


THE UNIVERSITY of TENNESSEE 
INSTITUTE for PUBLIC SERVICE
MUNICIPAL TECHNICAL ADVISORY SERVICE

Chief Smokey Sparks
Anytown Fire Department
123 Main Street
Anytown, Tennessee 12345-6789

June 25, 2013

RE: Sample Criminal Background Check Policy

Dear Chief Sparks,

You asked for guidelines on how your department might implement a policy for conducting criminal background checks on current and potential employees and volunteers. Tennessee Code Annotated § 68-102-308 allows fire departments to conduct such checks on both current and potential employees and volunteers, provided the department has a written policy in place.

There are several reasons to conduct criminal background checks. The position of a firefighter is a public-safety-sensitive position. Time passes, and a background check is out of date as soon as it is completed. Pre-employment background checks are insufficient in catching criminal activity after the person is a member of the department. Routine background checks will make the department aware of potential problems and allow the department to take corrective action.

I have attached a draft policy that addresses your needs. The sample policy is a template. Adjust the provisions of the policy to meet local needs but do not adjust any portion of the policy that would result in a violation of state or federal law, and consult your city or department attorney for legal advice.

Sincerely,



Dennis Wolf
Fire Management Consultant
UT-MTAS

Sample Criminal Background Check Policy

Draft date: June 25, 2013

NOTE: This is a template based on TCA 68-102-308. Adjust the provisions of the policy and terms, such as "city," to meet local needs but do not adjust any portion of the policy that would result in a violation of state or federal law. The sample policy requires that the cost of the background check will be borne by the applicant, but this is optional under TCA, and the city may decide to cover the cost of the background check.

POLICY

Because the position of firefighter is one of public trust and is public safety sensitive, it is the policy of the <Anytown> Fire Department to conduct background checks on all applicants and members in accordance with Tennessee Code Annotated (TCA) § 68-102-308. Anyone wishing to participate in the volunteer program shall complete the same requirements outlined for full time employment.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant or member. Determinations of suitability based on criminal background checks will be made consistent with this policy and any applicable law or regulation.

DEFINITIONS

For the purpose of this policy, "member" means either a paid or a volunteer member of the department, and "applicant" means an individual who has been offered a position with the department in either a paid or a volunteer capacity.

REQUIREMENTS FOR MEMBERS AND APPLICANTS

Members and applicants shall, upon request:

1. Provide past work history and personal references to be checked by the city;
2. Agree to the release of information and investigative records to the city, or to any agency that contracts with the state, as may be necessary for the purpose of verifying whether the individual has been convicted of a felony or any theft or arson related conviction;
3. Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation, the Federal Bureau of Investigation, other law enforcement agency, or any legally authorized entity; and
4. Agree to the release of any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

APPLICANTS

After the initial selection process, an applicant who is a potential new member will be offered either paid employment or membership as a volunteer conditional on passing a criminal background check before being hired as a paid employee or admitted to the department as a volunteer.

MEMBERS

To reduce the potential risk to the department, the city will conduct background checks on all members as per TCA § 68-102-308(b)(1) as follows:

1. Every five (5) years, or
2. Upon receiving notification and confirmation of the commission of a criminal offense

DATABASES CHECKED FOR CRIMINAL HISTORY

The background check shall include searching the following databases for a criminal history:

- TBI fingerprint search
- FBI fingerprint search
- TBI Criminal History Database
- Tennessee Sexual Offender Database
- Tennessee Orders of Protection Database

ACCESS TO BACKGROUND CHECK INFORMATION

Access to the contents of a background check report is limited to the fire chief, human resources director, and employee's supervisor. However, access by the employee's supervisor requires prior approval of both the fire chief and human resources director.

MAINTENANCE OF BACKGROUND CHECK INFORMATION

The information collected in the criminal background check shall not be part of the employee's personnel file. The city shall maintain criminal background check reports in a separate file under lock and key. The city shall maintain the criminal background check reports for the duration of employment plus one (1) year.

COST FOR BACKGROUND CHECKS

The applicant shall pay for the cost of the background check, as allowed by TCA § 68-102-308(d).