

 <p>DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS</p> <p>POLICY AND PROCEDURE</p>	EFFECTIVE DATE:	January 17, 2017	Page 1 of 14
	SUPERSEDES :	3040.6G August 27, 2014	
	OPI:	OIS	
	REVIEW DATE:	January 17, 2018	
	Approving Authority	Quincy L. Booth Interim Director	
	SUBJECT:	PERSONNEL SECURITY AND SUITABILITY INVESTIGATIONS	
	NUMBER:	3040.6H	
Attachments:	Attachment 1- DOC Pre-employment Processing Form Attachment 2 – Authorization for Release of Information Attachment 3 – Financial Disclosure Statement		

SUMMARY OF CHANGES:

Section	Change
Revisions	<i>Prison Rape Elimination Act (PREA) Standards and information has been updated throughout the policy.</i>
	<i>“Background Checks” changed to “Background Investigations”</i>
	<i>Minor revisions throughout the policy</i>

APPROVED:



Quincy L. Booth, Interim Director

1-17-17
Date Signed

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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; contractors, 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.

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.

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- 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

PP 3040.6G Personnel Security and Suitability Investigations
(8/27/14)

b. Directives Referenced

- 1) PS 2000.2 Retention and Disposal of Department Records
- 2) PP 3350.2 Elimination of Sexual Abuse, Sexual Assault and Sexual Misconduct
- 3) SOP 6050.4B-13 Mandatory Employee Drug and Alcohol Testing Program (MEDAT)

7. AUTHORITY

- a. 18 U.S.C. § 922(g)(9) (Lautenberg Amendment)
- b. DC Code § 24-211.02, Powers; promulgation of rules
- c. DC Code § 24-211.22, Employee Testing
- d. DC Code § 24-211.41, Authorization of Investigation
- e. DC Code § 1-617.08, Management rights; matters subject to collective bargaining
- f. DPM Chapter 4, Organization for Personnel Management

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- g. DPM Chapter 8, Career Service
- h. DPM Chapter 9, Excepted Service
- i. DPM Chapter 27, Temporary Assignment of Personnel
- j. DPM Chapter 31A, Records Management and Privacy of Records
- k. DPM Chapter 35, Volunteer Services
- l. DPM Chapter 36, Legal Services
- m. DPM Chapter 38, Management Supervisor Service (MSS)
- n. DPM Chapter 39, Testing for the Presence of Controlled Substances and Alcohol
- o. D.C Code § 1-116224 et.seq, Financial Disclosures and Honoraria
- p. Collective Bargaining Agreement between District of Columbia Department of Corrections and Fraternal Order of Police Department of Corrections Labor Committee, effective December 19, 2002 – September 30, 2005.
- q. DC Code § 1-604.01 et. seq., “Organization for Personnel Management”
- r. Mayor’s Order 2008-81, Joint Delegation of Personnel Authority, Dated June 5, 2008
- s. Mayor’s 2011-183, Delegation of Personnel Authority to Identify and Designate Positions Subject to, and to Conduct, Criminal Background Investigations for Employees in Subordinate Agencies, dated November 2, 2011

8. STANDARDS REFERENCED

- a. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-7B-03 and 4-ALDF-7B-04.
- b. Prison Rape Elimination Act of 2003 (PREA), 115.17

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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 investigations, or traffic record check, or both.
- c. **Background investigations.** 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 investigations

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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.* The DOC shall conduct the following for pre-employment checks:
 - a. A pre-employment check shall be conducted on all new appointees to verify:
 - 1) 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.
 - b. Possession of a college degree from an accredited school when education is substituted for experience in qualifying the person for the position or if education is required for the position.
 - c. Possession of a professional or other type of license when such a license is a prerequisite for employment.
 - d. Three (3) reference checks with the individual's former employer(s), except when personal references are deemed necessary.
- 2) *Background Investigations*
 - a. A background investigations shall be conducted on potential employees, promotion candidates, contractors, 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 investigations

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- 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 Directors of the Department of Corrections, the and the Department of Corrections Office of Human Resources Management (HRM) have the authority to request background investigations, however, the Office of Investigative Services (OIS) is the only agency entity authorized to conduct background investigations.
 - 1) Before conducting the background investigations, HRM 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 investigations, and the duties and responsibilities and sensitivity of the position.
 - 2) Based on the sensitivity determination, the background investigations 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

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Administrator/Manager prior to the commencement of any background investigations.

- 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 investigation.
 - g. A Financial Disclosure Form (Attachment 3) shall also be completed by specific employees as required by D.C. Code § 1-1162.24 et seq.
 - h. Unless otherwise provided by law or regulation, in filling a position subject to a background investigation, a check need not be conducted if the appointee is already employed by the District government in a position subject to a background investigation 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 investigations.
- 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.
- 4) Notice of Background investigations 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 investigation and substance abuse screening.

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- b. DOC shall ensure that a clause mandating background investigations by DOC and substance abuse screening for all potential and current contract employees is included in all contracts.
- 5) OIC shall research, obtain and review data from various law enforcement databases and other public information systems to verify information and/or check for inconsistencies related to applicant information submitted to include the following:
 - a) Date and Place of birth. Corroboration of date and place of birth through a check of appropriate documentation; a check of Bureau of Vital Statistics records when any discrepancy is found to exist.
 - b) Citizenship. For individuals born outside the United States, verification of US Citizenship directly from the appropriate registration authority; verification of US Citizenship or legal status of foreign-born immediate family members (spouse, cohabitant, father, mother, son, daughter, brothers, sisters).
 - c) Education. Corroboration of most recent or most significant claimed attendance, degree, or diploma. Interviews of appropriate educational sources if education is a primary activity of the subject during the most recent three (3) years.
 - d) Employment. Verification of all employment for the past fifteen (15) years if applicable. Personal interviews of sources (supervisors, co-workers or both) for each employment six (6) months or more; corroboration through records or sources of all periods of unemployment exceeding sixty (60) days; verification of all prior federal and military service, including discharge type. For military members, all service within one branch of the armed forces will be considered as employment, regardless of assignment.
 - e) References. Four (4) references of whom at least two (2) are developed to the extent practicable, all should have social knowledge of the subject and collectively span at least seven (7) years.

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- f) Former Spouse. An interview of any former spouse within the last fifteen (15) years.
- g) Neighbors. Confirmation of all residences for the last ten (10) years through appropriate interviews with neighbors and through records reviews.
- h) Local Agency Checks. A check of appropriate criminal history records covering all locations where the applicant has resided, been employed, and/or attended school for six months or more, including current residence regardless of duration.
- i) Public Records Review. Verification of divorces and other court actions, whether civil or criminal involving the applicant.
- j) Applicant/Subject Interview. The applicant is interviewed to resolve significant inconsistencies or both. Sworn statements and declarations shall be taken whenever appropriate.

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 the 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

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- 4) A determination is made to terminate the employment of an employee because the employee has failed criminal background investigations.
 - 5) The applicant has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution.
 - 6) The applicant has been civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion.
- 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 DCHR may require that the employing agency take an administrative action against the employee that is less than removal.
 - c. OIS, 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 final suitability action, the applicant/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 investigation shall be subject to such background investigations for one (1) year from the date of appointment to continue the DOC's jurisdiction to investigate qualifications and suitability of the personnel 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.

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- 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 investigation 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 background investigations.
- 1) HRMD shall notify all potential employees, current employees, and promotion candidates by 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 investigations shall be denied

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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 investigations 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 investigations conducted by OIS 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 investigations may be disclosed to the subject of the investigation only if the OIS 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.

16. **RE-INVESTIGATIONS.**

- a. OIS shall conduct, on a biennial basis, National Crime Information Center (“NCIC”) criminal background investigations on all Department employees,

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and may, at the discretion of the Director of the Department of Corrections, conduct such investigations at unspecified times.

- b. OIS shall conduct annual criminal background investigations to ensure employees who are scheduled for firearms training/recertification do not have a criminal conviction.
- c. OIS shall conduct annual criminal background investigations on volunteers, contract employees, interns and others who provide services to DOC.
- d. OIS shall conduct criminal background investigations on promotion candidates.

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

DOC/PP3040.6/1/17/17



D.C. DEPARTMENT OF CORRECTIONS PRE-EMPLOYMENT/NEW HIRES/OTHER INTERNAL PROCESSES (RETURN TO DUTY/PROMOTIONS) TRACKING INFORMATION FORM

PART I: REQUESTING OFFICE Date of Request: _____

REQUESTING MANAGER: _____

Print Name Signature Office Telephone Number

Type of Action: [] DOC Hire [] Contract [] Volunteer [] Intern [] Detail [] Promotion [] Other [] Return to Duty (90 days or more Non-Pay Status) Non-Pay Began _____ Return to Duty Date _____

APPLICANT/EMPLOYEE INFORMATION: PLEASE PRINT

(Full Name: First, Middle and Last) (SSN#) (Date of Birth) / /

Applicant Position Title: Telephone Numbers:

Work Site: Tour of Duty: [] High Potential Risk Position [] Non-High Potential Risk Position

For Contracts Only: List the following information:

Company Name: Contact Person: Telephone No#: Expiration Date:

PART II: OFFICE OF INTERNAL AFFAIRS Date Received: _____

Investigator: Telephone Number:

Findings: [] NO RECORD [] FINGER PRINTING REQUIRED [] SEE ATTACHED JUSTIFICATION Date Applicant Referred to MPD (300 Indiana Ave., N.W.):

RECOMMENDATION:

DATE RETURNED TO REQUESTING OFFICE:

(Check All That Apply) [] Approved [] Non-Approved [] Pending Finger Prints [] MEDAT

PART III: ORIGINAL REQUESTING OFFICE Date Received: _____

Date Applicant Referred For Drug Testing:

PART IV: MANDATORY DRUG/ALCOHOL TESTING Date Received: _____

Test Date: [] Cleared [] Non-Cleared Date Forwarded to HRM: Date Returned to Requesting Office:

PART V: OFFICE OF HUMAN RESOURCES Date Received: _____

HRM-FINAL CHECK - OFF LIST with Dates

Requestor Disposition Notice: [] Hire [] Do Not Hire Tentative Requested Start Date: _____

Physical Cleared _____ Background Cleared _____ Drug Testing Cleared _____ MSS Acceptance Form _____

Educational Requirements: Degree [] Yes [] No * Proof _____ License Requirement: [] DCPS [] Trades [] Other _____

New Hires: Reference Check Forms (3) Proof of Current Salary (Pay-Stub) Gateway Security Form: [] MSS [] Other

Date Hire Request Sent to DCOP: DCOP Confirmed Entry-On-Duty Date:

PART VI: TRAINING CENTER Date Received: _____

Notices for Orientation and Schedule of Training Start Date: Ending Date: • Pre-Service Training: [] 16 Hours [] 40 hours

PART VII: OFFICE OF HUMAN RESOURCES

DOC ID Issued: ID Number: Expiration Date:

Separation Date: Reason: Clearance Date:

Campaign Finance Form Notification: (Grade 13 and above Executive, Legal and MSS) [] Appointment [] Separation



AUTHORIZATION FOR RELEASE OF INFORMATION

I, _____, do hereby authorize a review by, and a full and complete disclosure to _____ a duly authorized agent of the D.C. Department of Corrections of the following records, or any part thereof, concerning myself, whether the said records are public or private, and including those which may be deemed to be of a privileged or confidential nature: the records of educational institutions, former employers, and law enforcement agencies, including but not limited to: employment and pre-employment records, background investigation reports, efficiency and performance ratings, convictions for violations of the law, and criminal and/or traffic records.

I understand that, pursuant to Mayor's Orders 2008-81 dated June 5, 2008 and 2011-183 dated November 2, 2011, the Department of Corrections has the authority to establish my suitability for employment by conducting pre-employment checks and background checks and investigations in accordance with D.C. Code § 1-604.01 et seq. and Chapter 4 of the District of Columbia Personnel Regulations. I further understand that the Department of Corrections will ensure that any and all information gathered in order to determine my suitability for employment will be kept confidential.

I understand that information and documents related to the background check, suitability investigation or any other inquiry shall be kept in strict confidence and shall not be disclosed to me nor shall any information be discussed with me in a manner that would reveal or permit me to deduce the source of any information.

I fully consent to any fitness for duty testing, including urine testing for controlled substances, to determine my suitability to be employed by the D.C. Department of Corrections prior to beginning employment and throughout the course of my employment with the D.C. Department of Corrections.

SSN: _____ DOB: _____ Sex: M / F

Race: _____ Place of Birth: _____

Complete Name (Print): _____

Previous/Other Names Used: _____

Signature: _____ Date: _____

Notary Stamp:

Signature: _____ Date: _____

