



CITY OF PROVIDENCE

3.5 CRIMINAL BACKGROUND DISQUALIFICATION

Purpose

The purpose of this policy is to establish fair, consistent, and legally compliant procedures for evaluating criminal background information during the hiring and personnel decision-making processes. This policy is intended to protect public trust and safety while ensuring equal employment opportunities for individuals with criminal records, in accordance with Rhode Island law and federal anti-discrimination statutes.

Scope

This policy applies to all employees, applicants, contractors, and volunteers associated with the City of Providence.

All prospective employees, interns, fellows, and volunteers of the City of Providence are required to complete a Bureau of Criminal Identification and Investigation (BCI) Authorization Form as a condition of employment or placement. A review of resulting criminal background reports may disqualify individuals from consideration if it reveals convictions for certain offenses, in accordance with City policy.

This policy is adopted in compliance with R.I. Gen. Laws § 28-5-7(7) and other applicable provisions of Rhode Island's Fair Employment Practices Act.

Policy

1. Standard of Suitability

- A. The City of Providence is committed to ensuring that hiring decisions are based on job-related criteria and are free from discrimination.
- B. A criminal conviction will not automatically disqualify an individual from employment unless it is determined to be substantially related to the duties of the position or have a nexus to the nature of the work in question.
- C. The City will conduct individualized assessments before making any disqualification decisions based on criminal history.

2. Criminal Background Check Procedures

A. Timing of Checks:

Criminal background checks shall only be conducted after a conditional offer of employment has been made.

B. Disclosure and Consent:

Applicants will be required to provide written consent prior to any background check and prior to starting any position.

C. Review of Convictions:

1. Individuals with an active or pending criminal case are not eligible for employment with the City of Providence until the matter is fully adjudicated.
2. The City will conduct an individualized assessment considering the following factors:
 1. Nature and gravity of the offense
 2. The number of offenses committed
 3. Time elapsed since the conviction or completion of sentence
 4. Nature of the job sought



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- 5. Evidence of rehabilitation or mitigating circumstances
- 6. The relationship of the offense to the position's duties

3. Notice of Disqualification:

- A. If a disqualification is based on criminal background information, the applicant will receive a notice based on the results of the background check.
- B. A general description of the basis for disqualification (e.g., "criminal history inconsistent with job requirements"), without attaching or reproducing the background report itself.
- C. Contact information for the City's Department of People and Culture (DPC) for questions or clarification.

4. Disqualifiers

- A. The City of Providence is committed to workforce diversity and recognizes that past criminal offenses do not automatically preclude otherwise qualified candidates from accessing employment and advancement opportunities. However, this commitment must be balanced with the City's responsibility to ensure the safety, integrity, and trustworthiness of its workforce.
- B. Accordingly, the Department of People and Culture, in consultation with the City Solicitor's Office, reserves the right to conduct a case-by-case review of a prospective employee's, intern's, fellow's, or volunteer's criminal background report to determine suitability for service.
- C. This review will take into account the following factors:
 - 1. The nature and gravity of the offense;
 - 2. The number of offenses committed;
 - 3. The time elapsed since the conviction or completion of sentence;
 - 4. The nature of the position sought;
 - 5. Evidence of rehabilitation or mitigating circumstances; and
 - 6. The relationship of the offense to the responsibilities of the position.
- D. The following list is not exhaustive. The arrest and/or conviction, information produced by criminal records review, or arrest pending disposition for one of the criminal offenses listed below, or any of the following offenses, or for any offense which involves elements of proof that are substantially similar to the following offenses, disqualifies an individual from employment with the City of Providence:

Murder	Sexual Assault
Voluntary Manslaughter	Domestic Assault/Battery
Involuntary Manslaughter	Assault on a Person Sixty (60) Years or Older / Elderly Person
Felony Assault	Assault with Intent to Commit Specified Felonies (Murder, Robbery, Rape, Burglary, et cetera)
Burglary	First Degree Arson
Robbery	Drug Offense Involving the Sale or Distribution of Narcotics
Larceny	Federal Bank Law Violations
Felony Child Abuse or Neglect	
Felony Domestic Violence	
Crime committed against a child:	<ul style="list-style-type: none"> • Child Molestation • Child Pornography • Circulation of Obscene Publications or Shows • Sale or Exhibition to Minors of Indecent Publications, Pictures, or Articles • Child Nudity in Publication



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	<ul style="list-style-type: none"> • Transportation for Indecent Purposes • Harboring • Prostitution • Pandering • Deriving Support or Maintenance from Prostitution
Drug offense, committed less than five (5) years ago	
Felony involving violence:	<ul style="list-style-type: none"> • Murder • Manslaughter • Rape • First Degree Sexual Assault • Second Degree Sexual Assault • Kidnapping • Carjacking • First Degree Arson • Second Degree Arson • Mayhem • Felony Assault • Felony Battery
Felony drug offenses	Prostitution
Transportation for Indecent Purposes	Pandering
Deriving Support or Maintenance from Prostitution	Harboring
Circulation of Obscene Publications and Shows	

- E. For the purposes of this policy, a plea of nolo contendere that results in a fine, a suspended sentence, probation, or any combination thereof shall be considered equivalent to a conviction. Conversely, a plea of nolo contendere that results only in probation—without the imposition of a fine or suspended sentence—shall not be considered a conviction.
- F. Any prospective employee, intern, fellow, or volunteer who is currently on probation as the result of a criminal conviction or adjudication shall be disqualified from service to the City of Providence until the successful completion of that probation/adjudication.
- G. The City reserves the right to request documentation regarding the disposition of any charges identified in a criminal background investigation.
 - 1. It is the responsibility of the applicant to provide such documentation prior to the commencement of any service to the City.
 - 2. Examples of acceptable documentation include, but are not limited to, a 48A Dismissal Report and an Expungement Record.
- H. The City also reserves the right to conduct a case-by-case review of any criminal background report for prospective employees, interns, fellows, or volunteers.
 - 1. Final eligibility for service will be determined in consultation with the City Solicitor’s Office, based on factors such as but not limited to:
 - 1. The nature of the offense
 - 2. The time elapsed since the offense
 - 3. The relevance of the offense to the duties of the position
 - 4. The number of offenses
 - 5. The individual’s ability to file for expungement under applicable laws.

5. Confidentiality

- A. All criminal background records and related information shall be maintained in a secure and confidential manner, separate from the general personnel file, and only accessible to individuals with a legitimate need-to-know.



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- B. In accordance with the Rhode Island Access to Public Records Act (APRA), R.I. Gen. Laws §§ 38-2-1 et seq., criminal background records are considered public records once received by the City; however, they may be exempt from public disclosure pursuant to applicable exemptions, including but not limited to:
1. R.I. Gen. Laws § 38-2-2(4)(A)(i)(b) (personnel and employment records to the extent disclosure would constitute a clearly unwarranted invasion of personal privacy);
 2. R.I. Gen. Laws § 38-2-2(4)(A)(i) (records identifiable to an individual applicant for employment);
 3. Any other exemption applicable under state or federal law.
- C. The City shall evaluate any request for access to criminal background records on a case-by-case basis in consultation with the Law Department to determine whether disclosure is required or exempt under APRA.
6. **Appeals**
- A. Applicants or employees who believe they were unjustly disqualified due to their criminal history may submit a written appeal to the Department of People and Culture within ten (10) business days of receiving a final notice of disqualification and should include any supporting documentation for reconsideration.
- B. Applicants who have a record may be subject to a discretionary interview for the sake of clarity around the criminal history in order to identify if the applicant can still be seen as an appropriate consideration for the role they applied to.
7. **Compliance**
- A. Failure to adhere to the provisions of this policy may result in disciplinary action, up to and including termination of employment, including City employees responsible for conducting or using background checks. This includes, but is not limited to:
1. Conducting background checks before a conditional offer is made;
 2. Using arrest records or non-conviction data as a basis for disqualification;
 3. Failing to conduct an individualized assessment when required;
 4. Discriminatory application of this policy or violation of applicable equal opportunity laws;
 5. Mishandling or improperly disclosing confidential criminal background information.
- B. Any person who becomes aware of a potential violation of this policy should report the concern to the Department of People and Culture or the City Solicitor's Office immediately.
- C. The Department of People and Culture is responsible for monitoring compliance, investigating alleged violations, and recommending corrective action as appropriate. The City reserves the right to audit departmental hiring practices to ensure adherence to this policy.

Related Policies:

Anti-Discrimination and Harassment Policy
Whistleblower Anti-Retaliation Policy
Code of Conduct
Employee Reporting and HR Hotline
Drug & Alcohol-Free Workplace Policy
Substance Abuse Program & Policy Recovery
Friendly Workplace

Related Information:

Local 1033 [Collective Bargaining Agreement](#)

[R.I. Gen. Laws § 28-5-7\(7\)](#)

[R.I. Gen. Laws § 28-5-1 et seq.](#)

[R.I. Gen. Laws § 38-2-2\(4\)](#)