I. PURPOSE

This administrative directive defines guidelines and processes for evaluating Criminal Background Checks for employees in sensitive positions.

II. POLICY

The City of San Antonio shall conduct Criminal Background Checks (CBC) as part of employment processing for sensitive positions. This Directive shall apply to all civilian employees including all full-time and part-time employees, paid and unpaid interns, temporary employees and volunteers.

Some job classifications, if filled by individuals with certain criminal convictions, have the potential to create an adverse risk to the City of San Antonio (COSA.) Therefore, COSA Departments and Human Resources shall identify these job classifications and designate these as "Sensitive Positions." COSA shall perform a CBC assessment of employees working in these positions, as well as assess future applicants who apply for, or are transferred into, these positions. Additionally, the City of San Antonio shall require employees in these positions to disclose future criminal convictions through a ***Self-Reporting*** process.

Misdemeanor and Felony convictions shall be assessed to include, but not limited to, violations of the Texas Penal Code (TPC); Texas Department of Family & Protective Services (TDFPS); Texas Department of Public Safety (TXDPS); Texas Criminal Code (TCC); Texas Controlled Substance Act (TCSA); other related local, state, and federal legislation; and unsuccessful deferred adjudication revocations.

This Directive excludes uniformed employees under collective bargaining agreements and Police and Fire Academy Trainees.

III. DEFINITIONS

A. **Adverse Offense** – A Misdemeanor or Felony conviction which meets COSA's specifications for denial of employment based on the CBC process ineligibility criteria for a Sensitive Position.

B. **Cash-Handling Position** – A position designated by the Finance Department as having cash-handling responsibilities to include receiving, transmitting, safeguarding, and/or depositing of cash or cash equivalents (i.e. coins, currency, check, money order, electronic money transfer, travelers' check, credit card, postage stamp(s), and event ticket.)

C. **Conviction** – For the purpose of this policy, a Misdemeanor or Felony conviction is a finding of guilt based on a guilty plea, a plea of no contest (*nolo contendere*,) or a judgment entered on a verdict of guilt. In the event of an appeal, the individual is considered convicted while the judgment is under appeal. Unsuccessful Deferred Adjudication revocations are considered convictions.

D. **Criminal Background Checks (CBC)** – A CBC background investigation that is conducted to obtain criminal conviction history.

E. **Criminal Background Checks Determination** – A risk assessment process conducted as a formal review of CBC results, incidents, related materials or concerns to assess and mitigate the risk of an individual's employment with COSA and a final determination as to the eligibility, or ineligibility, of an employee or applicant for placement into a job vacancy or a Sensitive Position.

F. **Deferred Adjudication – Successful** – A form of probation that may be available to eligible defendants based upon recommendation by the prosecutor, or at the discretion of the Court. If the period of probation is completed without any violation of the conditions of probation, the charge shall be dismissed at the end of the probationary period and there is no conviction for the offense.

G. **Deferred Adjudication – Unsuccessful** – A form of probation that may be available to eligible defendants based upon recommendation by the prosecutor, or at the discretion of the Court. If the defendant violates probation, or fails to meet court mandated requirements, and the conviction results in unsuccessful Deferred Adjudication, this is considered a conviction.

H. **Fiscal Year** – The annual period from October 1st through September 30th.

I. **Incumbent** – An individual working (paid or unpaid) in a specified position.

J. **Intern** – A student who enters into service with or without pay in a COSA defined program or project to receive school credit hours and/or practical experience.

K. **Interval Criminal Background Check** – A criminal background check that is conducted throughout the course of employment.

L. **Nolo Contendere** – A plea entered by the defendant in response to being charged with a crime. If a defendant pleads *Nolo Contendere*, the defendant neither admits nor denies that he or she committed the crime, often entered as part of a plea bargain that may or may not result in conviction and assessment of a penalty (fine or jail time.)

M. **"Self-Reporting"** – The act of an employee notifying COSA management of criminal conviction(s) throughout the course of employment or disclosure of "nothing to report".

N. **"Sensitive Position"** – A position that has been identified by a department as sensitive due to its responsibilities requiring working with or near children, dealing with safety, or requiring security clearance; a position of trust; or a position with cash-handling responsibilities. Sensitive positions have the potential for high risk if filled by individuals with certain criminal convictions.

O. **Successful CBC** – The review of an individual's CBC results for which all criteria reveal no potential risk to COSA and enable continuation of the employment, promotional, and transfer processes.

