

EMPLOYMENT CRIMINAL HISTORY CHECKS

PURPOSE: To inform county departments and applicants of the County's use of background investigations and criminal history checks as a condition of employment, or service as a volunteer, at the County.

SCOPE: This policy applies to employees and applicants for employment as well as specified volunteer positions. Employment includes regular, temporary, unclassified and contract employment. Criminal history checks may be incorporated as part of the employment process for positions, classifications or departments approved by the Department of Employee Services.

POLICY STATEMENT: The use of background checks, including criminal history checks, as a component of the overall selection process shall be utilized by Clackamas County for employment in certain positions, classifications or departments. The purpose of conducting criminal history checks is to ensure the safety and security of the County by identification of persons who have demonstrated unsafe, threatening or illegal behaviors through criminal activity, to thoroughly assess the applicant's fitness for service in the applicable job, and to comply with applicable laws and regulations requiring such checks for employment.

Background:

The County's Department of Employee Services shall maintain a list of positions, classifications, or departments in which a criminal history record check is a condition of employment (see Appendix A). The requirement for successfully completing a criminal history check shall be included on all affected classification specifications and job announcements. All applicants being considered for initial employment or promotion to one of the affected positions, classifications or departments shall be required to authorize the criminal history check as a condition of being considered for employment.

Department Directors may request new positions or classifications become subject to a criminal history check by completing the attached "Department Request to Conduct Criminal History Checks" (Appendix C) and return to the Department of Employee Services for consideration. The Director of Employee Services must approve any additions to the list of positions requiring such checks and approve of the type of check that is conducted. Such approval should be obtained prior to recruitment so the requirement can be included on job announcements and advertisements.

A criminal history check is not an appropriate substitute for a comprehensive employment reference check. Hiring managers are encouraged to conduct reference checks on all applicants under consideration for employment. Additional information on reference checks is located in EPP # 25, Reference Checks.

Type of Criminal History Check

The type of criminal history or background check will determine the appropriate process to follow and the authorized agency to complete the check.

A: Comprehensive Background – Employed directly by Criminal Justice Agencies

Applicants in the following departments will submit to a background investigation* or criminal history check under departmental rules separate from this policy:

1. Sheriff's Office
2. Central Communications (C-Com)
3. District Attorney's Office
4. Juvenile Department
5. Community Corrections
6. Emergency Management

These County Criminal Justice Agencies may only conduct employment related criminal history checks for applicants/employees directly employed by their own department. Criminal Justice Agencies are to follow all relevant policies and procedures for conducting checks for employment purposes utilizing Criminal Justice Information Systems (CJIS). These policies govern what information may be used for consideration of employment.

* In addition to criminal history obtained from CJIS systems, these positions may be subject to a comprehensive background investigation which explores additional aspects of an applicant's work history and personal references in order to determine suitability for employment.

B. Criminal Justice Information Systems (CJIS) Security Check

County employees that have authorized access to FBI CJIS systems or who are provided unescorted access to any physical area that contains terminals or printed CJIS documents are required to submit to a national fingerprint records check under the CJIS Security Check policy. In addition to employees that are directly employed in a criminal justice agency listed in Section A, this requirement includes the following County personnel:

1. Technology Services staff that have access to systems or who work in areas where CJIS systems are used.
2. Facilities Management staff that have access to county facilities that house CJIS systems (includes all division staff that have key access to buildings with CJIS systems and janitorial staff who clean areas where CJIS terminals are located, unless escorted by authorized personnel who have been fingerprinted).
3. DHS employees that either conduct CJIS (LEDS) checks or are located in an area containing accessible CJIS terminals.
4. Other employees identified as having access to CJIS systems or areas where CJIS systems or printed data from such systems is accessible.

CJIS checks for non-criminal justice agencies are conducted by the Oregon State Police (OSP) under policies governing CJIS Security Checks. Employees/applicants subject to this check must be fingerprinted at an approved agency and return a fingerprint card to their department/hiring manager. The department manager is responsible for sending the fingerprint card to OSP Identification Services for processing. OSP is responsible for rendering a decision on security access to CJIS systems and unescorted access to facilities. If access is denied, the applicant or employee may be denied employment if access is an essential function of the position and escorted access is not a reasonable option. Denial of employment should be reviewed through the Department of Employee Services prior to recalling a conditional offer of employment. See EPP 26 for policy on Finding an Applicant Not Suitable.

