

TAB 1

City of Palmetto Background Check Policy

1. PURPOSE AND INTENT

The purpose of this policy is to provide uniform procedures for performing criminal background checks on potential and current employees of the City. The policy is intended to provide the City with a means of ensuring that no potential or current employees pose a threat to public safety or security, and that potential and current employees are properly qualified for the positions they hold with the City. This policy shall apply to employees of the City of Palmetto Police Department except as expressly stated herein.

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2. AUTHORITY

This policy is adopted by City Commission pursuant to and consistent with sections 166.0442 and 112.011, Florida Statutes.

3. DIRECTION

The Human Resources Director and the appropriate Department Head will review all background checks.

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4. METHOD OF OPERATION

Level 2 criminal background checks, as defined by section 435.04 of Florida Statutes, as amended, shall be conducted on all applicants for employment with the City and on current employees as a term and condition of continued employment. In addition, all employees must notify their Supervisor or Department Head within two (2) working days of a conviction of any crime, or of an arrest for any of those crimes listed on Exhibit A, attached hereto and incorporated herein. (For purposes of this policy, conviction includes pleading guilty, or nolo contendere, regardless of adjudication.) Failure to comply will result in disciplinary action, up to and including termination. When considering an employee's failure to comply, the Department Head shall take into account whether the employee was incarcerated or otherwise unable to provide timely notification. The Department Head shall immediately notify the Human Resources Director of the conviction or arrest for a crime listed in Exhibit A, attached hereto and incorporated herein.

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Comment [M1]: Commission has suggested that this information be placed elsewhere in the personnel policy. Note that section 4.06 of the personnel policy already requires notification of any arrest relating to drugs, and of certain arrests relating to alcohol. Staff will revise this section of the policy to expand the requirement for notification of alcohol related offenses.

The initial determination of whether a conviction may affect initial or continued employment will be made by the Human Resources Director and appropriate Department Head. Each conviction will be considered on an individual, case-by-case basis, with attention being given to the nature and seriousness of the crime, the time elapsed from the conviction date, relevance to the applicant's or employee's job duties, job location, and the term and nature of an employee's service to the City.

Any action recommended by the Human Resources Director and the appropriate Department Head shall be reviewed by the City Attorney and approved by the Mayor.

Employees convicted of any crime listed on Exhibit A may be suspended without pay in accordance with the procedures provided in Section 5.02 of the Personnel Policy Manual until the City's determination of final action. Final action taken by the City shall be evinced in writing and provided to the employee.

5. GUIDELINES

The below general guidelines shall be used to evaluate whether and to what an extent conviction of a crime impacts an employee's qualification for service with the City.

A. Positions that involve close contact with private property, children, or individual members of the public

In furtherance of public security and recognition of the fact that certain staff positions within the City (1) provide employees with access to private property, (2) place employees in proximity to children, and (3) require employees to work in locations or on shifts where there is little or no supervision, employees serving in the following position may be disqualified from employment if they have pled guilty, or nolo contendere, or been adjudicated guilty of any of the crimes listed on Exhibit A, attached hereto and incorporated herein, provided that the crime is classified, or was classified at the time of offense, as a felony or first degree misdemeanor. Disqualification may result in action including but not limited to demotion, job change or termination.

B. Positions that handle money or negotiable instruments

Employees serving in the following positions may be disqualified from employment if they have been convicted of any of the following crimes, provided that the crime is classified, or was classified at the time of offense, as a felony or first degree misdemeanor. Disqualification may result in action including but not limited to demotion, job change or termination.

1. Possession, sale, manufacture, or delivery of a "controlled substance" as defined in Chapter 893, Florida Statutes
2. Theft
3. Robbery
4. Fraud

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Comment [M2]: This provision B was included in the draft policy from Orlando. Staff, however, questions whether the crimes are indicative of a threat to public security or safety. Manatee County and other jurisdictions have chosen NOT to include similar provisions in their policies.

5. Embezzlement
6. Any other felony or first degree misdemeanor evidencing dishonesty (uttering a forged document, etc.)

C. Positions that require a valid driver's license or operation of a City vehicle

Employees serving in the following positions may be disqualified from employment if they have been convicted of any of the following crimes, provided that the crime is classified, or was classified at the time of offense, as a felony or first degree misdemeanor. Disqualification may result in action including but not limited to demotion, job change or termination.

1. Driving under the influence
2. Leaving the scene of a crash involving a death or personal injury
3. Any other felony or first degree misdemeanor resulting in suspension or forfeiture of one's driver's license.

D. Positions that have access to sensitive information

Employees with access to sensitive information may be disqualified from employment if they have been convicted of any of the following crimes, provided that the crime is classified, or was classified at the time of offense, as a felony or first degree misdemeanor. Disqualification may result in action including but not limited to demotion, job change or termination. For purposes of this subsection "sensitive information" includes social security numbers, bank account numbers, information protected by HIPPA, criminal background reports, and any other information determined by the City Clerk and to be critical to the safety and welfare of individuals or the general public. All such determinations must be in writing.

1. Theft
2. Robbery
3. Fraud
4. Embezzlement
5. Any other felony or first degree misdemeanor evidencing dishonesty (uttering a forged document, etc.)

THESE GUIDELINES ARE NOT ALL INCLUSIVE. ALL CONVICTIONS WILL BE REVIEWED BY THE HUMAN RESOURCES DIRECTOR IN CONSULTATION

WITH THE APPROPRIATE DEPARTMENT HEAD AND CITY ATTORNEY. EACH PLEA OF GUILTY OR NOLO CONTENDERE, OR ADJUDICATION OF GUILT, WILL BE CONSIDERED ON A CASE-BY-CASE BASIS FOR CONFORMANCE WITH FLORIDA LAW AND CONSISTENCY WITH THE BEST INTERESTS OF THE RESIDENTS AND EMPLOYEES OF THE CITY OF PALMETTO.

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EMPLOYEES CONVICTED OF ANY CRIME LISTED ON EXHIBIT A MAY BE SUSPENDED WITHOUT PAY PENDING THE CITY'S DETERMINATION OF FINAL ACTION. FINAL ACTION TAKEN BY THE CITY SHALL BE EVINced IN WRITING AND PROVIDED TO THE EMPLOYEE.

Adopted by City
Commission on: _____

Last Revised: _____

Background Check Policy

EXHIBIT A

The following references are to Florida Statutes, as amended from time to time:

Section 415.111, relating to adult abuse, neglect, or exploitation of aged or disabled persons.

Former section 748.011, relating to assault, if the victim of the offense was a minor.

Section 782.04, relating to murder.

Section 782.07, relating to manslaughter.

Section 782.071, relating to vehicular homicide.

Section 782.09, relating to killing of an unborn child by injury to the mother.

Section 783.03, relating to battery, if the victim of the offense was a minor.

Section 784.021, relating to aggravated assault.

Section 784.045, relating to aggravated battery.

Section 787.01, relating to kidnapping.

Section 787.02, relating to false imprisonment.

Section 794.011, relating to sexual battery.

Former section 794.041, relating to prohibited acts of persons in familial or custody authority.

Chapter 796, relating to prostitution.

Section 798.02, relating to lewd and lascivious behavior.

Chapter 800, relating to lewdness and indecent exposure.

Section 806.01, relating to arson.

Section 812, relating to theft, robbery, and related crimes.

Section 825.102, relating to abuse or neglect of an elderly person or disabled adult.

Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.

Section 825.103, relating to exploitation of an elderly person or disabled adult.


Section 826.04, relating to incest.

Section 827.03, relating to aggravated child abuse.

Section 827.05, relating to negligent treatment of children.

Section 827.071, relating to sexual performance by a child.

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Select Year: 2008 

The 2008 Florida Statutes

[Title XXXI](#)
LABOR

[Chapter 435](#)
EMPLOYMENT SCREENING

[View Entire Chapter](#)

435.03 Level 1 screening standards.--

(1) All employees required by law to be screened shall be required to undergo background screening as a condition of employment and continued employment. For the purposes of this subsection, level 1 screenings shall include, but not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement, and may include local criminal records checks through local law enforcement agencies.

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section [393.135](#), relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section [394.4593](#), relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section [415.111](#), relating to abuse, neglect, or exploitation of a vulnerable adult.

(d) Section [782.04](#), relating to murder.

(e) Section [782.07](#), relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section [782.071](#), relating to vehicular homicide.

(g) Section [782.09](#), relating to killing of an unborn quick child by injury to the mother.

(h) Section [784.011](#), relating to assault, if the victim of the offense was a minor.

(i) Section [784.021](#), relating to aggravated assault.

(j) Section [784.03](#), relating to battery, if the victim of the offense was a minor.

- (k) Section 784.045, relating to aggravated battery.
- (l) Section 787.01, relating to kidnapping.
- (m) Section 787.02, relating to false imprisonment.
- (n) Section 794.011, relating to sexual battery.
- (o) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- (p) Chapter 796, relating to prostitution.
- (q) Section 798.02, relating to lewd and lascivious behavior.
- (r) Chapter 800, relating to lewdness and indecent exposure.
- (s) Section 806.01, relating to arson.
- (t) Chapter 812, relating to theft, robbery, and related crimes, if the offense was a felony.
- (u) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.
- (v) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- (w) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- (x) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- (y) Section 826.04, relating to incest.
- (z) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- (aa) Section 827.04, relating to contributing to the delinquency or dependency of a child.
- (bb) Former s. 827.05, relating to negligent treatment of children.
- (cc) Section 827.071, relating to sexual performance by a child.
- (dd) Chapter 847, relating to obscene literature.
- (ee) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if

any other person involved in the offense was a minor.

(ff) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(3) Standards must also ensure that the person:

(a) For employees and employers licensed or registered pursuant to chapter 400 or chapter 429, and for employees and employers of developmental disabilities centers as defined in s. 393.063, intermediate care facilities for the developmentally disabled as defined in s. 400.960, and mental health treatment facilities as defined in s. 394.455, meets the requirements of this chapter.

(b) Has not committed an act that constitutes domestic violence as defined in s. 741.28.

History.--s. 47, ch. 95-228; s. 15, ch. 96-268; s. 21, ch. 96-322; s. 3, ch. 98-417; s. 87, ch. 2000-153; s. 45, ch. 2000-349; s. 62, ch. 2001-62; s. 50, ch. 2003-1; s. 4, ch. 2004-267; s. 3, ch. 2005-119; s. 89, ch. 2006-197; s. 61, ch. 2006-227; s. 109, ch. 2007-5; s. 16, ch. 2008-244.

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The 2008 Florida Statutes

Title XXXI
LABOR

Chapter 435
EMPLOYMENT SCREENING

[View Entire Chapter](#)

435.04 Level 2 screening standards.--

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section [393.135](#), relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(b) Section [394.4593](#), relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(c) Section [415.111](#), relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(d) Section [782.04](#), relating to murder.

(e) Section [782.07](#), relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(f) Section [782.071](#), relating to vehicular homicide.

(g) Section [782.09](#), relating to killing of an unborn quick child by injury to the mother.

(h) Section [784.011](#), relating to assault, if the victim of the offense was a minor.

(i) Section [784.021](#), relating to aggravated assault.

- (j) Section 784.03, relating to battery, if the victim of the offense was a minor.
- (k) Section 784.045, relating to aggravated battery.
- (l) Section 784.075, relating to battery on a detention or commitment facility staff.
- (m) Section 787.01, relating to kidnapping.
- (n) Section 787.02, relating to false imprisonment.
- (o) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- (p) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- (q) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- (r) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- (s) Section 794.011, relating to sexual battery.
- (t) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- (u) Chapter 796, relating to prostitution.
- (v) Section 798.02, relating to lewd and lascivious behavior.
- (w) Chapter 800, relating to lewdness and indecent exposure.
- (x) Section 806.01, relating to arson.
- (y) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.
- (z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.
- (aa) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- (bb) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- (cc) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a

felony.

(dd) Section 826.04, relating to incest.

(ee) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(ff) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(gg) Former s. 827.05, relating to negligent treatment of children.

(hh) Section 827.071, relating to sexual performance by a child.

(ii) Section 843.01, relating to resisting arrest with violence.

(jj) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(kk) Section 843.12, relating to aiding in an escape.

(ll) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(mm) Chapter 847, relating to obscene literature.

(nn) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(oo) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(pp) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(qq) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(rr) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(ss) Section 944.47, relating to introduction of contraband into a correctional facility.

(tt) Section 985.701, relating to sexual misconduct in juvenile justice programs.

(uu) Section 985.711, relating to contraband introduced into detention facilities.

(3) The security background investigations conducted under this section for employees of the Department of Juvenile Justice must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to,

any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

- (a) Section 784.07, relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.
- (b) Section 810.02, relating to burglary, if the offense is a felony.
- (c) Section 944.40, relating to escape.

The Department of Juvenile Justice may not remove a disqualification from employment or grant an exemption to any person who is disqualified under this section for any offense disposed of during the most recent 7-year period.

(4) Standards must also ensure that the person:

- (a) For employees or employers licensed or registered pursuant to chapter 400 or chapter 429, does not have a confirmed report of abuse, neglect, or exploitation as defined in ¹s. 415.102(6), which has been uncontested or upheld under s. 415.103.
- (b) Has not committed an act that constitutes domestic violence as defined in s. 741.30.

(5) Under penalty of perjury, all employees in such positions of trust or responsibility shall attest to meeting the requirements for qualifying for employment and agreeing to inform the employer immediately if convicted of any of the disqualifying offenses while employed by the employer. Each employer of employees in such positions of trust or responsibilities which is licensed or registered by a state agency shall submit to the licensing agency annually, under penalty of perjury, an affidavit of compliance with the provisions of this section.

History.--s. 47, ch. 95-228; s. 16, ch. 96-268; s. 22, ch. 96-322; s. 4, ch. 98-417; s. 5, ch. 99-284; s. 88, ch. 2000-153; s. 7, ch. 2001-125; s. 5, ch. 2004-267; s. 4, ch. 2005-119; s. 111, ch. 2006-120; s. 90, ch. 2006-197; s. 110, ch. 2007-5; s. 3, ch. 2007-112.

¹**Note.**--Repealed by s. 26, ch. 2000-349.