P. **Transfer** – A change in position to another department, division or section.

Q. **Unsuccessful CBC** – The review of an individual's CBC results for which criteria reveal adverse offenses within the scale and scope of the pertinent CBC, including "Sensitive Positions" CBC processes, which result in the end of consideration for employment or promotion, or continued employment in a "Sensitive Position."

R. **Volunteer** – A person who enters into service of one's own free will and does charitable or helpful work without pay in a COSA defined program or project.

IV. POLICY GUIDELINES

A. COSA shall conduct Criminal Background Checks for ***Sensitive Positions*** as part of employment processing to determine eligibility, or ineligibility, for placement into a job vacancy in a ***Sensitive Position***. A criminal background check will be conducted on all new hires, transfers, demotions, promotions and reclassifications into ***Sensitive Positions***, with interval background checks conducted on an on-going basis through the course of employment.

B. Interval background checks will be conducted on existing employees on an on-going basis through the course of employment.

C. Departments are required to identify ***Sensitive Positions*** with the assistance of the Human Resources Generalist. This assessment shall be conducted considering the position's job functions, required skill-sets, customer service/contact either through their regular course of duty or temporary assignment; and/or in consultation with the City Manager's Office. The Finance Department shall determine the risk factors of ***Cash-handling positions*** as follows:

- **high** – deals with cash on a daily basis;
- **medium** – deals with cash equivalents; and,
- **low** – infrequent use of small amounts of cash.

D. The timing for interval background checks for ***Cash-handling positions*** shall be determined by the assigned risk factor of the position. COSA shall terminate an existing employee who is in a ***Cash-handling position*** and has an unsatisfactory ***interval background check***, or decline to employ an applicant for a ***Cash-handling position*** who, within the previous five years, has been convicted of a felony or misdemeanor for theft, burglary, or robbery, or who, within the previous 10 years, has been convicted or a felony or misdemeanor for embezzlement.

E. ***Incumbents*** in ***Sensitive Positions*** that work with or near children shall be subject to ***interval criminal background checks*** every three years. Other ***Sensitive Positions*** such as positions that require safety and security clearances shall follow stipulated requirements as determined by applicable local, state, and federal laws.

F. ***Volunteers*** may be required to undergo a criminal background check if their volunteer service is with or near children.

G. All new hires and current employees, including paid and unpaid interns, temporary employees; and volunteers shall execute any and all necessary consent forms to authorize release of information directly to COSA; failure to do so is grounds for termination of employment, internship, volunteer service, or withdrawal of offer of employment.

H. The Human Resources Department shall be responsible for conducting ***Criminal Background Checks*** and making final determinations upon formal review of CBC results, incidents, related materials or concerns to assess and mitigate the risk of an individual's employment with COSA. The Human Resources Department may consult with the City Attorney's Office in making final

determination as to the eligibility, or ineligibility, of an individual's selection into a ***Sensitive Position***.

I. All incumbents in sensitive positions shall be required to ***self-report*** and submit a ***Self-Reporting*** release form (Attachment D) within 10 working days of the ***conviction*** (whether final or not) and/or disclose "nothing to report" at the beginning of each Fiscal Year to the Human Resources Director. Failure to do so is grounds for termination or separation from City service.

J. Employees in ***Sensitive Positions,*** who do not obtain successful CBC results are subject to termination, or release from voluntary assignment. However, they may be offered an opportunity to move into a non-sensitive position, of equal or lower range, within the department if available, or within COSA.

K. There is no grievance or appeal process for applicants or employees who are not selected for employment based on ***Criminal Background Checks*** results. However, if individuals are able to clear their records of misinformation in the reporting agency's file, they shall be able to re-apply for subsequent openings.

L. Falsification or omission of information on an application shall constitute cause for rejection, and restrict the applicant (internal/external) from re-applying for COSA positions for a two-year period.

M. A copy of this Administrative Directive and the Employee Acknowledgement Form (Attachment A) shall be provided to all current employees and applicants who are made a conditional offer for a ***Sensitive Position***.

N. Each incumbent in a ***Sensitive Position*** shall be notified by memorandum from the HR Department that their position is subject to CBC processing and they shall be required to submit a Notification and Disclosure for "Sensitive Positions" form (Attachment B) and the Applicant/Employee Criminal History Background Check Consent and Indemnification Form (Attachment C). Continued employment in their position is dependent upon successful CBC results. Current employees shall be given 30 working days (if possible) to ensure that their records are up-to-date and accurate before the CBC processing is conducted.

O. In the event that a City employee is arrested, the San Antonio Police Department shall notify the Human Resources Department. Human Resources shall track the case for final determination. ***Convictions*** that may affect the employee's ability to perform the job requirements may be reviewed with the City Attorney's Office for guidance and resolution.

P. ***Criminal Background Checks*** (CBC) processes shall be conducted at COSA's expense.

V. RESPONSIBILITIES

Employees, Interns and Volunteers

A. All current ***employees*** and ***new hires*** shall be required to comply with all policy requirements of Administrative Directive 4.55, Criminal Background Checks for Employment Processing, attend an information session, and acknowledge receiving a copy of this policy.

B. All applicants, current employees, and volunteers shall authorize and sign any necessary consent forms; failure to do so is grounds for termination of employment, internship, volunteer service, or withdrawal of offer of employment.

C. All incumbents in ***Sensitive Positions*** shall ***Self-Report*** to disclose criminal ***convictions*** (whether final or not) within 10 days to the Human Resources Director and/or inform the HR Director if there is "nothing to report" at the beginning of each Fiscal Year (Attachment D).

Departments

A. Departments shall provide all ***employees*** with copies of Administrative Directive 4.55, Criminal Background Checks for Employment Processing, and obtain a signed copy of the Acknowledgment of Receipt form (Attachment A) and the ***Self-Reporting*** release form (Attachment D). Both forms shall be submitted to the Human Resources Department within 30 days of the employees receiving an information session, or at the beginning of each Fiscal Year.

B. With the assistance of the HR Generalist, the departments are required to submit a list of their identified ***Sensitive Positions*** to the HR Department and maintain its accuracy on an on-going basis. For ***Cash-handling positions***, the Finance Department shall be notified of any additions or deletions of the ***Cash-handling positions***.

C. Every March 15th, departments shall be required to submit to the HR Department an updated list of ***Sensitive Positions*** that shall include deleted or added ***Sensitive Positions***.

D. Departments are required to notify the Finance Department and Human Resources Department in the event ***Cash-handling*** duties are transferred from one individual to another individual.

E. Departments are required to identify other ***Sensitive Positions*** assigned to new programs or projects.

San Antonio Police Department

In the event that a City employee is arrested, the San Antonio Police Department shall notify the Human Resources Department.

City Attorney's Office

A. The City Attorney's Office may provide guidance to the Human Resources Department during the ***CBC Determination*** process.

B. In the event that a City employee is arrested, the City Attorney's Office may provide guidance to the HR Department if requested.

Finance Department

A. The Finance Department shall maintain a list of ***Cash-handling positions*** and assign a risk factor to each position. The list shall include the department, job class, position, and the risk factor. This information shall be forwarded to the HR Department for interval background checks.

B The Finance Department shall approve the designation of all ***cash-handling positions*** in COSA.

C. The Finance Department shall inform the Human Resources Department of any deletions or additions of ***cash-handling positions***.

D. Upon the Department's notification that an individual's duties have been transferred, the Finance Department shall determine if training is required for the individual acquiring the ***cash-handling*** duties.

Human Resources Department

A. The Human Resources Department shall identify the criminal background check requirements for all ***Sensitive Positions*** in job announcements.

B. The Human Resources Department shall obtain employee consent forms from all applicants and employees in sensitive positions.

C. The Human Resources Department shall conduct CBC investigations as part of employment processing.

D. The Human Resources Department shall conduct interval background checks, on an on-going basis, on existing employees through the course of their employment.

E. The Human Resources Department shall notify individuals of their selection into ***Sensitive Positions.***

F. The HR Generalists shall assist the department(s) with identifying ***Sensitive Positions.***

G. The Human Resources Department shall provide guidance in the administration of this policy and assist in communicating the policy to employees through informational group sessions.

H. The Human Resources Department shall coordinate the ***initial*** and ***interval background checks***, and ensure that the criminal history records are kept separately, and are not a part of the applicant's file, the employee's personnel file, or communicated to any personnel who are not directly involved in the hiring process. The criminal history records shall be destroyed five years after separation. For those applicants not selected for employment, the records shall be destroyed two years after application date.

I. The Human Resources Department shall maintain a master list of ***Sensitive Positions*** for the COSA.

J. The HR Director is the "***Criminal Background Checks Determination***" approving authority.

K. The Human Resources Department shall monitor COSA employee arrest cases for final determination and coordinate with the City Attorney's Office as necessary to obtain guidance in resolution.

This directive supersedes all previous correspondence on this subject. Information and/or clarification of this administrative directive may be obtained by contacting the Human Resources Department.

Edward Belmares 5/31/2007
Edward Belmares Date
Human Resources Director

Approved:

Sharon De La Garza 6/6/07
Sharon De La Garza Date
Assistant to the City Manager

Approved:

Sheryl Sculley 6-11-07
Sheryl Sculley Date
City Manager

Attachments

CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM
FOR

ADMINISTRATIVE DIRECTIVE 4.55
CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT
Effective June 1, 2007

Employee:

I acknowledge that on _____, 20__, I received a copy of Administrative Directive 4.55, Criminal Background Checks for Employment Processing and a copy of a blank Self-Reporting release form for my use in reporting convictions (whether final or not) as required by this policy.

_____	_____
Employee Name (Print)	Department
_____	_____
Employee Signature	SAP Employee ID Number

Supervisor:

I certify that on _____, 20__, I provided a copy of this administrative directive to the above named employee.

_____	_____
Supervisor/Trainer (Print)	Supervisor/Trainer Signature

201 File (original)
Field Folder Copy
Employee Copy

CITY OF SAN ANTONIO
ADMINISTRATIVE DIRECTIVE 4.55
CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT PROCESSING
Notification and Disclosure for "Sensitive Position"

In accordance with Administrative Directive 4.55, Criminal Background Checks for Employment Processing, the City of San Antonio will conduct Criminal Background Checks as part of employment processing. Misdemeanor and Felony convictions will be assessed to include, but not limited to, violations of the Texas Penal Code (TPC); Department of Family & Protective Services (TDFPS); Texas Department of Public Safety (TXDPS); Texas Criminal Code (TCC); Texas Controlled Substance Act (TCSA); other related local, state, and federal legislations; and unsuccessful deferred adjudication revocations.

Notification and Disclosure

Certain job classifications have been identified by the City of San Antonio (COSA) as "Sensitive Positions" and have the potential for high risk if filled by individuals with certain criminal convictions. "Sensitive Positions" are positions that require working with or near children; dealing with safety and requiring security clearance; positions of trust; and cash-handling positions.

- You may be a current employee, or applying for, or being considered for a transfer due to business necessity into, a position identified as a "Sensitive Position;" therefore, you will be required to submit to Criminal Background Checks (CBC) processing.
- The City of San Antonio will conduct a CBC background investigation to obtain criminal conviction history. Based on these results, COSA will evaluate CBC results and determine eligibility, or ineligibility, for placement into a "Sensitive Position."
- Falsification or omission of information on this form violates Administrative Directive 4.55, Criminal Background Checks for Employment Processing; and will end consideration for placement or continued employment.
- Falsification or omission of information on an application will constitute cause for rejection, and restrict the applicant (internal/external) from re-applying for COSA positions for a two-year period.
- Answer all questions truthfully, factually, and completely. If you are unsure of completing required information, petition a formal request from the HR Generalist for time (not to exceed 10 working days) to obtain the information.
- You must obtain a successful CBC Determination to be placed in a "Sensitive Position," or continue employment in a "Sensitive Position."

Job Status (check one)

☐ Full-time Employee	☐ Part-Time Employee	☐ Temporary Employee	☐ Volunteer
☐ Paid Intern	☐ Un-Paid Intern	☐ Grant-Funded Employee	

Personal Information (complete all sections)

Full Legal Name (Last Name/First Name/MI)

Other Names Used - Aliases, Nicknames, Maiden Names, Names by Marriage (Last Name/First Name/MI)

Social Security #		Date of Birth		Sex	☐ F	☐ M

Residential Information (include City, State, Zip Code)

Current Address

Prior Address if Less Than 5 Years

Prior Address if Less Than 5 Years

Prior Address if Less Than 5 Years

CITY OF SAN ANTONIO
ADMINISTRATIVE DIRECTIVE 4.55
CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT PROCESSING
Notification and Disclosure for "Sensitive Position"

Residential Information (include City, State, Zip Code) continued

List All Out of State Addresses in Past 10 Years

List All Countries You Have Lived in During the Past 10 Years

Conviction Disclosure

Have you ever been convicted of a Misdemeanor?	☐ YES	☐ NO
Have you ever been convicted of a Felony?	☐ YES	☐ NO
Have you ever served a period of deferred adjudication?	☐ YES	☐ NO
If you received deferred adjudication, was it terminated unsuccessfully?	☐ YES	☐ NO
Are you currently on deferred adjudication, deferred prosecution, or pre-trial diversion for any Misdemeanor or Felony conviction?	☐ YES	☐ NO
Do you have any pending criminal charges against you?	☐ YES	☐ NO

If you answered "Yes" to any of the above questions, provide additional information about each crime below:

Type of Crime	Misdemeanor or Felony?	Date of Conviction	City and State

If you answered "No" to any of the above questions, are you stating that you have "nothing to report"? ☐ **YES**

Read and initial each statement below:

_____	The information I have provided on this form is true, accurate, and complete.
_____	I understand that falsification or omission of information is grounds for refusal of employment or termination.
_____	I understand that COSA will be conducting criminal history background checks.
_____	I understand that these reports will be used for employment and work assignment purposes.
_____	I understand that this acknowledgement is in effect throughout my employment and assignment with COSA.