See Appendix B for further information on CJIS Security Check Process. For further explanation of process and OSP forms used to submit fingerprints please see: <http://egov.oregon.gov/OSP/ID/cjis.shtml>

C. Criminal History Checks under Oregon Administrative Rules (OAR) for Human Services

Employees in certain divisions and/or programs within the Department of Human Service are required to comply with ORS 181.537 and OAR 410-007-0200 through 410-007-0380. This rule requires criminal history checks on employees/applicants/volunteers who have contact with vulnerable persons. These checks are conducted at the division level in compliance with rules and procedures established by the State of Oregon Human Resources Division. The divisions of Community Health, Social Services, Community Solutions and the Housing Authority currently conduct checks on employees/applicants/volunteers in these divisions.

Each division has written procedures for conducting criminal history checks and designating authorized person(s) to conduct such checks for employment through the use of the CJIS systems, including the Law Enforcement Data System (LEDS). This authorized designee will also facilitate the sending of fingerprints to the OSP for processing when required.

D. Public Records Criminal History Checks

Employment in departments/positions outside of those listed in Sections A-C above may only conduct criminal history checks within the public record. It is not permissible for a County department that is not covered by sections A-C to ask another County employee with access to a CJIS system to conduct such checks for employment purposes outside of the public record.

Accessing public criminal records are made through the official state bureau for the state in which a check is being requested. For Oregon the bureau is Oregon State Police (OSP). For Washington, the bureau is the Washington State Patrol (WSP). It may be necessary to conduct several public records checks with various state bureaus if the applicant has lived in different states. For each check there is a fee associated with the check and individual state regulations will govern the release of information. DES has a list of state bureaus and can assist departments in conducting public records checks.

A request to incorporate a criminal history check for a position must be pre-approved by the Director of Employee Services prior to a recruitment opening (See Appendix C). Following the recruitment and selection process the following process may be used to request a public records criminal history check:

- Applicants shall complete the “Clackamas County Criminal History Check” form attached to this policy (Appendix D). **IMPORTANT:** Criminal History Checks should be completed prior to finalizing a job offer.
- Applicants subject to a criminal history check are required by law to be informed that such a check is being conducted on them. This form provides both written notification and consent from the applicant to order the check.
- Applicants will be instructed to deliver the original, signed criminal history check form directly to the Department of Employee Services (DES), Attn: Recruitment Manager.
- DES staff will review the applicant’s Background Check Form and employment application for self-disclosed criminal activity (including arrest and conviction records) and determine if there are any identifiable items that would eliminate the applicant from employment

consideration based on self-disclosure.

- DES staff will then order an Oregon Open Records Check from OSP or other state bureau by either Internet or Fax transmission.
- For OSP checks: the identification unit of OSP will email back a response to the DES staff person indicating one of two messages:
 1. "NO RECORD" indicates the applicant has no criminal conviction or any record of an arrest that is less than one year old in which there has been no acquittal or dismissal.
 2. "IN PROCESS" indicates that the applicant has some entry on their record and OSP is sending notification to the applicant. The applicant has 14 days after the notice was sent by OSP to challenge the accuracy of the criminal offender information. If no challenge is received within 14 days, then OSP will deliver the results of the check to the County representative at DES.
- DES will communicate the results of the criminal history records checks to the hiring manager. The hiring manager should utilize this information to extend a job offer, finalize a job offer, or discontinue the selection process with the applicant.

No job offer shall be finalized until the results of the Criminal History Check have been received and communicated to the selecting manager.

Departments may establish their own account with OSP for purposes of checking criminal history on applicants for temporary employees and/or volunteers.

Consideration of Criminal History for Employment

The County's policy in regards to the continued employment, or hiring, of individuals with criminal records considers the individual and the nature of the position. The existence of a criminal record is not, in and of itself, an indication that the person is not capable of performing the job. Refer to Employment Policy and Practice #27: Employment of Persons with Arrest or Conviction Records for the complete County policy on this issue.

Applicants are required to self disclose criminal convictions received during their adult life on their initial employment application. The Department of Employee Services uses this information to determine if the self disclosed conviction would preclude the individual from being employed in the position. For approved positions the selection process may also include one of the types of criminal history checks outlined in this policy as part of the final selection process. The two disclosures should be compared for completeness and honest disclosure. If an applicant did not disclose a conviction at time of application, but one is found during the criminal history record check, the applicant's employment status should be reviewed with the Department of Employee Services.

INTERNET LINKS

County Ordinance (<http://www.co.clackamas.or.us/about/code/Title2.pdf>)
EPP 27 - Employment of Persons with Arrest or Conviction Records

APPENDIX A

Positions, Classifications or Departments with Requirement for Criminal History Check

Departments authorized to conduct background checks on applicants for employment. The type of check indicates what level of check is being performed and whether the check is conducted within their departments, under separate department policy or through DES:

Department:	Type of Check (A-D)
Sheriff's Office	A
All positions subject to background investigation-	
Community Corrections	A
All positions subject to background investigation	
District Attorney	A
All positions subject to background investigation	
Central Communications (C-Com)	A
All positions subject to background investigation	
Juvenile Department	A
All positions subject to background investigation	
Emergency Management	A
All positions subject to background investigation	
Finance	B & D
Finance, Purchasing and Fleet Divisions - some positions approved for public records criminal history checks (D).	
Facilities - all employees subject to CJIS national fingerprint check (B).	
Technology Services	B & D
Identified positions that have access to CJIS systems are required to have CJIS national fingerprint check (B).	
Business and Community Services	D
All positions at Aquatic Park are required to have a national public records check (performed by outside vendor)	
NCPR-Admin, Milwaukie Center, NCPR-Maintenance, County Parks, Property Resources, Forester, Business and Economic Development and Library Network subject to public records check (OSP and other states as needed)	
County Library and Veteran's Services: none at this time	

Department of Human Services	C&D
<p>Community Health (MH and PH), and Social Services: positions subject to ORS 181.537 and OAR 410-007-0200 through 410-007-0380 complete required criminal history checks under State processes.</p> <p>Housing Authority: all employees of HACC are subject to public records criminal history checks through OSP; additional states as necessary will be ordered. Fingerprinting may be requested by HACC. Employees with access to CJIS systems are required to have CJIS national fingerprint check:</p> <p>Community Solutions - all employees of CSCC are subject to public records criminal history checks through OSP; additional states as necessary will be ordered. Fingerprinting may be requested. Some positions subject to Human Services check under vulnerable population statute (type C check)</p>	
Department of Employee Services	D
Some positions approved for public records criminal history checks.	
Department of Transportation and Development	
None	
Water Environment Services	
None	
County Assessor	
None	
County Clerk	D
Some positions approved for public records criminal history checks.	
County Admin/BCC/County Counsel/Community & Legislative Affairs	
Public Records checks authorized on an as needed basis	
Public and Government Relations	
None	
Family Court Services, Law Library, Tourism	
None	

APPENDIX B

CJIS Security Check Process:

- The County maintains a list of employees and positions with unescorted access to CJIS access. Generally these employees are employed in Technology Services, Facilities, and some DHS Divisions. Law Enforcement Agencies perform separate checks that comply with the CJIS policies.
- An Applicant (or employee) with CJIS access is required to go to an approved fingerprinting agency to be fingerprinted. The applicant will be fingerprinted and given a fingerprint card. Approved fingerprint agencies include the Public Safety Training Center (PSTC) (by appointment with associated fees paid by hiring department); or at OSP in Salem, (no appointment needed during M-F hours. OSP does not charge for CJIS checks).
- The applicant or employee returns their fingerprint card to the County manager who will review the fingerprint card, complete the reason (CJIS Security) and fill in the County's ORI #. The manager will also review the Security Clearance Background Request form (available from the OSP website) for completeness and fills in their own contact information (to receive the results).
- County manager sends in fingerprint cards with completed Security Clearance Background Request forms to:

Oregon State Police Identification Services Section ATTN: Records
3772 Portland Rd NE
Salem, Or 97301
- The OSP ISS Records Manager will process the fingerprint card according to the CJIS Security policy and determine if the individual can receive clearance for unescorted access. The OSP Records Manager will email the County Manager noted on the request form as to the determination (i.e. whether the access is approved or denied).
- **OSP is the only approved agency to run CJIS checks for the County's non-criminal justice agencies.** Applicants/employees not employed directly by a county criminal justice agency must run these checks through OSP.

Additional information and authorization forms required for CJIS checks may be obtained through the OSP website:

<http://www.oregon.gov/OSP/ID/cjis.shtml>

This website includes the current CJIS Security Check Procedures as well as the 'Security Clearance Background Request Form' that is completed by both the employee/applicant and the County Manager. This form is to be completed and submitted with the fingerprint card to the OSP address listed above.

APPENDIX C

**Department Request to Incorporate Criminal History Checks
in the Recruitment & Selection Process**

I am requesting the following position(s) or classification(s) include a Criminal History Background Check as part of the employment process for new hires, promotions or transfers. I understand that such a check must be completed prior to finalizing a job offer. This request is subject to approval of the Director of Employee Services.

Classification Title(s)

Specific Positions within Classification (necessary if identifying specific positions within a broader classification)

Department

Division

Type of Check being Requested (select one only – must meet eligibility):

N/A A: Criminal Justice Agency (limited to only employees directly employed by Sheriff, Community Corrections, DA, CCOM, Juvenile).

B: Requires CJIS Security Check (only for positions with unescorted facility access to areas containing CJIS equipment). Explain access to CJIS systems in justification section of form.

C: Background check is mandated by law, regulation, or grant requirement (please attach applicable reference). Include type of check required under regulation.

D: Public records criminal history check (Most positions = any position not subject to types A-C and which is not governed by a specific law or regulation).

Reason / Justification for Requesting Pre-Employment Criminal History Check on Applicants:

Department Director

Date

DES Use Only:

<input type="checkbox"/> Approved. Selection process will include criminal history check as noted above.	<input type="checkbox"/> Not Approved – Selection process will not include criminal history check.
Class specification and job posting must be amended to include this requirement.	

2. Disclosure of Conviction Record

List all convictions for criminal offenses incurred as an adult (other than minor traffic violations) regardless of how long ago. Include military convictions. List any arrest that is less than one year old and/or in which there has been no acquittal or dismissal.

Date of Conviction / Arrest Estimate date if not known	Criminal Offense	Location (City, State)

3. RESIDENTIAL INFORMATION:

CURRENT RESIDENCE: <i>Number & Street</i>				<i>City</i>	<i>State</i>	<i>Zip Code</i>
CURRENT MAILING ADDRESS: <i>Number & Street</i>				<i>City</i>	<i>State</i>	<i>Zip Code</i>
List below all residences – for a minimum of the previous five (5) years. If addresses are unknown, <u>at a minimum include city and state lived.</u> If you need additional space, use supplemental page.						
1. ADDRESS: <i>Street</i>						
City	State	Zip Code	DATES FROM / TO			
2. ADDRESS: <i>Street</i>						
City	State	Zip Code	DATES FROM / TO			
3. ADDRESS: <i>Street</i>						
City	State	Zip Code	DATES FROM / TO			
4. ADDRESS: <i>Street</i>						
City	State	Zip Code	DATES FROM / TO			
Beyond the previous five (5) years, list all States you have lived in as an adult and the approximate years in which you lived there:						
State			DATES FROM / TO			

4. MOTOR VEHICLE RECORD

A. Is your driver's license currently valid? <i>If no, explain fully on a supplemental page.</i>	Yes	No
B. Has your driver's license ever been suspended or revoked? If yes, when and where?	Yes	No

5. CONCLUSION

I hereby certify that all information made in this application is true and correct to the best of my knowledge. I am aware that withholding pertinent information or including information found to be grossly inaccurate will be cause for refusing further consideration of my application. I understand that falsification or misrepresentation of information on this application, or on other documents in connection with my employment with Clackamas County, may result in disqualification from employment consideration and/or termination of employment, regardless of when it is discovered. I understand this is not to be considered as an indication of probable appointment nor an obligation upon the department to make an appointment, but a part of the selection process only. I hereby authorize Clackamas County to conduct a criminal history records check as part of my application for employment.

Signed:

Date:
