

NO. 17-0891

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING THE POLICY ON)
CONDUCTING CRIMINAL BACKGROUND)
CHECKS AT SPOKANE COUNTY)

RESOLUTION

WHEREAS, pursuant to the provisions of the RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington ("Board" or "Board of County Commissioners") has the care of County property and the management of County funds and business; and

WHEREAS, it is important to hire employees based upon their knowledge, skills and abilities; and

WHEREAS, WAC 162.12.140 currently allows employers to ask about convictions occurring in the past ten years; and

WHEREAS, currently with this knowledge, a candidate (excluding law enforcement) may be unilaterally eliminated from the application process based on a conviction without due consideration of the applicant's knowledge, skills and abilities, and

WHEREAS, applicants are given a contingent hire are subject to successful completion of a criminal background check especially for positions in Spokane County that work with children, vulnerable adults, money or other items of value, and

WHEREAS, only 4% of the nearly 14,000 applications processed by the Human Resources Department in 2016 were eliminated due to a conviction occurring within the last ten years; and

WHEREAS, the County seeks to assist the rehabilitation of people with records and ensure healthier, safer communities; and

WHEREAS, people with records represent a workforce that have skills to contribute and a desire to add value to their community; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Spokane County, Washington, pursuant to the provisions of RCW 36.32.120(6) and RCW 9.41.300, that the Board does hereby affirm the adoption of the policy pertaining to Criminal Background Checks as recommended by Human Resources and affirmed by Risk Management giving persons with prior convictions a fair chance for employment within Spokane County.

PASSED AND ADOPTED this 24th day of October, 2017.



ATTEST:

GINNA VASQUEZ
Ginna Vasquez, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

AL FRENCH
AL FRENCH, Chair

JOSH KERNS
JOSH KERNS, Vice-Chair

MARY KUNEY
MARY KUNEY, Commissioner

Criminal Background Check Policy

I. Purpose

To ensure the hiring practices of Spokane County provide applicants with arrest and conviction records an equal opportunity to obtain employment with the County. This policy eliminates from the application any self-reporting questions pertaining to an applicant's criminal record in the past ten years. The purpose is to promote the hiring of prospective employees based upon their knowledge, skills and abilities rather than unilaterally decide the disposition of an applicant based upon a conviction.

II. Scope

This policy applies to all departments of Spokane County. The following departments are excluded from this policy by state and federal laws: Sheriff's Department, Detention Services, Prosecuting Attorney, Public Defender's Office, Superior Court, District Court and Juvenile Court. Positions that are limited commission are also excluded from this policy.

III. Definitions

"Hiring Manager" shall mean the head of a department authorized to employ others on behalf of the County, or designated management representative. The term includes and can be used interchangeably with department head, department director, elected official, manager or supervisor.

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

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

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

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

IV. Policy

Spokane County does not obtain information or inquire about an applicant's criminal record until after the County has determined that the applicant is otherwise qualified for the position.

Typically, this is determined by whether an applicant meets the minimum requirements for the position.

The employment application no longer has language that pertains to an applicant's criminal record in the past ten years, e.g., *"Have you been convicted by a court of law within the past ten years?"*

For departments that are exceptions to this policy, other arrangements will be made to determine criminal background activity that are within the confines of state and federal law, i.e. supplemental questions or additional documentation.

When a Hiring Manager has selected a candidate to hire, an offer of employment may be contingent upon the successful completion of a criminal background check. Criminal background checks are conducted on candidates for positions in the County including positions that work with children, vulnerable adults, money or other items of value, law enforcement/corrections or as governed by state and federal law.

Nothing in this policy is intended to supersede applicable federal and state laws relating to criminal background checks.

V. Procedure

Human Resources will obtain a criminal background check report only with written permission of the applicant. Records received pursuant to the criminal background check shall be used only as part of the employment process and will be maintained in the employee's Official Personnel File upon hire or in the recruiting file if the candidate is not hired. The Hiring Manager shall either: (a) extend the job offer before the criminal background check is conducted, with the job offer being contingent on the results of the background check report; or (b) conduct a supplemental examination that results in information about an applicant's criminal background for the last ten years prior to making a job offer.

When Human Resources receives conviction information for an applicant, the assigned staff member will determine the relation of the conviction to the position sought. S/he will review the requirements of the job, the background check report and any relevant information in determining whether the conviction directly relates to the position of employment sought.

If Human Resources determines that the information disqualifies the candidate using criteria below, they shall notify the Hiring Manager specifying how the conviction information directly relates to the position of employment. Before any decision is made not to hire a candidate based on conviction information, the candidate will be notified in writing by the Human Resources Department of the proposed action to not offer the position based on the conviction report, given a copy of the report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act". The applicant will have ten (10) working days to respond to the proposed action after receiving the written notification of the action with any information rebutting the basis for

the adverse action, including challenging the accuracy of the information and submitting mitigation or rehabilitation evidence. HR shall hold the position open until it makes the final employment decision based on an individualized assessment of the information submitted by the applicant and the factors recommended by the EEOC.

After the ten working day period is over, the Human Resources Director will make the final determination as to whether such information disqualifies the external applicant for employment and shall notify the Hiring Manager. Should the County reject the applicant due, partially or solely, to the finalist's prior conviction of a crime, Human Resources shall notify the finalist in writing of (1) the name, address, and phone number of the outside agency that supplied the report; and, (2) a statement that the outside agency supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; (3) a notice of the applicant's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional, free consumer report upon request.

VI. CRITERIA

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

For positions handling cash or cash equivalent, credit card numbers, checks, securities or having access to financial data, bank or investment accounts (e.g. crimes including, but not limited to, the unauthorized control over the property or services of another including theft, counterfeiting, improperly obtaining financial information, forgery, identity theft, robbery and possession of stolen property; other crimes of dishonesty such as false information, criminal impersonation and perjury; and possession, possession with the intent to manufacture, or delivery of a controlled substance.)

For positions as a caregiver for children or vulnerable adults that are not governed by federal or state law (e.g., indecent exposure, rape, indecent liberties, child molestation, custodial sexual misconduct, communication with minor for immoral purposes, sexual exploitation of a minor, kidnapping, harassment, stalking).

For positions that enter private homes or secure areas of businesses as part of their job responsibilities (e.g.-rape, indecent liberties, molestation, custodial sexual misconduct, communication with minor for immoral purposes, sexual exploitation of a minor, kidnapping, robbery, harassment, stalking).

For positions that have regular access to drugs or controlled substances (e.g. possession, possession with the intent to manufacture).

For positions that have access to secure areas restricted to the public and other County employees, such as financial and public safety areas (e.g. theft, receiving stolen property, unlawful issuance of bank checks or drafts, arson, burglary, computer trespass).

For positions involving large volume supply and material handling (e.g. theft, criminal profiteering, bribery, extortion, misusing credit card to secure services).

For positions with access to the following types of data: date of birth, Social Security Numbers, home addresses, driver's license information, medical information, etc. (e.g. theft, counterfeiting, improperly obtaining financial information, forgery, identity theft, robbery and possession of stolen property; other crimes of dishonesty such as false information, criminal impersonation and perjury; and possession, possession with the intent to manufacture, or delivery of a controlled substance).