Acknowledgement (read, date, and sign in agreement)

The information I have provided is true, accurate, and complete.

Signature_____ Date_____

FOR HR USE ONLY

Employee Position #			CBC Monitor			
Identified as "Sensitive Position"	☐ YES	☐ NO				
Risk Assessment Required	☐ YES	☐ NO	☐ Eligible for Hire		☐ Ineligible for Hire	

Additional Notes:

APPLICANT/EMPLOYEE
CRIMINAL HISTORY BACKGROUND CHECK

CONSENT AND INDEMNIFICATION FORM

I hereby authorize the Texas Department of Public Safety, Austin, Texas, to release to the City of San Antonio information relating to my criminal history record. The criminal history record, as received from the reporting agencies, may include arrest and conviction data as well as plea bargains and deferred adjudications and arrest information currently pending in a criminal court of law. I understand that this information will be used in connection with my application for employment with the City of San Antonio. I also understand that, if I am hired by the City of San Antonio or I am currently an employee of the City, the criminal records check may be repeated at any time as long as I remain an employee of the City of San Antonio. I understand that I will have an opportunity to review the criminal history and offer clarification of the information if I dispute the record as received.

LAST NAME: FIRST NAME:

MIDDLE NAME: MAIDEN NAME:

CURRENT STREET ADDRESS: CITY, STATE, ZIP CODE:

PREVIOUS STREET ADDRESS: CITY, STATE, ZIP CODE:

SEX: HEIGHT: WEIGHT: SOCIAL SECURITY NUMBER:
Male
Female

DATE OF BIRTH: PLACE OF BIRTH:

DRIVER'S LICENSE #: STATE: EXPIRATION DATE:

I do, for myself, my heirs, executors and administrators, here release and forever discharge, indemnify and hold harmless the City of San Antonio and each of its council members, officers, employees and agents against any and all causes of action, suits, liabilities, costs, debts, and sums, and other expenses resulting from the investigation of my background in connection with my application for employment with the City of San Antonio.

SIGNATURE : DATE:

CITY OF SAN ANTONIO
ADMINISTRATIVE DIRECTIVE 4.55
CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT PROCESSING
"Self – Reporting"

In accordance with Administrative Directive 4.55, Criminal Background Checks for Employment Processing, the City of San Antonio will conduct Criminal Background Checks as part of employment processing. All incumbents in sensitive positions are required to "self-report" and disclose future criminal convictions (whether legally final or not). Failure to do so will result in grounds for termination and/or ending the service agreement. The "Self-Reporting" release form must be completed and submitted to the HR Director within 10 working days of receiving the conviction and/or disclosure of "nothing to report" at the beginning of each Fiscal Year.

Job Status (check one)

☐ Full-time Employee	☐ Part-Time Employee	☐ Temporary Employee	☐ Volunteer
☐ Paid Intern	☐ Un-Paid Intern	☐ Grant-Funded Employee	

Personal Information

Name (Last/First/MI)			
Phone Number		Job Title	
Department		SAP ID#	

Conviction Disclosure

Date of conviction as defined in Administrative Directive 4.55 against you?		
Are you currently on deferred adjudication, deferred prosecution, or pre-trial diversion for the Misdemeanor or Felony conviction?	☐ YES	☐ NO

If you answered "Yes" to any of the above questions, provide additional information about each crime below:

Type of Crime	Misdemeanor or Felony?	Date of Conviction	City and State

If you answered "No" to any of the above question, are you stating that you have nothing to report? ☐ **YES**

Read and initial each statement below:

_____	The information I have provided on this form is true, accurate, and complete.
_____	I understand that falsification, omission, or future convictions are grounds for termination of employment and/or agreement of volunteer and intern services.
_____	During this period, I have nothing to report.

Acknowledgement (read, date, and sign in agreement)

The information I have provided is true, accurate, and complete.

Signature_____ Date_____

FOR HR USE ONLY

Employee Position #			Employee Contact Date	
Risk Assessment Required	☐ YES	☐ NO	Employee Process Date	

FOR HR USE ONLY

Additional Notes: