



## DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

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# Program Statement

OPI: OIA  
Number: 3040.6E  
Date: March 23, 2011  
Supersedes: 3040.6D (3/09/10)  
Subject: Personnel Security and  
Suitability Investigations

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1. **PURPOSE AND SCOPE.** To establish policy for conducting background investigations within the DC Department of Corrections (DOC).
2. **POLICY.** It is DOC policy to conduct background investigations on applicable individuals by virtue of its responsibility to provide safe, secure care and custody of inmates.
3. **APPLICABILITY.** This directive shall apply to persons being considered for employment; employees occupying positions in the Career Service, Legal Service [under the authority of sections 851 through 862 of the CMPA (2001)], Excepted Service and Management Supervisory Service (MSS); employees whose duties and responsibilities require annual firearms certification; promotion candidates; contract applicants and employees; volunteers; interns and individuals in other employment categories who provide services to DOC including, but not limited to, employees assigned to DOC via a Memorandum of Understanding (MOU), Inter-Agency Personnel Agreement (IPA) or detail.
4. **NOTICE OF NON-DISCRIMINATION.**
  - a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
  - b. The Department of Corrections prohibits discrimination against inmates based on race, religion, national origin, sex, disability or political views in making administrative decisions and in providing access to programs.

5. **PROGRAM OBJECTIVES.** The expected results of this program are:
- a. To provide an effective and fair method of conducting background investigations within the DOC.
  - b. To ensure that each individual is afforded full due process.
  - c. Background investigations will ensure that suitable employees are hired and retained.
  - d. Information related to background investigations and suitability actions will be kept in strict confidence in accordance with this directive and the District Personnel Manual (DPM) Chapters 4 and 31.
  - e. Appropriate action will be taken when background investigations indicate the subject engaged in criminal conduct, other behavior that is a violation of District and/or DOC policy or conduct that interferes with the efficiency or integrity of District government and/or DOC operations.

6. **DIRECTIVES AFFECTED**

- a. Directives Rescinded

None

- b. Directives Referenced

- 1) PS 2000.2 Retention and Disposal of Department Records
- 2) PS 6050.4 Mandatory Employee Drug and Alcohol Testing Program (MEDAT)

7. **AUTHORITY**

- f. Omnibus Consolidated Appropriations Act of 1997; pursuant to 18 U.S.C. § 922(g)(9)
- g. DC Code § 24-211.02 Powers; Promulgation of Rules
- h. DC Code § 24-211.22 Employee Testing
- i. DC Code § 24-211.41 (a) and (b) Authorization of Investigation
- j. DC Code § 1-617.08 Management rights; matters subject to collective bargaining
- k. DC Code § 1-1106.02(b) Disclosure of financial interest
- l. DPM Chapter 4, Organization for Personnel Management
- m. DPM Chapter 8, Career Service

- n. DPM Chapter 9, Excepted Service
- o. DPM Chapter 27, Temporary Assignment of Personnel
- p. DPM Chapter 31A, Records Management and Privacy of Records
- q. DPM Chapter 35, Volunteer Services
- r. DPM Chapter 36, Legal Services
- s. DPM Chapter 38, Management Supervisor Service
- t. DPM Chapter 39, Testing for the Presence of Controlled Substances and Alcohol
- u. Fair Credit Reporting Act, approved October 26, 1970 (P.L. 91-508; 15 USC § 1681)
- v. Collective Bargaining Agreement between District of Columbia Department of Corrections and Fraternal Order of Police Department of Corrections Labor Committee, effective December 19, 2002.
- w. DC Code § 1-604.01 "Organization for Personnel Management"

8. **STANDARDS REFERENCED**

- a. American Correctional Association (ACA), 4<sup>th</sup> Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-7B-03 and 4-ALDF-7B-04.

9. **DEFINITIONS.** For the purpose of this directive, the following definitions shall apply:

- a. **Disclosure.** Making information available, upon request, for examination and copying, or furnishing a copy of the information.
- b. **Appointee.** A person who has been made a tentative job offer, compensated or voluntary, subject to the satisfactory completion of a criminal background check or traffic record check, or both.
- c. **Background check.** Thorough inquiry into the past and present conduct and behavior of an applicant to determine his or her suitability for employment.
- d. **Criminal background investigation.** The investigation of a person's criminal history through the record systems of the FBI or MPD.
- e. **Employee.** An individual who performs a service for the District government and who receives compensation for the performance of such service.
- f. **Suitability.** The quality or state of being acceptable for District government employment with respect to character, reputation, and fitness of the person under consideration.

## 10. PHYSICAL EXAMINATIONS

- a. Appropriate pre-assignment physical examinations and/or health screenings shall be conducted for uniformed employees consistent with DOC policy and the DPM Chapter 8.
- b. Records of an employee's medical examination, medical history and/or physical condition are considered protected health information and shall be maintained on separate forms and in separate, confidential files.
- c. Employees may be required to undergo re-examination throughout their employment with the DOC.

## 11. SUITABILITY OF PERSONS BEING CONSIDERED FOR EMPLOYMENT

- A. DOC shall establish an individual's suitability for employment or to provide services based on the pre-employment check, any background check conducted on an individual, and the results of substance abuse screening in accordance with this Directive and the District Personnel Manual.

### 1) Pre-Employment Checks

- a. After an offer of employment is made by DOC, a pre-employment check shall be conducted on all new appointees to verify:
  - i. Prior employment, to include dates of employment, salary or other compensation received, titles held and nature of duties performed, reasons for leaving employment, and performance.
  - ii. Possession of a college degree from an accredited school when education was substituted for experience in qualifying the person for the position or if education is required for the position.
  - iii. Possession of a professional or other type of license when such a license is a prerequisite for employment.
  - iv. Three (3) reference checks with the individual's former employer, except when personal references are deemed necessary.

### 2) Background Checks

- a. A background check shall be conducted on potential employees, promotion candidates, contract applicants and employees, volunteers, interns, and other individuals who provide services to the DOC prior to assuming their duties in order to identify whether the person is or has been involved in any act that constitutes a reasonable basis for

concluding that the person would not faithfully discharge the duties of the position for which he or she is being considered.

- b. Based on the duties of the position, the DOC shall determine which positions, in addition to being subject to pre-employment checks, shall be subject to background checks.
- c. A background investigation will include comprehensive indices. If suspect information on matters with potential terrorism connections is returned on an applicant, it is forwarded to the local Joint Terrorism Task Force.
- d. The Director and Deputy Director of the Department of Corrections, the Department of Corrections Office Human Resources Management Division (HRMD), and the Department of Corrections Office of Internal Affairs (OIA) shall have the authority to conduct background checks for DOC.
  - i. Before conducting the background check, OIA shall determine the degree of sensitivity of the position being filled in order to determine the scope of the check based on the amount of contact with inmates, the purpose of the background check, and the duties and responsibilities and sensitivity of the position.
  - ii. Based on the sensitivity determination, the background check may cover, in addition to the requirements of a pre-employment check, the following:
    - a) Additional reference checks;
    - b) Employment history for a specific number of past years;
    - c) Highest education completed or last school attended beyond high school;
    - d) A criminal background investigation check;
    - e) A traffic record check;
    - f) A newspaper/media search.
- e. A DOC Pre-Employment Processing Form (Attachment 1) shall be initiated and submitted by the Human Resource Management Division (HRMD), the appropriate DOC Program Manager, Contract Administrator, Director of Chaplaincy Services, or the Training Administrator/Manager prior to the commencement of any background check.

- f. A completed Authorization for Release of Information Form (Attachment 2) shall be completed by the individual and submitted prior to commencement of a background check.
- g. A Financial Disclosure Form (Attachment 3) shall also be completed by specific employees as required by D.C. Code § 1-1106.02(b).
- h. Unless otherwise provided by law or regulation, in filling a position subject to a background check, a check need not be conducted if the appointee is already employed by the District government in a position subject to a background check, and the nature of the personnel action for the new appointment is a:
  - a) Promotion,
  - b) Demotion
  - c) Reassignment, or
  - d) Appointment or conversion of an employee who has been serving continuously with a District government agency for at least one (1) year in a position or positions under an appointment subject to a background check.

### 3) Substance Abuse Screening

- a. All applicants for employment with the DOC shall be tested for drug and alcohol use pursuant to D.C. Code § 24-211.22.

### B. Notice of Background Checks and Substance Abuse Screening Requirements

- a. Vacancy announcements for all positions and internal promotion announcements within the DOC shall clearly state that applicants are subject to a complete background check and substance abuse screening.
- b. DOC shall ensure that a clause mandating background checks by DOC and substance abuse screening for all potential and current contract employees is included in all contracts.

- C. A background investigation will include comprehensive indices. If suspect information on matters with potential terrorism connections is returned on an applicant, it is forwarded to the local Joint Terrorism Task Force.

## 12. DETERMINATION OF UNSUITABILITY.

- a. The DOC shall initiate, or initiate and take, suitability action against individuals when:
  - 1) The DOC has made a determination that the individual provided a material false statement, engaged in deception or fraud in his or her examination or appointment with the District of Columbia government, or engaged in the falsification of personnel records,
  - 2) Derogatory information about the employee, of a nature that constitutes an immediate hazard to the agency, the employee concerned, to other employees, or to the detriment of the public health, safety, or welfare, is disclosed by a credible source or independently discovered by the DOC,
  - 3) Derogatory information about an employee, of a nature that will impact the employee's suitability to continue performing the duties of his or her position, is disclosed by a credible source or independently discovered by the DOC, or
  - 4) A determination is made to terminate the employment of an employee because the employee has failed a criminal background check.
- b. If a determination is made that the suitability violation does not amount to one of the violations described in Section 12(a) of this Directive, the DOC may require that the employing agency take an administrative action against the employee that is less than removal.
- c. OIA, in conjunction with HRMD, shall ensure that any suitability disqualification action taken against an individual is based on accurate, timely, relevant, and completed information or documentation.
- d. Before the DOC takes any suitability action, the employee shall be given an opportunity to explain the derogatory information, in writing, within fifteen (15) days of being notified thereof, to allow the appointee to provide information that would explain any discrepancies, omissions, misinformation, or mitigating circumstances that may exist which are unknown to the DOC.
- e. An individual appointed to a position requiring a background check shall be subject to such background check for one (1) year from the date of appointment to continue the DOC's jurisdiction to investigate qualifications and suitability of the personal after appointment, if needed, and to authorize the personnel authority to require termination when it finds that the employee is not suitable for District government employment.
- f. When an individual is disqualified for any reason, the DOC, at its discretion, may continue to rely on that determination with regard to subsequent

applications for employment, promotion, or to provide services for a period of not more than three (3) years from the date of determination of disqualification. A new background check will be conducted thereafter and a re-determination shall be made before the person may be employed or provide services to the DOC.

**13. NOTIFICATION OF UNSUITABILITY.**

- a. All potential employees, current employees, promotion candidates, volunteers, interns and other individuals who provide services to DOC shall be notified when they are determined to be unsuitable for employment, promotion, or to provide services to DOC based on the results of a background check.
  - 1) HRMD shall notify all potential employees, current employees, and promotion candidates via telephone and certified United States mail who are determined to be unsuitable for employment or promotion.
  - 2) The Director of Chaplaincy Services shall notify all volunteers who are determined to be unsuitable to provide services to the DOC.
  - 3) The Training Administrator/Manager shall notify all interns who are determined to be unsuitable to provide services to the DOC.
  - 4) DOC Program Managers shall notify service providers in their respective service area if the provider is determined to be unsuitable.
  - 5) The Contract Administrator shall ensure that the Contractor notifies all current and potential contract employees of a determination of unsuitability to provide services to the DOC.

**14. EMPLOYMENT AND ACCESS RESTRICTIONS.**

- a. All individuals who are determined to be unsuitable based on the results of a pre-employment check or any background check shall be denied employment, promotion, and/or the opportunity to provide services to the DOC and its contract facilities in accordance with Section 12(f) of this Directive.
- b. A potential employee determined to be unsuitable shall not be hired by a Contractor to perform duties for the DOC.

**15. DISCLOSURE.**

- a. Information related to pre-employment and background checks and suitability actions shall be kept in strict confidence in accordance with DPM Chapters 4 and 31.

- b. Sources of information shall not be disclosed except as specifically authorized in this directive and the DPM.
- c. Reports of background checks conducted by OIA shall not be disclosed to the person investigated, nor may the information be discussed with him/her in a manner that would reveal or permit him/her to deduce the source of the information.
- d. These restrictions shall not apply to:
  - 1) Information of public record, and
  - 2) Information from District government personnel records which could be obtained on request by the subject employee under the provisions of the DPM.
- e. Other sources of information in reports of background checks may be disclosed to the subject of the investigation only if the OIA investigator obtains the information independently, such as by interviewing the subject, or by obtaining permission, in writing, from the sources named to use the information and to identify the source.

**17. RE-INVESTIGATIONS.**

- a. OIA shall conduct, on a biennial basis, National Crime Information Center ("NCIC") criminal background investigations on all Department employees, and may, at the discretion of the Director of the Department of Corrections, conduct such investigations at unspecified times.
- b. OIA shall conduct an annual criminal background checks to ensure employees who are scheduled for firearms training/recertification do not have a criminal conviction.
- c. OIA shall conduct annual criminal background checks on volunteers, contract employees, interns and others who provide services to DOC.
- d. OIA shall conduct criminal background checks on promotion candidates.

**18. RECORDS RETENTION.** Records regarding background checks shall be maintained in accordance with PS 2000.2 *Retention and Disposal of Department Records*.



Tom Hoey  
Director

Attachments:

Attachment 1 – DOC Pre-employment Processing Form

Attachment 2 – Authorization for Release of Information

Attachment 3 – Financial Disclosure Statement

Attachment 4 – Medical Release Form

