



### 3.11 CRIMINAL CONVICTION CHECKS

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#### Criminal History Checks

In order to protect its interest and the wellbeing of its employees and the public, the City of Portland will conduct criminal conviction checks on those candidates selected for certain positions. This may include promotions and transfers to certain positions as well. The criminal conviction check is intended to identify persons who have demonstrated unsafe, threatening or illegal behaviors and assess their fitness for complying with job requirements.

A criminal conviction check will also be conducted for individuals who have disclosed potentially job-related convictions on the City application or during the interview, or who have been reported as potentially having job-related convictions by previous employers during the course of employment verification or reference check.

Individuals who do not disclose all required convictions when requested may be denied employment for falsification of the application or, if the omission is discovered after employment, may be subject to discipline up to and including termination.

All City employees are required to notify their supervisor of a conviction of any crime, ~~that impairs the ability of the employee to perform their work duties and responsibilities.~~

Any criminal history obtained during the hiring process must be in accordance with Portland City Code 23.10, Removing Barriers to Employment and accompanying Administrative Rules. The applicant's criminal history may be obtained or considered only after a conditional offer of employment has been made to the applicant.

Other than for the City's public safety bureaus and employees of other bureaus who, due to the nature of their work, require a background investigation pursuant to Human Resources Administrative Rule 3.16, it is prohibited to consider the following: (a) any arrest history that did not lead to conviction or juvenile adjudication unless the case is unresolved; (b) any conviction history or arrest that has been judicially voided or expunged; (c) any criminal history that was resolved through the completion of a diversion or deferral of judgment program for offenses not involving physical harm or attempted physical harm to a person.

#### Reviewing Conviction Records

Restrictions in this rule do not apply to the City's public safety bureaus and employees of ~~bureaus~~ who, due to the nature of their work, require a background investigation pursuant to Human Resources Administrative Rule 3.16. ~~Except as allowed under a background investigation as noted above, hiring authorities in bureaus other than public safety bureaus are only allowed to consider convictions..~~ Possessing a criminal conviction will not necessarily bar an employee from hire with the City of Portland. Hiring authorities shall ensure that any decision not to hire,

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promote or transfer due to a criminal conviction is job-related and consistent with business necessity. When reviewing a conviction record, the hiring authority shall:

1. evaluate the nature, gravity and frequency of the offense;
2. consider the duties of the position the employee holds or is applying for;
3. consider the age of the individual at the time of conviction;
4. consider the time that has passed since the conviction;
5. consider rehabilitation, if any;
6. evaluate the employee's entire work record or the applicant's work qualifications in total rather than only one aspect of individual's history.

An applicant who is still on probation or parole may be denied employment based on the above facts. If a pre-employment arrest becomes a conviction after hire, it will be evaluated by the hiring authority.

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**Expunged Record**

State law allows the removal of a person's juvenile record after a hearing by the juvenile court. Records expunged in this manner may not be used to disqualify an individual from an employment opportunity. Once any expunction order has been issued, the individual's record must be treated as if it never existed. An applicant who denies having a conviction record on an application form cannot be denied an appointment or later terminated for misrepresentation if the record has been legally expunged.

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**Procedure**

Criminal conviction checks are the responsibility of the hiring authority. The hiring bureau is responsible for the cost of obtaining the criminal conviction check. If an outside agency conducts the criminal records check it must comply with the Fair Credit Reporting Act (FCRA). Consult with the City Attorney's Office concerning the FCRA requirements.

For positions requiring a criminal conviction check, candidates will be instructed to complete the [Criminal Records Check Request Form](#) authorizing the City of Portland to conduct the conviction record check. The hiring authority will review the conviction record to determine job relatedness, using the factors listed above.

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**Employment Contingent on Results**

If a bureau is conducting a criminal conviction check, the bureau may make a preliminary offer to the selected candidate; however, any offer must be conditional depending on the results of the conviction check.

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**Background Investigations**

Applicants for certain positions will be subject to a background investigation that reviews an applicant's criminal history as well as other relevant information concerning the applicant's fitness for the particular position. See [Administrative Rule on Background Investigations](#).

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**Administrative Rule  
History**

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Adopted by Council March 6, 2002, Ordinance No. 176302  
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Revised October 15, 2002  
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Proposed Revisions