not include the costs of polygraph, psychological, or medical evaluations.

COUNTY GOVERNMENT**DEPARTMENT/OFFICE:** DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION**A. WRITTEN POLICIES AND RELEVANT LAWS****1. Governing laws and/or regulations**

- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

The Department of Public Works and Transportation (DPWT) conducts background checks for all Ride-On bus operator positions.¹ DPWT does not have a formal written background check policy, but does have pre-established disqualifiers for driving records. Most background check issues are handled on a case-by-case basis.

B. CRIMINAL RECORDS CHECKS

DPWT conducts computer-based criminal record checks for all Ride-On bus operators. DPWT initially hires all bus operators as temporary, non-merit employees. As a condition of employment, the bus operator signs the waiver form for a private firm to conduct a State criminal records check.

DPWT forwards the signed waiver form to the contractor with the instruction to conduct a State criminal records check (based upon the applicant's name, date of birth, and social security number) for all states in which the applicant has resided. The contractor charges the County \$12.50 per state and the average turnaround time is several days.

Bus operators can begin work before the criminal records results are received, with the understanding that their employment is conditional upon the results of the criminal records check.

C. DRIVING RECORDS CHECKS

All bus operator applicants are required to submit a copy of their Motor Vehicle Administration driving record (minimum 36 month history), that has been obtained within the past six weeks. Applicants with three or more points on their record within the last two years are automatically disqualified from further consideration.

¹ DPWT also conducts background checks for taxicab licensees per State and County Code. Since taxicab licensees are not County employees, they are not included in this section.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

Occupational Medical Services conducts a pre-employment drug test on all permanent merit system bus operators as part of their physical examination. A positive result is an automatic disqualifier. For prospective employees that possess a Commercial Driver's License (CDL) and that used it in their previous employment, DPWT checks with previous employers for any alcohol and/or controlled substance use. The applicant signs a release authorizing employers to provide this information to DPWT.

F. EDUCATION/LICENSE VERIFICATION

Applicants must possess a valid motor vehicle operator's license from the applicant's state of residence at the time of employment application. By the first day of County employment, a bus operator must possess a CDL or a Instructional Permit for a CDL. The County provides bus operator training for those with an Instructional Permit that allows them to obtain their CDL.

G. REFERENCE CHECKS

DPWT conducts reference checks through its contractor. The current cost is \$9.75 per reference.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: DEPARTMENT OF RECREATION

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Family Law Article, §5-560 – §5-568
(*Employees that care for or supervise children*)
- Code of Maryland Regulations, 12.15.02
(*Employees that care for or supervise children*)

2. Written background check policies

The Department is in the process of drafting a formal background check policy. The Department includes the need for background checks for certain employees as part of the job application process description.

B. CRIMINAL RECORDS CHECKS

Nearly all Recreation Department employees, except for a handful of administrative staff positions, are subject to a fingerprint-based criminal records check.

The Recreation Department conducts criminal records checks on all job applicants who come in for an interview. At the same time, the applicant signs an authorization form for disclosure of information to the Department. Recreation Department staff rolls two sets of each applicant's fingerprints. The Department sends both sets of fingerprints to the Criminal Justice Information System (CJIS) Central Repository. CJIS forwards one set to the State Department of Public Safety & Correctional Services and the other to the FBI. The Department has a billing account with CJIS; the charge to process both fingerprint cards is \$42.00.

The Department typically receives results of the State's record search within several weeks, but report the turnaround can be as long as three months. The Department's current turnaround time from the FBI averages 3-4 months.

Applicants can begin work before the criminal record results are received with the understanding that their employment is conditional upon the results of the criminal records check. The Department reports that with the large number of part-time and term employees hired by the Recreation Department to work during the summer months and given the current turnaround times, it would pose serious operational problems if applicants were not allowed to begin work before the fingerprint results came back.

C. DRIVING RECORDS CHECKS

None.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

Occupational Medical Services conducts a pre-employment drug test on Recreation Specialists and Community Activity Coordinators as part of their physical examination. A positive result is an automatic disqualifier. Certain safety sensitive temporary positions, which include all Aquatic employees, also require a pre-employment drug test.

F. EDUCATION/LICENSE VERIFICATION

The Office of Human Resources (OHR) routinely verify all job applicants' education and license credentials for Recreation Department positions that have a specific degree or license as a prerequisite. OHR staff conduct the verification after a conditional job offer has been made.

G. REFERENCE CHECKS

Recreation Department supervisory staff or designee conducts telephone reference checks on applicants for all positions.

COUNTY GOVERNMENT

DEPARTMENT/OFFICE: MONTGOMERY COUNTY FIRE AND RESCUE SERVICE (MCFRS)

I. OVERVIEW

The Montgomery County Fire and Rescue Service (MCFRS) conducts an in-depth background investigation on all career firefighter applicants who pass a written examination and oral interview. State regulations require certain components of the background investigation for firefighter, rescue squad member, or paramedic applicants.

Volunteer firefighter applicants are also subject to a background investigation, conducted by the local fire and rescue departments. A more detailed explanation about this process provided in Section III.

A. Summary of Selection Process for Career Firefighters¹

The Montgomery County Fire and Rescue Service's selection process for hiring firefighters is formal and extensive; on average, it takes nine months from an initial written examination to a final offer of employment. Approximately 10% of applicants are hired and enroll in the Public Services Training Academy.

A background investigation is a substantial component of the selection process. As a firefighter applicant proceeds through the various steps in the selection process, MCFRS compiles and reviews greater levels of information about that applicant. The major steps in the selection process are summarized below.

- Step 1. *Written Examination*** – Applicants who possess the minimum qualifications participate in a written examination. Applicants who pass the written exam are placed on the eligibility list as “Qualified.”
- Step 2. *Oral Interview*** – The best qualified applicants who pass the written exam participate in an oral interview. Applicants who successfully complete the oral interview then have a background check conducted.
- Step 3. *Background Investigation*** – The best qualified applicants who pass the background receive a conditional offer of employment. The number of applicants receiving an offer of employment is determined by the anticipated class size plus estimated attrition by the physical and CPAT test.
- Step 4. *Medical Examination*** – All applicants progressing to this stage are subject to a medical examination to determine if they can perform the essential functions of the job. The examination includes a drug/alcohol screening.

¹ The official title of the position is “Firefighter/Rescuer.”

Step 5. *Candidate Physical Ability Test (CPAT)* – All applicants must also pass the CPAT, which consists of eight stations designed to demonstrate the candidate’s physical ability to be trained as a firefighter.

Step 6. *Final Job Offer* - Applicants who successfully pass the above evaluations receive a final job offer.

Background investigation. As noted above in the third step of the selection process, MCFRS conducts an in-depth background investigation on all firefighter candidates selected to continue in the hiring process after the written examination and oral interview. Prior to the initiation of the investigation, applicants fill out an “Investigative Questionnaire” booklet that includes personal history information and formal authorization for the release of personal information and disclosure of records to MCFRS. Staff from the MCFRS Internal Affairs Unit conduct the investigations. The complete background includes:

- Computer and fingerprint-based criminal history records checks;
- A Motor Vehicles Administration (MVA) records check;
- Reference checks from a combination of neighbors, family, friends, co-workers, and employers;
- Verification of education, licenses held, and previous military service;
- A review of the Investigative Questionnaire booklet; and
- Confirmation of data from other public safety agencies with whom the applicant has applied.

B. Summary of Selection Process and background checks for Other MCFRS Employees

Non-uniform County employees within MCFRS may undergo a background investigation if the position they are applying for is considered of a sensitive nature (Internal Affairs, dealing with EMS records, etc.). This background includes fingerprint-based criminal record checks, reference checks, and employment verification.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Article 38A Fires and Investigations, §7A (*Firefighters, rescue workers, ambulance workers*)
- Code of Maryland Regulations, 30.02.04 (*Emergency medical services providers*)

2. Written background check policies

The Fire and Rescue Service has a structured process for conducting background investigations. MCFRS includes this as a part of their written description of the firefighter selection process. MCFRS has a confidential, internal list of automatic disqualifiers.

State regulation also provides a list of criminal record disqualifiers that may prevent an emergency medical services applicant from receiving State certification.

B. CRIMINAL RECORDS CHECKS

MCFRS conducts pre-employment criminal record checks on applicants for all positions. Firefighters applicants are not offered permanent employment until they have successfully passed the background check. Administrative employees may begin work prior to the completion of the background check process.

MCFRS firefighter candidates are subject to both computer-based and fingerprint-based criminal records checks. MCFRS conducts its own computer checks of local, state, and federal criminal records through CJIS. MCFRS sends applicants' fingerprints to the State Police for state and FBI fingerprint criminal records checks. The average turnaround time for the fingerprint checks is eight weeks. As noted above, non-uniform applicants are only subject to the fingerprint-based check.

The criminal records check occurs after a candidate has successfully passed the oral interview. The Investigative Questionnaire booklet contains an information release form, which must be signed by job applicants as part of the required application materials. Applicants sign the release form prior to the initiation of the background investigation.

C. DRIVING RECORDS CHECKS

MCFRS conducts a Motor Vehicle Administration driving records check, going back 10 years, on applicants as part of the background investigation. Applicants are required to provide any out-of-state motor vehicle records.

D. CREDIT HISTORY CHECKS

MCFRS does not conduct a credit check at this time, but is considering implementing this practice in the future.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all MCFRS firefighters. The medical evaluation is scheduled after a conditional job offer is made.

F. EDUCATION/LICENSE VERIFICATION

All MCFRS job applicants must submit copies of their high school or college (if applicable) diplomas as part of the required application materials.

G. REFERENCE CHECKS

The background investigation includes reference checks with a combination of previous/current employers, co-workers, family, friends, and neighbors. Reference checks are completed using a combination of in-person interviews, telephone interviews, and written reference forms.

H. OTHER INFORMATION CONCERNING DEPARTMENT'S BACKGROUND CHECK PRACTICES

In addition to the various components reviewed above, the background investigation includes a review of the entire Investigative Questionnaire booklet completed by the applicant.

MCFRS estimates that a typical background investigation for a firefighter costs approximately \$283. This is based on personnel costs and does not include the medical evaluation.

III. PRE-EMPLOYMENT BACKGROUND CHECK PRACTICES FOR VOLUNTEER FIREFIGHTERS²

The Montgomery County Fire and Rescue Commission adopted a formal written policy for criminal background checks of volunteer applicants and Local Fire and Rescue Department employees in September of 2000 (Appendix C, ©). The policy “establishes a procedure for processing criminal records background checks of applicants for the position of volunteer firefighter, rescue squad member, emergency medical service provider members and employees with Montgomery County Local Fire and Rescue Departments.”

The required criminal background check is fingerprint-based, and MCFRS staff perform the checks at the request of the local fire departments. The local departments may also request a criminal background check any applicant in the administrative, auxiliary, associate, or casual labor membership category at their discretion.

The volunteer application process takes up to three months. Once a potential volunteer has passed a physical examination and a criminal background check, they must be voted into membership by their department.

² This includes volunteer firefighters, rescue squad members, and emergency medical service providers.

OFFICE OF THE SHERIFF

I. OVERVIEW

The Office of the Sheriff conducts an in-depth background investigation on applicants for sworn and non-sworn positions. State regulation requires certain components of the background investigation for law enforcement officer candidates.

A. Summary of Selection Process for Deputy Sheriff.

The Office of the Sheriff's selection process for hiring Deputy Sheriffs is formal and extensive, with an expected duration of six to twelve months from an initial written examination to a final offer of employment. Approximately one in 41 applicants for Deputy Sheriff is hired and enrolled in the Public Safety Training Academy. A background investigation is a substantial component of the selection process.

As a Deputy Sheriff applicant proceeds through the various steps in the selection process, the Sheriff's Office compiles and reviews greater levels of information about that applicant. The major steps of the selection process include:

- Step 1. *Written Examination*** – Applicants who possess the minimum qualifications participate in a written examination. Applicants must receive a rating of “well qualified” on the exam to continue in the process.
- Step 2. *Initial Background Investigation*** – Applicants rated “well qualified” must provide detailed personal history information and undergo a driving records check and computer criminal history check.
- Step 3. *Structured Interview*** – Selected applicants from the second step undergo a structured panel interview.
- Step 4. *Complete Background Investigation*** – Based upon the recommendations of the interview panel, selected applicants undergo complete background investigations (described on the next page).
- Step 5. *Polygraph*** – Applicants selected for further processing after the background investigation must submit to a polygraph examination.
- Step 6. *Medical and Psychological Evaluation*** – Based upon a final review of all collected materials and examination results, a tentative job offer is made to selected applicants; these applicants are scheduled to participate in a psychological and medical evaluation, including drug/alcohol screening.
- Step 7. *Final Job Offer*** – Applicants who successfully pass the above evaluations receive a final job offer.

Background investigation. As noted above in the second and fourth steps of the selection process, the Sheriff's Office conducts an in-depth background investigation on Deputy Sheriff candidates. Prior to the initial background investigation, applicants fill out a "Confidential Questionnaire" that includes a formal authorization for the release of personal information and disclosure to the Sheriff's Office. On-staff Deputy Sheriffs and an administrative specialist conduct these background investigations and prepare a written report that summarizes all of the information compiled. The complete background includes:

- Computer and fingerprint based criminal records checks;
- A credit history check;
- A Motor Vehicles Administration (MVA) records check;
- Reference checks from a combination of approximately 30 neighbors, family, friends, co-workers, and employers;
- High School check if graduated within the last 5 years;
- Verification of education, licenses held, and previous military service;
- A line-by-line review by the background investigator of the entire Confidential Questionnaire Booklet with the applicant; and
- Confirmation of data from other law enforcement agencies with whom the applicant has applied.

The Sheriff's Office also uses the polygraph exam described in step five to verify certain background information supplied by the applicant.

B. Summary of Background Checks Conducted for Non-Sworn Employees

A formal but less detailed process of background investigations is conducted for non-sworn job candidates. Similar to candidates for Deputy Sheriff, the background check process includes a complete criminal history records check (computer and fingerprints), a MVA records check, a financial/credit history check, and education/license verification.

The specific differences are: the initial package of background questions that must be answered is more limited; there is no one-on-one review of the applicant's written answers; most of the formal reference checks of current and former employers, neighbors, friends, and family members are conducted by telephone; there is no polygraph exam, no psychological evaluation, and a more limited medical evaluation. Another difference is that the review and selection process is handled by the division captain and section supervisor who the employee will be working under.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Labor and Employment Article, §3-702
(*Use of lie detector tests*)
- Code of Maryland Regulations, 12.04.01
(*Law enforcement officers*)
- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

2. Written background check policies

The Office of the Sheriff has a written Special Operating Procedures (SOP) that outlines the Sheriff's policy and process governing background investigations of Deputy Sheriff applicants. The Sheriff's Office most recently updated this SOP in July 2000.

The Sheriff's background investigations SOP includes a section that lists disqualifiers. Most of these come directly from the State regulations that establish conditions for all certified law enforcement officers in Maryland.

B. CRIMINAL RECORDS CHECKS

The Sheriff's Office conducts pre-employment criminal records checks for all positions (sworn and non-sworn). Applicants for sworn positions cannot begin working prior to the receipt of criminal background check results. Applicants for non-sworn positions may begin work prior to receipt of the fingerprint checks.

All Office of the Sheriff job candidates are subject to both computer-based and fingerprint-based criminal records checks. The Office of the Sheriff conducts its own computer checks of federal and state criminal records through CJIS and requests the Montgomery County Police to conduct a computer check of the County's Vice and Narcotics Records. The Sheriff's Office sends applicants' fingerprints to the State CJIS, FBI, and RAFIS for fingerprint criminal records checks. The average turnaround time to receive the fingerprint results from each place is four weeks. The Sheriff Office is not charged by other law enforcement agencies for criminal background checks.

For Deputy Sheriff applicants, the computer criminal records check is conducted after a candidate has passed the written examination and completed the Confidential Questionnaire. The fingerprint criminal records check is conducted after a candidate has passed the structured interview.

For non-sworn position applicants the criminal history records check is conducted prior to a final job offer being made, however the results of the fingerprint checks may not arrive until after the non-sworn applicant has begun working. Applicants for both sworn and non-sworn positions must sign the information release form in the Confidential Questionnaire booklet prior to the initiation of the criminal records check.

C. DRIVING RECORDS CHECKS

The Office of the Sheriff conducts a Motor Vehicle Administration driving records history check on all job applicants as part of the background investigation. The checks are conducted in all states where the applicant has held a drivers license.

D. CREDIT HISTORY CHECKS

The Office of the Sheriff conducts a credit check on all job applicants that advance to the complete background investigation stage. The office orders (by telephone) a credit history on each applicant through a private credit reporting firm; the current charge is \$7.50 for each credit history. Each applicant signs an authorization in the Confidential Questionnaire for the Department to conduct a credit check.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all Office of the Sheriff employees. The drug screen tests for substances at or above levels specified in State regulation. Test results exceeding the specified limits disqualify a law enforcement candidate from employment. The medical evaluation is scheduled after a conditional job offer is made.

State regulations also require the disqualification of Deputy Sheriff candidates with prior use of controlled substances, depending on the type of substance, the number of lifetime uses, and the timeframe of the most recent use.

F. EDUCATION/LICENSE VERIFICATION

All Office of the Sheriff job applicants must submit copies of their high school and college (if applicable) diplomas and/or transcripts as part of the required application materials.

Applicants who have served in the military must also submit verification of their service. The complete background investigation conducted on Deputy Sheriff candidates includes an independent verification of an applicant's military service/discharge record (DD214).

G. REFERENCE CHECKS

The complete background investigation conducted on Deputy Sheriff candidates includes completed reference checks with approximately 30 references. These references represent a combination of previous/current employers, co-workers, family, friends, and

neighbors. References are completed using a combination of in-person interviews, telephone interviews, and written reference forms. For Deputy Sheriff candidates, State regulation requires interviews of:

- Personal references furnished by the applicant;
- Neighbors of the applicant within the last 5 years;
- Current and past employers within the last 5 years;
- Coworkers within the past 5 years.

Reference checks are also conducted for non-sworn job applicants, and are generally conducted by telephone.

H. OTHER INFORMATION CONCERNING BACKGROUND CHECK PRACTICES

In addition to the various types of background checks reviewed above (criminal records check, MVA records check, credit history check, reference checks), the background investigation includes:

- A line-by-line review by the background investigator of the entire Confidential Questionnaire Booklet with the applicant. During this review, the applicant is provided the opportunity to correct any discrepancies or omissions, and the investigator can ask questions about any of the responses.
- A polygraph exam conducted by one of the Montgomery County Police Department's certified polygraphists. The polygraph exam often verifies or challenges information provided by the applicant during the background process. If the polygraph examination results in either "inconclusive" or "deception indicated" and there were no "significant" pre/post test admissions, the applicant will be offered a second test with a different polygraph examiner.

The Office of the Sheriff estimates that a typical background investigation for a Deputy Sheriff job candidate costs approximately \$1,000. This is based upon the cost of 20-25 hours of a Deputy Sheriff's time and seven hours of an Administrative Specialist's time. It does not include the costs of written test materials, polygraph, psychological, or medical evaluations.

STATE'S ATTORNEY OFFICE (SAO)

A. WRITTEN POLICIES AND RELEVANT LAWS

All attorneys must follow the standards and regulations for admission to the Maryland State Bar, which include a substantial background check component to ensure that candidates demonstrate the "requisite character and fitness." As part of the Bar application, a candidate must provide:

- A certified copy of their driving history;
- Certified copies of all civil judgments;
- Certified copies of all criminal judgments and docket entries;
- An armed forces discharge document (if applicable);
- Forms to facilitate verification of employment and education; and
- Forms for reference letters.

B. CRIMINAL RECORDS CHECKS

The State's Attorney's Office conducts a computer-based criminal records check (MD State and FBI) for all non-attorney job applicants. Applicants for attorney positions must be members of the Maryland State Bar, which conducts its own criminal records checks as part of the licensing process described above.

The SAO conducts criminal records checks on all non-attorney job applicants who come in for an interview. At the time of the interview, the applicant is informed that their criminal record will be checked and signs a written authorization.

The SAO uses in-house staff, who are trained and certified, to conduct the criminal background checks. These individuals routinely run background checks for other reasons, and the turnaround is typically within a single business day.

SAO employees cannot begin working until the criminal records check is complete.

C. DRIVING RECORDS CHECKS

None.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

None.

F. EDUCATION/LICENSE VERIFICATION

The SAO does not routinely verify job applicants' education and licensing credentials. The SAO is considering adding verification of an applicant's education to their standard hiring process.

G. REFERENCE CHECKS

The SAO typically conducts pre-employment reference checks (by telephone) before making a formal job offer. In many cases, the attorneys hired by the SAO are already known to the office as clerks to one of the District or Circuit judges.

H. OTHER INFORMATION CONCERNING BACKGROUND CHECK PRACTICES

The SAO uses a standard set of interview questions that is used when hiring attorneys. One of the questions asks whether there is anything in the applicant's background that would "be embarrassing to the State's Attorney." Information revealed during this part of the interview is considered on a case-by-case basis.

MONTGOMERY COUNTY PUBLIC SCHOOLS

I. OVERVIEW

Montgomery County Public Schools (MCPS) conducts pre-employment background investigations on all potential employees. All hires are subject to fingerprint-based criminal history record checks and reference checks; certain positions are subject to other checks such as education and certification verification, drug/alcohol screening, driving records, and medical evaluations.

State statute and regulation requires certain components of the background investigations and provide background standards. In general, applicants who have been convicted of a crime against children, a crime of violence, a crime involving a controlled dangerous substance, or a crime involving the use of alcohol while driving (for positions that require Commercial Driver’s License or CDL) are not eligible for employment with MCPS.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Family Law Article, §5-560 – §5-568
(Employees that care for or supervise children)
- Annotated Code of Maryland, Education Article, §6-113
(Noncertified school employees)
- Code of Maryland Regulations, 12.15.02
(Employees that care for or supervise children)
- Code of Maryland Regulations, 13A.06.07
(School bus drivers and school bus attendants)
- Code of Maryland Regulations, 13A.12.01
(School employees requiring State certification)

2. Written background check policies

MCPS has a structured process for conducting background investigations. Job applications, position classifications, and written descriptions of the employee selection process all include the background check requirements. The applicable State laws and regulations provide certain criminal history and drug/alcohol use disqualifiers, depending upon the position.

B. CRIMINAL RECORDS CHECKS

MCPS conducts pre-employment criminal record checks on all positions (professional, supporting services, administrative, and supervisory).

MCPS conducts a fingerprint-based criminal history records check when an applicant is offered a position. A MCPS employee rolls the fingerprints and sends them to the State and FBI. MCPS sends in fingerprints at least one time per week. The applicant pays \$54 for the fingerprint checks. MCPS reports that the turnaround time for the State is typically 10 days, while the FBI averages five weeks. The job applicant signs the form authorizing the release of information as part of the package of application materials.

MCPS employees can begin working before criminal background results are received. All job offers are contingent upon acceptable criminal record results.

C. DRIVING RECORDS CHECKS

MCPS conducts a Motor Vehicle Administration driving records check on all applicants for positions that require a CDL going back 10 years. The Department of Transportation has its own terminal that provides access to these records. MCPS uses 3 points current or 4 points ever on an individual's driving record as a disqualifier.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

MCPS conducts pre-employment drug testing on all applicants for positions that require a CDL, as required by State regulation. MCPS requires bus driver applicants to show up for drug testing within 24 hours of their interview. All applicants that do not show up for the scheduled drug test are assumed to have a positive test and are placed, along with others who test positive, on a permanent "never to hire" list.

MCPS contracts out the drug testing. The pre-employment drug tests cost approximately \$40-45 each, which is paid by MCPS.

F. EDUCATION/LICENSE VERIFICATION

MCPS requires teachers, administrators, and certain support staff to provide education and license verification documentation after they are hired. These documents include sealed transcripts, State of Maryland certification, copies of all out of state certificates, and any other credentials as applicable.

MCPS also checks the State database maintained by the National Association of State Directors of Teachers Education and Certification to determine whether a teacher's certification has ever been suspended or revoked for any reason.

Bus drivers that possess a CDL must provide verification to the Department of Transportation (DOT). DOT's mandatory training program for new employees includes training and testing to obtain a CDL.

G. REFERENCE CHECKS

MCPS conducts at least three reference checks for all types of positions. References are contacted via mail and asked to return a standardized reference form that differs for professional-level and supporting services-level applicants.

MONTGOMERY COLLEGE

I. OVERVIEW

Montgomery College conducts four types of pre-employment background investigations; criminal record, education, drivers license, and reference checks. Childcare, security, and locksmith employees are subject to criminal history record checks. Employees that require a qualification (e.g., CPAs) are subject to education/certification verification. Employees who drive College vehicles are subject to driving record checks. All new employees are subject to reference checks.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Family Law Article, §5-560 – §5-568
(*Employees that care for or supervise children*)
- Code of Maryland Regulations, 12.15.02
(*Employees that care for or supervise children*)

2. Written background check policies

Montgomery College does not have formal written policies detailing background check practices.

B. CRIMINAL RECORDS CHECKS

Montgomery College conducts pre-employment criminal checks on childcare staff, security officers, and locksmiths. The College will soon begin conducting criminal background checks on new employees involved with personal financial information (e.g., benefit and financial aid specialists).

For day care center staff, the criminal record checking process occurs after the new hires start work. Continued employment is contingent on the results of the background check. Day care center employees are instructed to go to any Police Department for fingerprinting. The employee submits the fingerprints to their supervisor. The College forwards the fingerprint documentation to the Criminal Justice Information System (CJIS) Central Repository. CJIS forwards one set to the State Department of Public Safety & Correctional Services and the other to the FBI.

The College reimburses the employee (\$10) for the fingerprints. The College also pays the \$42 required to do the state and federal checks. The process takes approximately four weeks.

For security officers, new hires cannot start work until the results of the background check process are known. Because the College employs many casual security staff, new security officers are required to initiate and pay for the criminal background check process. Candidate security officers provide fingerprints to the supervisor, and the supervisor forwards them to CJIS via the Maryland State Police.

C. DRIVING RECORDS CHECKS

All employees that drive a College vehicle (as part of their duties) are required to undergo a Motor Vehicle Administration driving records check. The employee pays for this, but can be reimbursed. No one with a suspended or revoked license can drive. Anyone with over two points is closely scrutinized.

D. CREDIT HISTORY CHECKS

None.

E. PRE-EMPLOYMENT DRUG TESTING

None.

F. EDUCATION/LICENSE VERIFICATION

For staff positions that require licenses (e.g., CPAs, maintenance engineers, plumbers, electricians, etc.), the College sights and photocopies the employee's original certificates. This process occurs when the employee commences work. Locksmiths must be bonded. New faculty and staff must submit official transcripts for their highest degree earned, including high school diploma.

G. REFERENCE CHECKS

Montgomery College conducts at least two reference checks for all types of positions. References are generally contacted via phone, when possible. The College utilizes a standard Reference Check Form to record answers to preset questions.

MARYLAND -NATIONAL CAPITAL PARK AND PLANNING COMMISSION

This section presents information about the background check practices of the Maryland-National Capital Park and Planning Commission (M-NCPPC) in two parts:

- Part 1 details background check practices for Park Police employees; and
- Part 2 details background check practices for all other employees.

PART 1 – PARK POLICE EMPLOYEES

I. OVERVIEW

M-NCPPC (Montgomery County’s Department of Park and Planning) Park Police Division conducts background checks on applicants for sworn and non-sworn positions. State regulations require certain components of the background check for law enforcement officers.

A. Summary of Selection Process for Police Officers

Park Police Division’s selection process for hiring police officers takes approximately three to six months from an initial written examination to a final offer of employment. A background investigation is a substantial component of the selection process.

The major steps in the selection process include:

- Step 1. *Written Examination*** – Applicants who possess the minimum qualifications participate in a written examination. Applicants must score 70% or higher on the exam to receive further consideration.
- Step 2. *Personality Screening*** – Applicants who pass the written exam undergo a written personality trait assessment. Candidates whose overall assessment meets the traits and characteristics defined as important by the Division will continue in the process.
- Step 3. *Orientation & Background Investigation*** – All applicants selected for further processing attend orientation and agree to undergo an in-depth background investigation (described on next page).
- Step 4. *Initial Interview*** – The initial interview is scheduled 14 days after the Park Police orientation.
- Step 5. *Oral Assessment by Review Board*** – Applicants respond to questions by a panel consisting of an Assistant Chief and two Lieutenants from the Field Operations Division.

Step 6. *Medical and Psychological Exam* – Based upon a review of all collected materials and examination results, a conditional job offer is made to selected candidates; these candidates are scheduled to participate in a medical evaluation including drug/alcohol screening and a physical examination.

A Computer Voice Stress Analyzer Evaluation is being considered for Park Police Candidates prior to step 5 (Oral Assessment).

Background Investigation. As noted above, the third step in the Park Police officer selection process consists of an in-depth background investigation of applicants, including:

- A computer and fingerprint-based criminal history records checks (including a check with the FBI, State of Maryland, Washington D.C., and the State of Virginia);
- A credit history and bank account check;
- A Motor Vehicle Administration records check;
- Reference checks with current or former spouse, family, friends, co-workers, neighbors, and employers;
- Verification of education, licenses (trade schools), and previous military service;
- A review of all information provided by the applicant; and
- A confirmation of data from other public safety agencies with whom the applicant has applied.

Staff from the Division’s Investigative Services Section conducts the background checks. During orientation, applicants complete a “Confidential Personal History Booklet” that includes a formal authorization for the release of personal information and disclosure of records to Park Police.

B. Summary of Selection Process for Dispatchers and Civilian Employees

The application process for non-sworn police dispatchers is identical to Park Police applicants except they do not undergo personality screenings. Dispatchers undergo a written examination, medical exam, and drug screening as part of the hiring process.

The application process for civilian employee applicants is less extensive. Prospective civilian employees are not required to undergo a written examination, personality screening, or drug screening. Civilian employees do undergo background checks, although the investigation does not include a credit check, DMV records check, or education/license verification. Civilian employees do undergo a criminal history records check and reference checks; however the reference check is less extensive when checking an applicant’s neighbors and past employers.

II. BACKGROUND CHECKS

A. Written Policies and Relevant Laws

The following Federal and State Laws and Regulations govern Park Police policies for background checks:

- Code of Maryland Regulations, 12.04.01
(*Law enforcement officers*)
- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

Park Police has a structured process for conducting background check investigations. The investigations are a part of the written description of the Police officer selection process.

B. CRIMINAL RECORDS CHECKS

Park Police conducts pre-employment criminal history records checks for all positions (sworn and non-sworn). Park Police and Dispatcher applicants may not begin work without a completed background investigation. Civilian employees may begin work before their background investigation is completed.

All background checks are conducted by the Investigative Services Section once the applicant has passed the written examination and personality assessment. The applicant must then attend the Park Police Orientation where several documents are signed by the applicant authorizing the Park Police to conduct the background investigation.

All Park Police job applicants are subject to both computer and fingerprint-based criminal history records checks. Park Police conduct their own computer checks of local, state, and federal criminal records through CJIS, and sends applicant fingerprints to the Maryland State Police and FBI for fingerprint criminal records checks. Staff report the average turnaround time for the fingerprint checks is within three months. M-NCPPC's Human Resources Division reviews and processes the CJIS invoices for payment.

Park Police also sends a written request asking for any arrest or criminal activity records to the law enforcement agency from each jurisdiction an applicant has resided. Park Police include a copy of the applicant's authorization of release of information. Park Police are not charged a fee by other law enforcement agencies for any of these criminal records checks.

C. DRIVING RECORDS CHECKS

Park Police conduct a Motor Vehicle Administration driving records check on prospective police applicants. Records in all Washington metropolitan jurisdictions and all states where the applicant has held a drivers license are checked.

D. CREDIT HISTORY CHECKS

Park Police also conduct a credit check on prospective police applicants. A credit history for each applicant is ordered through a private credit reporting agency.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all Park Police applicants. The drug/alcohol screening as well as the medical evaluation is scheduled after a conditional job offer is made. The drug screen tests for substances at or above levels specified in State regulation for Police Officer candidates. Test results exceeding the specified limits set by the state of Maryland regulation disqualify a police officer applicant from employment. .

F. EDUCATION/LICENSE VERIFICATION

All Park Police applicants must submit sealed copies of their trade schools, high school, and college (if applicable) diplomas and transcripts as part of the required application materials.

Applicants who have served in the military also must submit copies of their discharge papers. The investigation includes an independent verification of an applicant's military service/discharge record.

G. REFERENCE CHECKS

The complete background investigation for Park Police applicants includes reference checks with a combination of previous/current employers, co-workers, family, friends, and at least three neighbors. Reference checks are completed using a combination of in-person interviews, telephone interviews, and written reference forms. For Police Officer candidates, State regulation requires interviews of:

- Personal reference furnished by the applicant;
- Neighbors of the applicant within the last five years (with knowledge of the applicant);
- Current and past employers within the last five years; and
- Co-workers within the past five years.

PART 2 – ALL OTHER EMPLOYEES

I. OVERVIEW

M-NCPPC requires pre-employment background investigations on all prospective employees who work with or have access to children. M-NCPPC may require background investigations of other prospective employees on a case-by-case basis.

A. WRITTEN POLICIES AND RELEVANT LAWS

1. Governing laws and/or regulations

- Annotated Code of Maryland, Family Law Article, §5-560 – §5-568
(*Employees that care for or supervise children*)
- Code of Maryland Regulations, 12.15.02
(*Employees that care for or supervise children*)

2. Written background check policies

M-NCPPC Administrative Procedures 03-03 (dated May 21, 2003) sets forth a general framework for how the agency conducts criminal history record checks (Appendix V, ©83). The policy does not include a list of pre-established disqualifiers; each position is evaluated on a case-by-case basis. M-NCPPC is currently working on enhancing the overall process for background checks.

B. CRIMINAL RECORDS CHECKS

M-NCPPC conducts a criminal history records check for all Commission employees (paid or volunteer) who work with or have access to children. In addition, the Administrative Procedures states that a check for criminal history may also be required for employees who handle confidential information. Senior management may also deem other positions subject to a criminal history records check.

The criminal history records check commences after an employee has applied for the job. The employee completes a form authorizing the release of personal information when applying; this includes the completion of the necessary fingerprint cards. The Commission conducts State and FBI criminal history records checks through CJIS. M-NCPPC pays \$42.00 per check and reports a turnaround time of three to eight weeks.

Completed criminal history checks are returned by CJIS to the Human Resources Division. Reports containing criminal activity are reviewed by the Personnel Manager, General Counsel, and Park Police Commander, as appropriate. *The employing manager is advised only if any personnel action will be taken.* Some candidates, depending on the requirements of the position, may begin employment prior to the completion and clearance of the criminal history records check.

C. DRIVING RECORDS CHECKS

A valid driver license in the State of residence is required for all park maintenance positions. Driving checks may be required, if driving is a primary function of the position (e.g., messenger).

D. CREDIT HISTORY CHECKS

The Commission conducts credit history checks on an employee if necessary, based upon the functions of the position.

E. PRE-EMPLOYMENT DRUG TESTING

The Commission administers post-offer drug tests to equipment operators, park rangers, tree climbers, and tree maintenance supervisors.

F. EDUCATION/LICENSE VERIFICATION

The Commission conducts education/license verifications on all employees.

G. REFERENCE CHECKS

The Commission conducts reference checks for all employees.

WASHINGTON SUBURBAN SANITARY COMMISSION

This section presents information about the background check practices of the Washington Suburban Sanitary Commission (WSSC) in two parts:

- Part 1 details background check practices for Police Department employees; and
- Part 2 details background check practices for all other employees.

PART 1 – POLICE DEPARTMENT EMPLOYEES

I. OVERVIEW

WSSC conducts pre-employment background investigations on all prospective police officers and civilian police employees. These background investigations follow the requirements of Federal and State regulations regarding background checks for all law enforcement officers.

WSSC's Security and Safety Services Group, Investigations Unit, conducts the background investigations.

A. Summary of Selection Process for Sworn Police Officers

The WSSC Police Department officially formed in the fall of 2002. The selection process for hiring police officers can take approximately three months from an initial interview until a final offer of employment. A background investigation is a substantial component of the selection process.

As a Police Officer applicant proceeds through the various steps in the selection process, WSSC compiles and reviews greater levels of information about that applicant. The major steps in the selection process include:

- Step 1. *Position Advertisement*** – Position is advertised for internal applicants through a Personnel Action Notice and for the general public through newspapers.
- Step 2. *Interview*** – An initial interview of applicants by the Chief of Police, followed by an initial offer of employment to select candidates.
- Step 3. *Background Investigation*** – All applicants provided an initial offer of employment undergo an in-depth background investigation (described on the next page).
- Step 4. *Medical and Psychological Exam*** – Applicants proceeding to this point are scheduled to participate in a medical evaluation (including drug/alcohol screening) and a psychological evaluation

Step 5. Final Job Offer – Applicants who successfully pass the above evaluations receive a final job offer.

Background Investigation. As noted above, the third step in the WSSC officer selection process consists of an in-depth background investigation of applicants, including:

- A computer and fingerprint-based criminal history records checks;
- A credit history report;
- A Motor Vehicle Administration records check;
- Reference checks with current or former spouse, family, friends, co-workers, neighbors, and employers;
- Verification of education, licenses (trade schools), and military service and discharge if applicable;
- A review of all information provided by the applicant; and
- A confirmation of data from other public safety agencies with whom the applicant has applied.

Applicants complete a “Confidential Personal History Booklet” that includes a formal authorization for the release of personal information and disclosure of records to WSSC Police Investigators to initiate the background check process.

B. Summary of Selection Process for Non-Sworn Civilian Police Employees

Background investigations for civilian police employees are similar to those of sworn police officers, except the criminal records checks conducted through a public record search of local courthouse documents. Civilian police employee’s background checks also include a:

- Credit check;
- Motor Vehicle Administration records check;
- Education/license verification;
- Interview of applicant’s neighbors and past employers; and
- Medical exam/drug screening.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

The following Federal and State laws and regulations govern WSSC background check practices:

- Code of Maryland Regulations, 12.04.01
(*Law enforcement officers*)
- Fair Credit Reporting Act – United States Code, 15 USCR 1681
(*Credit reporting agencies*)

B. CRIMINAL RECORDS CHECKS

WSSC conducts pre-employment criminal records checks for all sworn police department positions. Police applicants may not begin work without a completed background investigation. Civilian employees may begin work before their background investigation is completed.

All WSSC police applicants are subject to both computer and fingerprint based criminal records checks. WSSC investigators conduct local, state, and federal criminal records checks through CJIS, and sends applicant fingerprints to the State and FBI for fingerprint criminal records checks. WSSC report the average turnaround time for the fingerprint checks is approximately 30 days. WSSC is not charged a fee for fingerprint checks on prospective police applicants.

C. DRIVING RECORDS CHECKS

WSSC investigators conduct a Motor Vehicle Administration driving records check on applicants as part of the background investigation. The checks are conducted in all jurisdictions in the Washington Metropolitan area and all states where the applicant has held a drivers license.

D. CREDIT HISTORY CHECKS

WSSC police applicants undergo a credit check during the background investigation. A credit history for each applicant is ordered through a private credit reporting agency.

E. PRE-EMPLOYMENT DRUG TESTING

A drug/alcohol screening test is part of the pre-employment medical evaluation conducted for all police applicants. The drug/alcohol screening as well as the medical evaluation is scheduled after a conditional job offer is made. The drug screen tests for substances at or above levels specified in State regulation for Police Officer candidates. Test results exceeding the specified limits set by the state of Maryland regulation disqualify a police officer applicant from employment.

F. EDUCATION/LICENSE VERIFICATION

WSSC investigators confirm an applicant's education/license verification by sending a copy of the applicant's release of information form to schools with a request for verification of the applicant's diplomas and transcripts.

WSSC investigators also verify military service/discharge records for applicants who have served in the military.

G. REFERENCE CHECKS

The background investigation for WSSC police applicants includes reference checks with a combination of previous/current employers, co-workers, family, friends, and at least 3 neighbors. Reference checks are completed using a combination of in-person interviews, telephone interviews, and written reference forms. For Police Officer candidates, State regulation requires interviews of:

- Personal reference furnished by the applicant;
- Neighbors of the applicant within the last five years (with knowledge of the applicant);
- Current and past employers within the last five years; and
- Co-workers within the past five years.

PART 2 – ALL OTHER EMPLOYEES

I. OVERVIEW

The Washington Suburban Sanitary Commission (WSSC) conducts background investigations on any prospective employees at the request of Commission managers, group leaders or team chief. At the discretion of the team chief, WSSC's background investigations can include checks of:

- Criminal records,
- Civil complaints,
- Credit history,
- Driving records,
- Educational records, and
- Employment verification.

WSSC's Security and Safety Services Group, Investigations Unit, conducts the background investigations.

II. BACKGROUND CHECKS

A. WRITTEN POLICIES AND RELEVANT LAWS

WSSC has a written background check policy in the form of a Standard Operating Procedure (SOP). WSSC developed its Employment Background Investigations SOP (see ©67) in 1994. The SOP details the purpose, policy, authority, scope, and procedures for background checks.

The SOP delineates the job classifications that can include a background check as part of the hiring process. The procedure states that the hiring manager must choose the specific background areas, listed above in the Overview section, to be investigated when a request is made to the Security and Safety Services Group. Background investigations may be requested for job position classifications not delineated in the SOP, at the discretion of the hiring manager and the Office of Human Resources.

Background checks cannot be conducted until a prospective employee has been offered a position. Prospective employees must sign an Authorization for Release of Personal Information Form for a background investigation to be initiated. General WSSC employees are allowed to begin work before a background check is completed.

B. CRIMINAL AND CIVIL RECORDS CHECKS

WSSC conducts criminal and civil records checks on prospective employees upon the specific request by a group leader or team chief. The criminal/civil records check conducted on a prospective employee consists of a public record search of the local courthouse where the prospective employee resides. All criminal record information is reviewed on a case-by-case basis.

C. DRIVING RECORDS CHECKS

WSSC conducts driving records checks on prospective employees upon the specific request by a team chief.

D. CREDIT HISTORY CHECKS

WSSC conducts credit history checks on prospective employees upon the specific request by a team chief. If a credit check is requested, WSSC investigators request a credit history report from a private credit reporting agencies.

E. PRE-EMPLOYMENT DRUG TESTING

WSSC conducts pre-employment drug screening on all new employees. WSSC conducts drug screening through its Office of Human Resources as part of an employee's medical evaluation.

F. EDUCATION/LICENSE VERIFICATION

WSSC conducts education/license verification on prospective employees upon the specific request by a team chief. WSSC investigators confirm an applicant's education/license verification by sending a copy of the applicant's release of information form to schools attended with a request for verification of the applicant's diplomas and transcripts.

G. REFERENCE CHECKS

WSSC routinely conducts reference checks on all prospective employees.

LAWS AND REGULATIONS AFFECTING BACKGROUND CHECKS FOR LOCAL AGENCIES

FEDERAL LAWS

Fair Credit Reporting Act, 15 U.S. Code Section 1681 – This statute governs the performance of credit checks. If a private contractor performs the credit check, an employer must provide the applicant with written notice that a check will be conducted and obtain the applicant’s written authorization. If an employer decides to take adverse action due to the information from the credit report, procedural guidelines detailed in the statute must be followed.

STATE OF MARYLAND LAWS (ANNOTATED CODE OF MARYLAND)

Labor and Employment Article, §3-702 – This statute governs the use of lie detector tests for employment purposes. Law enforcement agencies are allowed to use lie detector tests as a condition of employment, prospective employment, or continued employment for any law enforcement agency employee. Correctional agencies in ten counties (not including Montgomery County) are also authorized to use lie detector tests for certain correctional employees.

Family Law Article, §5-560 – §5-568 – This statute requires pre-employment criminal history record checks for employees that work with children in specific settings (e.g. child care center, public or non-public school, recreation center or program). Employers not listed among the specific settings may require pre-employment criminal history checks for individuals who will work with children. Additionally, employers may require pre-employment criminal history checks for volunteers that work with children. Fingerprints are required for the criminal history records check of State and national records.

Education Article, §6-113 – This statute prohibits County Boards of Education from knowingly hiring, as a noncertified employee, any individual who has been convicted of sexual crimes or crimes of violence.

Health-General Article, §19-1901 – §19-1912 – This statute requires pre-employment criminal history record checks for employees that work with dependent adults in specific settings (e.g. adult day care facility, a home health agency, a residential services agency). Fingerprints are required for the criminal history records check of State records. The definition of convictions under this title includes probation before judgment and disposition of not criminally responsible.

Article 38A Fires and Investigations, §7A – This statute authorizes fire departments (career and volunteer), rescue squads, and ambulance services to conduct a criminal history records checks of applicants. Fingerprints are required for the criminal history records check of State and national records. Employers are authorized to consider criminal convictions when determining the suitability of an applicant for employment.

STATE OF MARYLAND REGULATIONS (COMAR)

Title 10, *Department of Health and Mental Hygiene*

Subtitle 47, *Alcohol and Drug Abuse Administration*

Chapter 1, *Requirements* – The regulations in this chapter require drug and alcohol treatment programs to conduct national and State criminal history record checks on potential employees. Additionally, the criminal history records check must be updated annually for each employee. The regulations state that programs must implement policies and procedures that will not permit any individual with a documented history of physical, mental, or sexual abuse or neglect of adolescents or children to work with that population.

Title 12, *Department of Public Safety and Correctional Services*

Subtitle 4, *Police Training Commission*

Chapter 1, *General Regulations* – The regulations in this chapter require law enforcement agencies to conduct comprehensive background investigations on all law enforcement officer applicants. The investigation must include a criminal history records check, a military records check, a credit check, a school records check, interviews (references, neighbors, employers, coworkers), and a drug test. Fingerprints are required for the criminal history records check of State and national records. The regulation specifies disqualifiers for current and past drug use.

Subtitle 10, *Correctional Training Commission*

Chapter 1, *General Regulations* – The regulations in this chapter require corrections agencies to conduct comprehensive background investigations on all Correctional Officer applicants. The investigation must include a criminal history records check, a military records check, a credit check, a school records check, interviews (references, neighbors, employers, coworkers), and a drug test. Fingerprints are required for the criminal history records check of State and national records. The regulation specifies automatic disqualifiers for certain types of felony criminal convictions and an accumulated number of misdemeanor convictions occurring within a specified timeframe. The regulation also specifies disqualifiers for current and past drug use.

Subtitle 15, *Criminal Justice Information System Central Repository*

Chapter 1, *Implementation of the Criminal Justice Information System Statute* – This regulation authorizes a local unit of government to receive conviction and nonconviction criminal history records information for the purposes of determining suitability for employment.

Chapter 2, *Criminal History Records Check of Individuals Who Care for or Supervise Children* – This regulation states that potential employees affected by the Family Law Article must apply for a criminal history records investigation on or before the first day of work. Fingerprints must be taken at a designated law enforcement agency. An individual who has been previously processed, ceases

working, but later resumes work for the same employer may not be required to undergo another check.

Chapter 3, *Criminal History Records Check of Individuals Who Care for an Adult Dependent Care Program* – This regulation states that potential employees affected by the Health General Article must apply for a criminal history records check before beginning work.

Title 13A, *State Board of Education*

Subtitle 6, *Supporting Programs*

Chapter 7, *Student Transportation* – This regulation provides specific criminal history record disqualifiers for school bus drivers and school bus attendants. Drivers and Attendants are disqualified if criminal charges are pending or if they have plead guilty or nolo contendere, have been placed on probation before judgment, or have been convicted of: child abuse or neglect; contributing to the delinquency of a minor; moral turpitude, or a controlled dangerous substance offense. Drivers are also disqualified if the same conditions apply for any driving under the influence of drugs/alcohol or driving while intoxicated offense. Local school systems are authorized to establish policies for prior drug/alcohol use.

Subtitle 12, *Certification*

Chapter 1, *General Provisions* – This regulation provides that individuals are not eligible for Maryland certification (applicable to teachers, specialists, and administrators) if they have been convicted of, plead guilty or nolo contendere with respect to, or received probation before judgment with respect to a crime against children, a crime of violence, contributing to the delinquency of a minor, moral turpitude, or a controlled dangerous substance offense.

Title 30, *Maryland Institute for Emergency Medical Services Systems (MIEMSS)*

Subtitle 2, *Emergency Medical Services Providers*

Chapter 4, *Prohibited Conduct* – This regulation allows the Emergency Medical Services Board to deny a license or certificate to an applicant who has exhibited certain types of prohibited conduct. Among other things, prohibited conduct includes addiction to or abuse of any controlled dangerous substance, or being convicted of or pleading guilty or nolo contendere to certain types of crimes.

MONTGOMERY COUNTY LAWS AND REGULATIONS

Montgomery County Code, §33-7 – This statute authorizes the adoption of personnel regulations that include methods of determining qualifications and methods of selection for any positions.

Personnel Regulations, Section 9, *Classification* – This regulation requires the Chief Administrative Officer to administer the County's classification plan and to classify positions on the basis on assigned duties and responsibilities and minimum qualifications required.



POLICY AND PROCEDURE

Montgomery County Fire and Rescue Commission

No.: 06-04AM

Effective Date:

9/15/00

TITLE: CRIMINAL BACKGROUND CHECKS OF VOLUNTEER
APPLICANTS AND LFRD EMPLOYEES

Page 1 Of 5

Montgomery County Fire and Rescue Service Policy on:

CRIMINAL BACKGROUND CHECKS OF VOLUNTEER APPLICANTS AND LFRD EMPLOYEES

Issued by: Montgomery County Fire and Rescue Commission

Authority: Montgomery County Code Section 21-2.(d)(2)

No. 06-04AM

Effective Date: September 15, 2000

SUMMARY: This policy establishes a procedure for processing criminal records background checks of applicants for the position of volunteer firefighter, rescue squad member, emergency medical service provider members and employees with Montgomery County Local Fire and Rescue Departments.

DEADLINES: Montgomery County Fire Board Review: June 1, 2000
Div. of Fire and Rescue Service Review: June 1, 2000
Local Fire and Rescue Departments Review: June 1, 2000

ADDRESS: Please address all comments regarding the proposed policy to Beth Feldman, Montgomery County Fire and Rescue Service, 12th Floor, 101 Monroe Street, Rockville, MD 20850. Comments may also be submitted by e-mail/internet to beth.feldman@co.mo.md.us.

STAFF: For additional information, please contact Beth Feldman, Montgomery County Fire and Rescue Service, (240) 777-2423.

Sec.1. Purpose: To establish a procedure requiring all individuals who apply for membership or employment with a Local Fire and Rescue Department as a firefighter, rescuer, or emergency medical service provider to successfully complete a criminal background records check.



<h1 style="text-align: center;">POLICY AND PROCEDURE</h1> <p style="text-align: center;">Montgomery County Fire and Rescue Commission</p>	No.:06-04AM
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Sec. 2. Applicability: All individuals who apply to serve as volunteer members or employees performing firefighting, rescue, and/or emergency medical services with a Local Fire and Rescue Department in Montgomery County are required to comply with this policy.

Sec. 3. Definitions.

- a. **Applicant.** An individual applying for membership or employment as a volunteer firefighter, rescue squad member, or emergency medical services provider for the Montgomery County Fire and Rescue Service.
- b. **Criminal Background Records Check.** The screening procedure required of all individuals who apply to provide firefighting, rescue, and emergency medical service to the MCFRS. This procedure complies with Maryland Annotated Code, Article 38A, Section 7A "*Criminal background check of applicant for firefighter, rescue squad member or paramedic.*"
- c. **Division of Fire and Rescue Services.** The Division of the Montgomery County Fire and Rescue Service comprising career employees and DFRS volunteers, that shares with the Local Fire and Rescue Departments the responsibility for providing direct fire suppression, rescue, and emergency medical services.
- d. **Division of Volunteer Fire and Rescue Services (DVFRS).** The Division of the Montgomery County Fire and Rescue Service that comprises the Local Fire and Rescue Departments.
- e. **Fire Administrator.** The non-uniformed department head of the Montgomery County Fire and Rescue Service appointed by the County Executive. The Fire Administrator serves as ex-officio chair of the Fire and Rescue Commission and is responsible for implementing and enforcing Commission policies; administering all fire and rescue services provided in the County; and supervising the Chiefs of both the Division of Fire and Rescue Services and the Division of Volunteer Fire and Rescue Services.



<h1 style="text-align: center;">POLICY AND PROCEDURE</h1> <p style="text-align: center;">Montgomery County Fire and Rescue Commission</p>	No.: 06-04AM
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- f. **Internal Affairs Officer.** An individual appointed by the Fire Administrator, on the recommendation of the Fire and Rescue Commission, to assist the Commission and the Fire Administrator in monitoring compliance with law, County and Commission policies, regulations, and procedures. The Internal Affairs Officer investigates matters assigned by the Fire Administrator or the Commission, as defined in Chapter 21 of the County Code. The Internal Affairs Officer is the designee of the Maryland State Fire Marshal for the purpose of Maryland Annotated Code, Article 38A, Section 7A, "*Criminal background check of applicant for firefighter, rescue squad member or paramedic*".
- g. **Local Fire and Rescue Departments (LFRD).** The component of the Montgomery County Fire and Rescue Service that provides direct fire suppression, rescue and emergency medical services in conjunction with DFRS.
- h. **Maryland State Criminal Records Central Repository (MSCRCR).** Location of the Criminal Justice Information System (CJIS) to which Montgomery County Fire and Rescue Service fingerprint cards and requests for criminal background records checks are sent for processing.
- i. **Montgomery County Fire and Rescue Service (MCFRS).** The Montgomery County Fire and Rescue Service consists of the Division of Fire and Rescue Services and the Division of Volunteer Fire and Rescue Services, which includes the Local Fire and Rescue Departments.

Sec.4. **Policy.** It is the policy of the Fire and Rescue Commission to require all individuals who apply with a **LFRD** to provide firefighting, rescue, and emergency medical service to successfully complete a **criminal background records check** before being accepted for membership or employment.

Sec.5. **Procedure.**

- a. **Applicants** for membership or employment with an **LFRD** must appear before, and submit the appropriate number of classifiable fingerprint sets to, the **Internal Affairs Officer** for processing through both the **MSCRCR** and the Federal Bureau of Investigation.



POLICY AND PROCEDURE

Montgomery County Fire and Rescue Commission

No.: 06-04AM

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TITLE: CRIMINAL BACKGROUND CHECKS OF VOLUNTEER
APPLICANTS AND LFRD EMPLOYEES

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- b. The **Internal Affairs Officer** must provide the results of the **applicant's criminal background records check** to the **LFRD** head. Criminal records history information is confidential and may be disclosed only to a designated **LFRD** representative.
- c. The **LFRD** head may consider the existence of a criminal conviction in determining whether an **LFRD applicant** will be appointed as a member.
- d. An **LFRD** fire, rescue, and/or emergency medical services provider who is separated from the **MCFRS** for six months or longer and subsequently returns must repeat and successfully complete the **criminal background records check**.
- e. The **LFRD** head or **DVFRS** Chief may also request the **Fire Administrator** or designee to process a **criminal background records check** for any **applicant** who is currently in the administrative, auxiliary, associate, or casual labor membership category

Sec. 6. Responsibility.

- a. The **Fire Administrator** or designee is responsible for:
 - 1. accomplishing **criminal background records checks** in accordance with Maryland Annotated Code, Article 38A, Section 7A., and
 - 2. notifying the **LFRD** head of the results of an **applicant's criminal background records check**.
- b. The head of each **LFRD** is responsible for ensuring that its **applicants** comply with these procedures for **criminal background records checks** when they apply for appointment or employment.
- c. The **Internal Affairs Officer** is responsible for:
 - 1. processing classifiable fingerprint sets for **criminal background records checks**, in accordance with Maryland Annotated Code Article 38A, Section 7A., and



POLICY AND PROCEDURE

Montgomery County Fire and Rescue Commission

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2. establishing a procedure for tracking **criminal background records checks.**

Sec. 7. Enforcement. The **Fire Administrator** is the enforcement authority for all policies and regulations of the Montgomery County Fire and Rescue Service.

Sec. 8. Effective Date. The effective date of this policy is September 15, 2000.

Attest:



 Gordon A. Aoyagi, Chair
 Fire and Rescue Commission

Sept 12, 2000

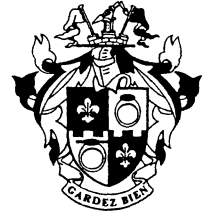
 Date

APPROVED AS TO FORM AND LEGALITY,
 OFFICE OF COUNTY ATTORNEY
 BY Richard H. McQuirk
 Associate County Attorney
 DATE: 9-11-00

amendcrimbackground check vols final bf wp 9/1/00



OFFICE OF THE COUNTY SHERIFF
Montgomery County, Maryland
Raymond M. Kight, Sheriff



SPECIAL OPERATING PROCEDURES
Background Investigations

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Background Investigations	01	07/12/00

Policy: *It is the policy of the Montgomery County Sheriffs Office to conduct a complete and thorough **background** investigation of all applicants who are **recommended for further consideration** by the **oral interview board for the position of Deputy Sheriff Candidate**. **Deputies assigned background investigations must** conduct **the** investigation without regard to race, sex or any other non-merit factors. The purpose of **the** investigation is to reveal and document selected characteristics of the applicant to determine whether or not the applicant is suited for the position **of Deputy Sheriff Candidate**, and to **ensure** appointment of the most qualified applicants. (32.2.1)*

Contents:

- I. ***Overview of the Selection Process***
- II. ***Written Examination***
- III. ***Selection for Oral Board Interviews***
- IV. ***Background Investigations***
- V. ***Review of the Confidential Questionnaire Booklet***
- VI. ***Interviews***
- VII. ***Background Investigation Report***
- VIII. ***Causes for Rejection and Termination***
- IX. ***Credit History***
- X. ***Foreign Jurisdiction***
- XI. ***CALEA Standards***

I. Overview of the Selection Process

The minimum qualifications and selection process for Deputy Sheriff Candidates are addressed in General Orders/Personnel Procedure 2.22, Selection. Generally, the selection process involves the following steps:

1. ***Employment application.***
2. ***Written examination.***
3. ***Oral interview.***

4. **Background investigation, to include polygraph or other truth verification examination.**
5. **Tentative offer of employment.**
6. **Physical examination, to include drug testing.**
7. **Psychological examination.**

II. Written Examination

- A. The **Personnel Section of the Sheriff's Office and the Montgomery County Office of Human Resources are jointly responsible for the written examination phase of the selection process.**
- B. The **Sheriff's Office Applicant Coordinator and the Human Resources Specialist must mutually determine** the time, date and location for the written examination.
- C. **Prior to the commencement of the written examination a deputy must provide the applicants** a brief description of the duties performed by a Deputy Sheriff.
- D. **At the conclusion of the examination all applicants must be issued a Confidential Questionnaire Booklet and instructed on the procedures and requirements of returning the questionnaire to the Sheriff's Office.**
- E. **The Office of Human Resources is responsible for grading all sections of the examination with the exception of the Incident Report Section. The Sheriff's Office is responsible for grading this section and providing the scores to the Human Resources Specialist. After the examination scores are tabulated, the Office of Human Resources is responsible for providing the Sheriff's Office an eligibility list.**

III. Selection for Oral Board Interviews

- A. Upon receiving the eligibility list **from the Office of Human Resources, the Applicant Coordinator must develop** a manila file folder for each applicant who is rated "Well Qualified" **and** has returned a completed **and** notarized **Confidential Questionnaire Booklet. The file folder must include the following:**
 1. **The control number assigned to the applicant.** Numbers are determined in sequential order for the year **that** the applicant is tested (i.e., first applicant in 1994 is **001-94**, etc.).

2. Original **employment** application
 3. Completed **and** notarized **Confidential Questionnaire Booklet**.
 4. Any and all documents submitted by applicant.
 5. **Completed motor vehicle administration (MVA) and criminal history checks.**
 - NCIC Computer Check (MD State & FBI Criminal History).
- B. Completed files **must** be forwarded to the **Administrative Division Captain and the most qualified applicants are selected for oral interviews in accordance with General Orders/Personnel Procedure 2.22, Selection.**
- C. The **Applicant Coordinator** is responsible for scheduling **the** oral interview boards of those applicants selected to continue in the hiring process.

IV. Background Investigations

- A. **If the oral interview board makes a recommendation to proceed further with the hiring process a background investigation file must be established and a background investigation conducted. A member of the interview board must notify the Applicant Coordinator of the decision.**
- B. **Applicant Coordinator is responsible for:**
1. **Ensuring that** three (3) applicant fingerprint cards **are** submitted for a criminal history check. **Two (2) fingerprint cards must be submitted to the** CJIS Central Repository. **The Central Repository is responsible for forwarding one of these cards to the FBI.** The third fingerprint card **must be submitted to the** Regional Automated Fingerprint Identification System (RAFIS), for a local criminal history check.
 - The authorization number #9300003322, **must be included on all fingerprint cards submitted.**
 - **In addition to each fingerprint card** the applicant **must** sign a Fingerprint Criminal History Notification Memorandum that **must** be maintained in the applicant file.
 2. **Ensuring that two (2) color photographs of the applicant are taken.**

3. **Converting the** applicant file to a permanent **six (6) section** file folder. The **Applicant Coordinator** is responsible for **updating the file as required**, ascertaining, and verifying the applicants credentials, and **ensuring** that the following information is included in the applicant's file and maintained in the following order: **(32.2.1.a)**
- The file tab **must** include, full name, applicant number, date of birth, race and sex and social security number.
 - **Section 1:**
 - Employment application. (The original application is maintained in the investigatory file until such time that a job offer is made.)
 - **Color photograph of the applicant.**
 - **Drug screening results and medical acceptability.**
 - **Section 2:**
 - **Applicant Review Memo**
 - **Applicant Information Sheet**
 - **Polygraph examination report.**
 - Copy of birth certificate.
 - Copy of high school diploma, transcripts and disciplinary records.
 - Copy of college diploma, transcripts and disciplinary records, if applicable.
 - Military verification or DD 214.
 - **Copies of any commendations or awards.**
 - **Section 3:**
 - **All completed background questionnaires.**
 - **Any information regarding employment applications made to other law enforcement agencies.**
 - **Background Investigation Report.**
 - **Section 4:**
 - Criminal history. **(32.2.1.b)**
 - NCIC Computer Check (MD State & FBI Criminal History).
 - Montgomery County Vice & Narcotics Record Check.

- ***Fingerprint Criminal History Notification Memorandum***
 - ***Fingerprint Results (CJIS & FBI & RAFIS)***

 - **Section 5:**
 - MVA Certified Copy (***Maryland*** or other appropriate state).
 - ***Photocopy of Driver's License.***

 - **Section 6:**
 - Credit History.
 - ***Confidential Questionnaire Booklet.***
 - Oral board interview forms.
4. After reviewing the file, ***sending*** questionnaires to those employers and personal references listed in the ***Confidential Questionnaire Booklet.***

 5. ***Obtaining the credit history of the applicant.***

 6. ***Updating the file as*** correspondence is received ***and if required, sending follow-up letters.*** The ***Applicant*** Information Sheet ***must be updated*** each time a required document is placed in the file.

 7. ***Scheduling polygraph examinations with the Montgomery County Department of Police.***
- C. ***The Administrative Division Captain or the Captain's designee must assign a deputy, who has completed the appropriate training, to conduct the background investigation. The responsibilities of a deputy assigned to conduct a background investigation include, but are not limited to the following:***
1. ***Conducting a review of the Confidential Questionnaire Booklet with the applicant.***

 2. ***Conducting personal interviews.***

 3. ***If the applicant has applied for a law enforcement position at any other agency, contacting that agency and obtaining the results of any background investigation conducted.***

4. **Reviewing all employment questionnaires and other documentation received.**

5. **Completing and submitting a Background Investigation Report.**

D. **It is the responsibility of both the Applicant Coordinator and the assigned background investigator to periodically review the background investigation file to ensure that the file is complete and to provide periodic status reports to the Administrative Division Captain.**

V. **Review of the Confidential Questionnaire Booklet**

A. **The assigned background investigator must contact the applicant and schedule a date and time to conduct a review of the Confidential Questionnaire Booklet with the applicant.**

B. **During this review the background investigator must conduct a page by page, line by line review of the entire Confidential Questionnaire Booklet with the applicant. During this review the applicant must be given an opportunity to correct any discrepancies or omissions in the booklet. Additionally, the investigator may inquire regarding any responses made by the applicant in the booklet.**

C. **Both the background investigator and applicant must initial and date each page of the booklet once the review of that page has been completed.**

VI. **Interviews**

Personal interviews or **returned background** questionnaires **must** be **either** conducted **or received** on each **applicant as part of the** background investigation.

A. **Employers:**

All **current** employers **must be** interviewed to gain insight into the applicant's character and reliability. **Co-workers** should be interviewed to determine any discrepancies or deception **made by the** employer. Copies of any performance evaluations, commendations or disciplinary actions **must** be obtained **when available**. Discrepancies **must** be investigated in depth. **The** applicant **must** be interviewed to determine if the discrepancy is an oversight or deception.

B. Neighbors:

Investigators should conduct Interviews with neighbors at locations where the applicant has resided.

C. Relatives:

The number of relatives to be interviewed ***may*** vary depending on the marital status of the applicant. Parents, spouse or fiancée should be interviewed. If applicant is divorced, the ex-spouse should be interviewed.

D. Friends:

Friends of the applicant ***should be*** interviewed as they can supply the investigator with information ***relative to*** the applicant's character, reputation and habits.

E. Teachers:

Teachers may provide valuable information as to the applicant's personality, habits or ***any*** disciplinary problems.

F. Military Base Personnel

G. Other Police Agencies:

Other law enforcement agencies that the applicant has applied for employment may have pertinent information obtained during their background investigation which should be thoroughly reviewed and compared to the information provided by the applicant in the Confidential Questionnaire Booklet.

VII. **Background Investigation Report**

Upon completion of the investigation, the assigned background investigator must complete and submit a Background Investigation Report to the Sheriff, via the Administrative Division Captain, Assistant Sheriff and the Chief Deputy. In composing this report the investigator must review both the background investigation file and any personal notes taken during the course of their investigation.

VIII. Causes for Rejection and Termination

In the event a background investigator believes that they have obtained sufficient documented facts and information to terminate the investigation they must submit a copy of the investigation to the Administrative Division Captain for review and signature. The Administrative Division Captain must consult with the Assistant Sheriff prior to any decision to terminate the investigation.

Causes for rejection of an applicant may include, but are not limited to the following:

- A. Lack of specified minimum qualification requirements.
- B. Intentionally making a false statement ***or omissions.***
- C. Current or prior Law Enforcement/Correction Officers; admissions or convictions for any of the following:
 - Perjury
 - Brutality
 - Criminal activity committed while employed as a Law Enforcement Officer or Correctional Officer.
- D. Lack of physical, mental, or personal requisites deemed necessary for the effective performance of the duties and responsibilities of a Deputy Sheriff.
- E. ***Habitual or excessive illegal use of drugs or alcoholic beverages. Drug use that exceeds the usage guidelines as set by the Maryland Police Training Commission and the Sheriff's Office policies on illegal drug usage.***
- F. Sale of any controlled dangerous substance.
- G. Any felony conviction.
- H. Record of dismissal or resignation not in good standing from the Merit System of Montgomery County.
- I. Discharge or release from the military service under conditions other than ***Honorable or General.***

IX. Credit History

Credit problems require very careful investigation to assure that finite reasons for poor credit ratings are ascertained. Bankruptcy, *either* business or personal *must* be investigated in depth and fully documented. The investigator must define the causes for poor credit ratings, such as, marital problems, misuse of credit cards by another family member, etc. Prior to making any definite conclusions with respect to credit, the investigator *must* consult with the **Administrative Division Captain**.

X. Foreign Jurisdictions

Other police agencies may request cooperation in completing their background investigations for their applicants living in Montgomery County. They may also request information on a prior or current applicants or employee of this office. The Montgomery County Sheriff's Office will cooperate and the depths of these investigations vary and will be handled on an individual basis.

XI. CALEA Standards

32.2.1.a, 32.2.1.b

STANDARD PROCEDURES OF THE WASHINGTON SUBURBAN SANITARY COMMISSION

ORIGINATOR & POSITION	SP NUMBER	APPROVE BY/DATE	EFFECTIVE DATE	PAGE 1
<i>David Faison Jr.</i> David Faison Jr. Director Office of Security and Safety Services	SEC 94-03	Cortez A. White General Manager <i>Cortez A. White</i> 8/12/94	August 12, 1994	OF 3

SUBJECT

EMPLOYMENT BACKGROUND INVESTIGATIONS

Purpose:

To identify the positions and outline the policy and procedure for Washington Suburban Sanitary Commission managers to follow in requesting an employment background investigation on prospective Commission employees and those on-board employees under consideration for promotion or transfer to a sensitive position.

Policy:

It is the policy of the Washington Suburban Sanitary Commission that an employment background investigation be conducted on prospective employees (new hires) in certain delineated job categories. Attached to this SOP is a listing of those position classifications which merit an employment background investigation. (Attachment 'A')

Authority:

The Office of Security and Safety Services, Investigations Section, has been delegated the authority to conduct employment background investigations for managers of the Washington Suburban Sanitary Commission.

Scope:

An employment background investigation conducted on a prospective Commission employee may include an inquiry by the Investigations Section, Office of Security and Safety Services, into the following background areas:

- Educational Records
- Civil Complaints
- Credit Check
- Criminal Records
- Medical Records
- Previous Employment
- Traffic Records

Procedure:**A. Requests and Processing of Applicants - New Hires:**

A Commission manager (Division Manager or above) shall request that an employment background investigation be completed on a prospective employee under consideration for a position as listed in Attachment "A." The manager may accomplish this process by contacting the Office of Security and Safety Services, to request that an employment background investigation be accomplished on a named applicant. At the time of the manager's request, he/she must identify the particular background areas (See Scope: above) to be researched.

Upon approval of the request for an employment background investigation, the requesting manager should direct the prospective employee to the Office of Security and Safety Services, where he/she must sign a waiver or Authorization for Release of Personal Information form (Attachment "B"), which allows the employment background investigation to start. Should the applicant refuse to complete the waiver form, the requesting manager will be notified that the background investigation will not take place.

B. Requests Involving On-Board Personnel:

Although not a requirement, a Division Manager or above may request the Office of Security and Safety Services to complete an employment background investigation on an on-board employee. This type of request may be initiated by a manager as a result of the employee being either transferred or promoted to a sensitive position which may dictate a background review in one or more of the above listed background areas.

The procedure for accomplishing this type of review will be the same as indicated in Section A. of this SOP.

C. Requests for Positions Not Listed in Attachment "A":

The job position classifications listed in Attachment "A" which would warrant a background investigation is by no means all inclusive. Other positions not listed may be reviewed for approval by the Director, Office of Security and Safety Services, on a case-by-case basis. A Bureau Director or above may request that an employment background investigation be done on any job position which he/she deems justifies this procedure.

D. Investigation:

An investigator assigned to the Investigations Section, Office of Security and Safety Services, will be assigned to conduct the various inquiries associated with the case. Upon completing the research aspects of the case, the investigator will prepare a report of investigation or summary of his/her findings and forward this information to the Director, Office of Security and Safety Services.

The Director, Office of Security and Safety Services, will notify the requesting manager and the Employment Unit, Human Resources Division, if applicable, of the availability of the completed employment background report for review.

Attachments

Distribution List:

MASTER VOLUME LIST:

General Manager's Office
Internal Audit Office
Secretary's Office
Human Resources Division

OTHER DISTRIBUTION:

Deputy General Manager for Administration
Deputy General Manager for Operations
Deputy General Manager for Planning, Programs, and Policy
General Counsel
Office of Budget & Financial Planning
Office of Engineering and Programs
Administrative Services Bureau
Customer Affairs Bureau
General Services Bureau
Treasury/Finance Bureau
Office of Communications
Construction Bureau
Maintenance Bureau
Operations Bureau
Planning and Design Bureau
Office of Security and Safety Services
Office of Minority Business Enterprises
All Division Managers
All Section Heads

JOB CLASSIFICATIONS

General Manager
 Chief Administrative Officer
 Chief Operating Officer
 General Counsel
 Associate General Counsel
 Director, Office of Budget and Financial Planning
 Internal Audit Manager
 Bureau Director
 Director, Communications
 Division Manager, Accounting
 Division Manager, Financial Operations
 Division Manager, Human Resources Division
 Division Manager, Information Systems
 Division Manager, Materials and Services
 Division Manager, Procurement
 Division Manager, Regulatory Compliance
 Section Head, Applications Software
 Section Head, Buildings and Grounds
 Section Head, Disbursements Accounting
 Section Head, General Accounting
 Section Head, Revenue
 Section Head, Systems Operations
 Supervisor, Payroll
 Supervisor, Revenue
 Supervisor, Warehousing
 Accountants
 Supervisor, Data Center Operations
 Supervisor, Network Operations
 Director, Investments/Funding
 Director, Security and Safety Services
 Financial Planning Manager
 Head Cashier
 Internal Auditors
 Internal Investigator
 Investments/Grants Administrator
 Supervisor, Database Operations
 ISD Security Administrator
 Procurement Manager
 Retirement and Investments Analyst
 Senior Internal Investigator
 Cashier Clerk
 Code Enforcement Inspection Manager
 Inspector, Code Enforcement
 Safety Manager
 Security Operations Manager

ATTACHMENT A



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Sweitzer Lane • Laurel, Maryland 20707-5902 (301)206-8000 • 1(800)828-6439 • TTY:(301)206-8343

AUTHORIZATION FOR RELEASE OF PERSONAL INFORMATION

I, _____, do hereby authorize a full disclosure of all records, or any part thereof, concerning myself, by and to the WSSC, whether the said records are of a public, private or confidential nature.

The intent of this authorization is to give my consent for full and complete disclosure of the records of (1) educational institutions; (2) commercial or retail credit agencies (including credit reports and/or ratings); (3) medical and psychiatric treatment and/or consultation; (4) employment and pre-employment records, including background reports, efficiency ratings, complaints or grievances filed by or against me, and salary records; (5) complaint, arrest, trial and/or convictions for alleged or actual violations of law, including criminal and/or traffic records; (6) complaints of a civil nature made by or against me, wheresoever located, and to include the records and recollections of attorneys at law, or of other counsel, whether representing me or another person in any case in which I presently have, or have had an interest.

I reiterate, and emphasize that the intent of this authorization is to provide full and free access to the background and history for the specific purpose of pursuing a background investigation which may provide pertinent data for the WSSC to consider in determining any suitability for employment. It is my specific intent to provide access to personal information and is not intended to deny access to any records not specifically identified herein.

I agree to indemnify and hold harmless the person to whom this request is presented and his agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or by reason of complying with this request.

A photocopy of this release form will be valid as an original hereof, even though the said photocopy does not contain an original writing of my signature, for a period of one year from the date of my signature.

Signature: _____

Witness _____

Address: _____

D.O.B. _____ S.S. # _____

Date of Signature: _____

ATTACHMENT B

BACKGROUND CHECK PROCESS

Language for job announcements

A pre-hire background check will be made on all candidates who are selected for employment. It may include checks of the following: criminal record, driving record, education, professional licensure, and credit history. You may be required to sign a release authorizing the County to obtain your background information.

Instructions for agencies

- 1) **General:** The County will contract with a vendor to obtain information in the following areas: credit report, education credentials, professional licensure, and reference checks. The Personnel Liaison for each agency will be responsible for receiving, reviewing, storing and maintaining information from the vendor. The liaison should evaluate information received and make a determination. If there are any concerns, the liaison should consult the relevant Division Chief or Department Director and/or refer the matter to the Human Resource Department if necessary. Billing should be handled by each agency using the Human Resources Department credit card.
- 2) **Credit check:** Should be done for all employees (permanent, temporary, or contract) with direct or supervisory responsibility for cash handling, cash posting, cash operations or similar functions. Should be done pre-hire and thereafter, every 2 years.
- 3) **DMV report:** Conduct pre-hire checks and annual rechecks on all non-CDL and non-Public Safety employees who are regularly required to drive a vehicle on County time. Agencies should continue to work through OSS.
- 4) **Education verification (hard degree requirement) and professional license check:** Agencies will check as part of reference checking process. Should be done at Supervisor's discretion for non-hard degree requirement.
- 5) **Fingerprinting:** See separate document on fingerprinting process.

Reference Checking - General Guidelines

- ◆ Keep in mind that State and Federal civil rights laws and regulations prohibit inquiries into the following areas of the candidate's background: place of birth, race, ancestry, national origin or nationality, religious denomination or affiliation, marital status, general military experience (type of discharge), and medical history. Please note that discussion of these topics constitute unlawful pre-employment inquiry and may not be pursued during the reference check.
- ◆ It is important to do reference checks on County employees as well as outside candidates.
- ◆ Explain to the reference your intent and how long the questions will take.
- ◆ If the candidate has signed a release, you should inform the reference and offer to fax a copy. This would possibly encourage more answers from the reference.

- ◆ Describe the duties of the job to the reference then make sure all the questions are job related.
- ◆ Use a list of prepared questions to avoid getting side-tracked and to ensure consistency and reliability. Feel free to ask follow-up questions to clarify information given.

Sample Questions

The type of questions asked will be based on the job requirements of each position.

The following 8 questions are typically the minimum asked:

- a) Please verify the dates of employment: from _____ to _____.
- b) What type of work did he/she do? What was his/her title?
- c) What were his/her reasons for leaving the job?
- d) What was his/her last salary?
- e) Would you rehire him/her?
- f) Who else should I talk to about the candidate's work record?
- g) Has disciplinary action ever been taken against the candidate?
- h) Did the candidate abide by the attendance policy at your organization?

Pick and choose from the following sample questions:

Interpersonal

On a scale of 1 to 5, please rate the candidate's ability to get along with co-workers.

Describe the candidate's general reputation among co-workers and supervisors.

Initiative

Does the candidate require the supervisor to assign tasks regularly or does the candidate seek work on his/her own?

Does the candidate initiate new ideas, responsibilities, or projects?

Flexibility

On a scale of 1 to 5, please rate the candidate's ability to adapt to changing work priorities with very little notice.

On a scale of 1 to 5, please rate the candidate's ability to adapt to new or changing work conditions.

Judgement

Please rate the candidate's ability to make decisions on the job (scale of 1 to 5).

Describe a difficult situation the candidate had to make while working for you. What was the outcome?

Productivity

Can the candidate prioritize effectively without direction?

Does the candidate meet required deadlines? If no, please explain any problem with deadlines.

How does the candidate's productivity compare to others on the job?

Supervisory Skills

How many employees does the candidate directly supervise? Indirectly supervise?

Describe how the candidate assigns tasks/responsibilities.

Leadership

Is the candidate able to handle making unpopular decisions?

Can you remember a time when the candidate was able to motivate someone to complete a disagreeable task?

Customer Service

On a scale of 1 to 5, please rate the candidate's ability with difficult customers.

Describe a situation when the candidate went "beyond the call of duty" for a customer.

Communication

Has the candidate given formal presentations to groups?

Please rate the candidate's performance in giving a formal presentation to a group (scale of 1 to 5).

What does the candidate write on the job (press releases, memos, reports etc.)?

On a scale of 1 to 5, please rate the candidate's writing skills?

General

What are the candidate's strengths?

What does the candidate need to improve?

Utilizing information obtained from the reference check

1. Do not accept all the information at face value. Personality conflicts and organizational culture may inappropriately influence responses.
2. It is best to use the information taken from a combination of different methods to make an overall assessment, e.g. tests, interviews and reference checks.
3. If you are in doubt about a candidate's qualifications, be sure to check other references.

Updated 6-28-02

Criminal History Background Check Procedure

Effective July 1, 2002, Arlington County Government is authorized to fingerprint:

- All new employees hired into permanent positions
- All current County employees who move into new positions (promoted, transferred or assigned after July 1, 2002) that will require them to either:
 1. Work with children, elderly or persons with disabilities
 2. Perform financial or payroll work or have access to these systems, or
 3. Have access to other confidential or sensitive information.
- All temporary and contract candidates hired in positions that either:
 1. Work with children, elderly or persons with disabilities
 2. Perform financial or payroll work or have access to these systems, or
 3. Have access to other confidential or sensitive information.

Fingerprinting Procedures

1. The HR Liaison shall obtain a supply of fingerprint cards from Sherry Williams, Employee/Management Relations, Human Resources Department, x3476.
2. Each fingerprint card already has the required information pre-printed on the card (**See attached Sample #1 – Fingerprint Card**) Specifically, only the sections “Employer and Address, Reason Fingerprinted, Miscellaneous No, and ORI sections are pre-printed. This is the only information required to be on the fingerprint cards before you give it to the new employee/candidate.
3. Two (2) fingerprint cards must be placed inside a legal sized envelope. (**See attached Sample #2 – with routing label pre-printed on the envelope**) (Do not bend cards. Do not seal the envelope.) ****You must order the pre-printed legal sized routing envelopes from the Office of Support Services (OSS) Stores, x3959. Use the In-Stock Requisition Form indicating Stock #2143. The envelopes are provided in sets of 50 only.**
4. Prepare the memo addressed to the Sheriff’s Office (**See attached Sample #3 – Memo to Sheriff’s Office**). On the memo where required, fill in the employee’s name to be fingerprinted. Place the memo in the legal sized envelope with the fingerprint cards. Do not seal the envelope.
5. Provide the new employee/candidate with the “New Employee/Candidate Instruction Sheet” (**See Sample #4 – Instruction Sheet for Employee/Candidate**). Instruct the new employee/candidate to hand carry the envelope to the Sheriff’s Office and after being fingerprinted, the technician will securely seal the envelope. The new employee is instructed to hand carry the fingerprints in the securely sealed envelope to the Human Resources Department, Courthouse Plaza, Suite 511, Attention Sherry Williams. (As indicated on the routing label) and leave the envelope at the front desk of HRD.
6. E-mail Sherry J. Williams with the name(s) of the person(s) to be fingerprinted so they can be tracked through the process. (Please advise if prints are for an out-of-state person and should be held pending final offer and acceptance.)

APPLICANT		LEAVE BLANK		TYPE OR PRINT ALL INFORMATION IN BLACK		FBI		LEAVE BLANK	
SIGNATURE OF PERSON FINGERPRINTED		LAST NAME <u>NAM</u>		FIRST NAME		MIDDLE NAME			
RESIDENCE OF PERSON FINGERPRINTED		ALIASES <u>AKA</u>		O R I		VA 920530Z CO DEPT HUMAN RES ARLINGTON, VA		DATE OF BIRTH <u>DOB</u> Month Day Year	
DATE		CITIZENSHIP <u>CTZ</u>		SEX		RACE		PLACE OF BIRTH <u>POB</u>	
EMPLOYER AND ADDRESS		YOUR NO. <u>OCA</u>		EYES		HAIR			
Ms. Sherry Williams 2100 Clarendon Blvd., Suite 511 Arlington, VA 22201		FBI NO. <u>FBI</u>		WGT		HGT		LEAVE BLANK	
REASON FINGERPRINTED		ARMED FORCES NO. <u>MNU</u>		CLASS		REF			
Arlington Co. Applicant Virginia Code 15.2-709.1		SOCIAL SECURITY NO. <u>SOC</u>							
		MISCELLANEOUS NO. <u>MNU</u> A0816							
1. R. THUMB		2. R. INDEX		3. R. MIDDLE		4. R. RING		5. R. LITTLE	
6. L. THUMB		7. L. INDEX		8. L. MIDDLE		9. L. RING		10. L. LITTLE	
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY				R. THUMB		RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY			

**Please Hand Carry To:
Human Resources Dept.
Courthouse Plaza, Suite 511
Attn: Sherry Williams**

Unsealed 9" X 12" Envelope to be Given to Employee

Sample #3

**ARLINGTON COUNTY, VIRGINIA
INTER-DEPARTMENTAL MEMORANDUM**

(Date)

TO: Sheriff's Office

FROM: (Designated Department Person)

SUBJECT: Fingerprinting for National Criminal History Record Check

Effective July 1, 2002, the Code of Virginia, Section 15.2-709.1, authorizes Arlington County Government to do a fingerprint based criminal history record check for applicants who accept employment or candidates considered for employment with Arlington County Government. All permanent new hires and certain temporaries shall be fingerprinted. Prints will be forwarded, by Sherry J. Williams, Human Resources Department, through the Central Criminal Records Exchange (CCRE) to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information.

The Arlington County Sheriff's Office is being requested to fingerprint these individuals. In the attached envelope there are two (2) fingerprint cards for the individual listed below. Once the candidate has been fingerprinted, place the fingerprint cards inside the envelope provided, securely seal the envelope and instruct the candidate to return the securely sealed envelope to Sherry Williams, Human Resources Department, 2100 Clarendon Boulevard, Suite 511.

The fee for fingerprinting two (2) cards per candidate should be charged to accounting code # 001.071.CHRC.0240.C1. Thank you for your assistance.

Applicant to Be Fingerprinted:

Sample #4

New Employee and/or Candidate Instruction Sheet for Fingerprinting

As part of the hiring process you are required to be fingerprinted.

- Hand carry the envelope to the Sheriff's Office located on the 9th Floor of the Courts/Police Building, 1425 N. Court House Road, Suite 9100. **You must bring photo identification (driver's license, DMV issued ID, passport)**
- Fingerprints are taken only Monday through Friday from 1:30 pm to 4:00 pm.
- After completing the fingerprint process you will be given a sealed envelope which must be hand carried to the Human Resources Department, Courthouse Plaza, 2100 Clarendon Blvd, Suite 511, Attention: Sherry Williams. Give the envelope to the receptionist at the front desk in the Human Resources Department.
- If you have any questions regarding this process please contact the HR Liaison in your department.

Section 3-1-23. Criminal history record check and fingerprinting required.

(a) The Board of Supervisors of Fairfax County, Virginia, hereby finds that it is necessary in the interest of public welfare and safety to determine whether the past criminal conduct of a person with a conviction record applying for initial employment in, lateral transfer to, or promotion or demotion to, a position in either the competitive or exempt service in any of the following classes and class series of employees would be compatible with the nature of the employment:

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- (1) social worker;
- (2) probation counselor;
- (3) mental health therapist;
- (4) mental health/mental retardation residential therapist;
- (5) juvenile detention worker;
- (6) outreach worker;
- (7) substance abuse counselor;
- (8) day care center teacher;
- (9) day care center assistant teacher;
- (10) day care center aide;

(11) positions in the following classes or class series in the Department of Housing and Community Development located in those divisions or organizational elements which are responsible for property maintenance, management or repair or for the administration of housing subsidies and whose duties require entrance into persons' residences on a regular basis:

- (A) housing/community development property management supervisor;
- (B) assistant maintenance superintendent;
- (C) senior mechanical systems supervisor
- (D) refrigeration & air conditioning supervisor;
- (E) senior maintenance supervisor;
- (F) maintenance supervisor;
- (G) engineer;
- (H) carpenter;
- (I) electrician;
- (J) painter;
- (K) plumber;

- (L) material requirements specialist;
- (M) locksmith;
- (N) air conditioning equipment repairer;
- (O) general building maintenance worker;
- (P) maintenance trade helper;
- (Q) housing manager;
- (R) warehouse worker/driver;
- (S) storekeeper;
- (T) housing/community developer;
- (U) housing services specialist;
- (V) facility attendant;
- (W) human services coordinator;
- (X) human service worker;
- (Y) management analyst;
- (Z) administrative aide;

(12) any other positions where the employee is responsible for the health, safety, and welfare of the mentally or physically impaired, minors, the elderly, or other persons unable to care for themselves, including, but not limited to, such positions in the Park Authority, the Department of Community and Recreation Services, and the Reston and McLean Community Centers; and

(13) any other position where the employee as a part of his or her duties must enter persons' residences.

It is the intent of the Board in enacting this Section to comply with the provisions of *Code of Virginia*, 1950 subsection 19.2-389(A)(7), as amended, and to be entitled to access criminal history record information maintained in the Virginia Central Criminal Records Exchange in accordance with that statute.

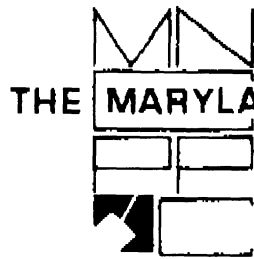
(b) As a condition of **employment** of any person in a position in any of the classes or class series of employees described in subsection (a) of the Section, whether by initial appointment, transfer, promotion, or demotion, in either the competitive or exempt service, the County of Fairfax shall require any individual who is offered such a position to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the person's fingerprints to the Central Criminal Records Exchange for the purpose of obtaining criminal history record information regarding such person.

(c) With respect to direct consumer care positions under the Fairfax-Falls Church Community Services Board, the provisions of this section are in addition to, and not in derogation of, the provisions of *Code of Virginia*, 1950, as amended, subsections 19.2-389(a)(25) and 37.1-197.2.

(d) The Central Criminal Records Exchange, upon receipt of a request pursuant to this Section, shall report to the Human Resources Director

whether or not the person has ever been convicted of murder, abduction for immoral purposes as set out in *Code of Virginia*, subsection 18.2-48, sexual assault as set out in Article 7 (subsection 18.2-61 et seq.) of Chapter 4 of Title 18.2, pandering as set out in subsection 18.2-355, crimes against nature involving children as set out in subsection 18.2-361, taking indecent liberties with children as set out in subsection 18.2-370 or subsection 18.1-370.1, abuse and neglect of children as set out in subsection 18.2-371.1, including failure to secure medical attention for an injured child, obscenity offenses as set out in subsection 18.2-374.1 or subsection 18.2-379, crimes against the person as set out in Chapter 4 (sub-section 18.2-30 et seq.) of Title 18.2, possession or distribution of drugs as set out in Article 1 (subsection 18.2-247 et seq.) of Chapter 7 of Title 18.2, crimes against property as set out in Chapter 5 (subsection 18.2-77 et seq.) of Title 18.2, use of a firearm in the commission of a felony as set out in subsection 18.2-53.1, or an equivalent offense in another state. If, after receiving such information from the Central Criminal Records Exchange, the Human Resources Director is considering disqualifying such person based upon such information, he or she shall provide a copy of the information obtained from the Central Criminal Records Exchange to the person, inform him or her of his or her right to request a copy of his or her criminal history record information from the Central Criminal Records Exchange and provide him or her with the opportunity to make a response concerning the accuracy of the information provided and whether such information should disqualify him or her from the position under consideration. The information provided to the Human Resources Director by the Central Criminal Records Exchange and the person under the provisions of this Section shall only be used for the purpose of determining the person's fitness for **employment** in one of the positions described in this Section. Such information shall not be further disseminated except in conjunction with any administrative or legal proceeding challenging the denial of the **employment** based upon such information. In any such proceeding under the provisions of this Article or the Personnel Regulations, the record provided by the Central Criminal Records Exchange shall constitute prima facie evidence of conviction. (48-92-3; 12-99-3.)

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

Administrative Procedures 03-03, Recruitment and Selection

Section IV, (E)

Criminal History Record Check

May 21, 2003

Pursuant to state law, individuals selected to fill certain positions are required to submit to a criminal history record check as part of the employment process. The Personnel Manager is responsible for maintaining the procedure for checking criminal history records to determine the suitability of applicants for employment as required by law, or as determined by the Executive Director. This procedure is administered by the State of Maryland's Criminal Justice Information System (CJIS). Depending on the specific position, background criminal checks may be required on a pre offer or on post offer basis.

A check for criminal history is specifically required for all Commission employees, paid or volunteer, who care for or supervise children at a Commission facility, or have access to a child who is cared for or supervised at a Commission facility. This requirement applies to all Merit and non-Merit employees (contract; full-time; part-time; appointed officers; and volunteers, including minors).

Applicants for Park Police and for Park Police dispatchers may be required to undergo more extensive pre-offer background reviews.

A check for criminal history records may also be required for employees who handle confidential information, and other employees as determined by the Department Head and the Personnel Manager. Reports on criminal history records are retained by the Department of Human Resources and Management.

The Process:

1. Prior to the commencement of employment (or no later than the first day of work) the employee must complete the background check documentation kit, which includes an application for criminal background check and fingerprint card. A member of the Park Police Division or other qualified individual will fingerprint the candidate and complete the fingerprint card, which the candidate must sign.
2. The completed documentation kit is routed through the Park Police Division for review and is then forwarded to the CJIS. Unacceptable or incomplete documents are returned to the originator. Park Police staff provides training for this process.

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3. The originating department must provide the Commission's area identification code on the CJIS acknowledgment cards. Processed inquiries returned by the CJIS are easily identified and returned to appropriate department by using the area identification code. The employing department retains the acknowledgment cards. The originating department must also include the CJIS authorization number of 9000033280 on all background check materials as requested. The Personnel Manager must be notified whenever this authorization number is utilized. A list is provided to the Human Resources Division.
4. The results of the criminal history record check inquiry are returned by the CJIS to the Human Resources Division for review, processing, and retention. The employee records are noted of the completed check. Reports containing criminal activity are reviewed by the Personnel Manager, General Counsel, and Park Police Commander, as appropriate. The employing manager is advised only if any personnel action will be taken. The Park Police Division assists with law enforcement and security.
5. The CJIS bills the Commission for the background checks processed. In conjunction with the hiring department, the Recruiting and Selection Services staff will sort the invoices by department. The hiring department will be advised of the required payment. The hiring department is responsible for preparing a check request and processing the payment to the State. The Personnel Manager's office will be provided with copies of the check requests. To ensure that the department receives the appropriate bill, the names of all candidates processed by the department using the CJIS authorization number of 9000033280 must be send to the Personnel Manager within thirty (30) calendar days of forwarding the completed documentation kit to CJIS.
6. The CJIS reports are retained alphabetically by year in the Recruiting and Selection Services Office and archived as appropriate.

Information obtained from the criminal history records check is confidential and may be disseminated only to individuals designated by the Personnel Manager who are involved in the hiring process.

Although some candidates may begin employment prior to the completion and clearance of the criminal history records check, falsification, misrepresentation, or failure to provide complete information by an applicant is cause for immediate termination of consideration for employment, or immediate termination if employment has begun. The Personnel Manager will notify the appropriate Department Head if false employment information was provided. Likewise, the Department Head is required to notify the Personnel Manager upon discovery of falsified employment data, and to take appropriate corrective action.