

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 135.03

EFFECTIVE DATE: 11 June 2025

**SUBJECT: CONTRACTUAL EMPLOYEES
BACKGROUND
INVESTIGATIONS**

POLICY DIRECTIVE

PURPOSE:

To establish policy and procedure ensuring background investigations, including criminal record checks, are conducted on all prospective contractual employees prior to assuming their duties.

REFERENCE:

WV Code §§15-2C-1 *et seq.*, 15A-3-5, and 16A-1-1 *et seq.* (Medical Cannabis Act); ACA Expected Practices 5-ACI-1C-14; 5-ALDF-7B-03; 5-JCF-7C-05; 3-JDF-1C-13; 1-JDTP-1C-16; 2-CO-1C-18; 1-CTA-1C-06; 4-APPFS-3A-02; Prison Rape Elimination Act (PREA) §§115.17 and 115.317; Division of Personnel Policies DOP-P02 Drug- and Alcohol-Free Workplace.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instructions on the subject.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

Appointing Authority: The executive or head of a department or agency who is authorized by statute to appoint employees in the classified or classified-exempt service.

Controlled Substance: As defined in the Division of Personnel Policy DOP-P02 Drug- and Alcohol-Free Workplace, a federally regulated substance listed in Schedules I through V or a controlled substance analogue as provided in the Controlled Substance Act (21 U.S.C. 801 *et seq.*) and/or a substance listed in WV Code §60A-2-201, *et seq.*, that when taken into the body, may or may not impair one's mental faculties and/or physical performance.

Offender: For the purposes of this Policy, this includes adult inmates, young adult offender, juvenile residents, Youth Reporting Center participants, and those individuals supervised by Parole Services.

POLICY:

- I. The following procedures apply to individuals being hired through contractual agreements including employees of companies that contract with the Division of Corrections and Rehabilitation (DCR) to provide services to offenders (e.g., food service, medical, commissary, etc.) and local contracts with vendors who have direct contact with offenders (e.g., barbers).
 - A. Pre-employment processes are typically the responsibility of human resources staff, including the operational requirements for contractual employees background checks. Work units without human resources staff may coordinate with other DCR facilities or work units to assist.
 - B. Appointing Authorities have statutory authority to ensure those individuals who have direct contact with offenders are suitable for the position.
 1. This includes not enlisting the services of any contractor who may have contact with offenders who -
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described above.
 2. The DCR shall also consider any incident of sexual harassment in determining whether to enlist the services of a contractor, who may have contact with offenders.
 3. This is accomplished by utilizing the Sexual Misconduct Questionnaire as contained in the *DCR PREA Manual*.

- C. Applicants for contractual positions which require credentials or professional licensing (e.g., licensed barber, registered nurse, medical doctor license, etc.) will be required to present proof of their current credentials or professional licensing status and copies will be maintained with the applicant's background investigation file.
- D. Applicants for contractual positions will be required to review and sign acknowledging their understanding of the Conditions of Contractual Employment (**Attachment #1**). The applicant is given a completed copy, and the original shall be maintained with the applicant's background investigation file.
- E. All applicants are advised they must undergo a background check, including criminal record checks in accordance with state and federal guidelines. Applicants acknowledge their understanding and authorization by signing a Background Investigation Applicant Authorization (**Attachment #2**) and an Authority to Release Information (**Attachment #3**).
 - 1. A completed and signed copy of the Background Investigation Applicant Authorization (**Attachment #2**) will be provided to a terminal operator at a National Crime Information Center (NCIC) terminal to conduct an NCIC Interstate Identification Index (III) (often referred to as "triple i") and driver's license query as follows:
 - a. Facilities with NCIC terminals (Huttonsville Correctional Center and Jail, Mount Olive Correctional Center and Jail, and St. Marys Correctional Center and Jail) will complete their own background checks on applicants.
 - b. Bureau of Juvenile Services (BJS) and DCR Central Office background checks for applicants will be completed by the designated NCIC terminal at Central Office.
 - c. All other facilities and Parole Services will have their background checks for applicants completed by the NCIC terminal operator at the DCR Corrections Emergency Operations Center.
 - 2. A III ("triple I") will also be requested by submitting fingerprints of the applicant via the LiveScan terminal to the West Virginia State Police as a "law enforcement applicant." Facilities and other work units without a LiveScan terminal (e.g., parole offices, Central Office, etc.) will require the applicant to submit their prints via a LiveScan terminal at a convenient DCR location.
 - 3. If suspect information on matters with potential terrorism connections is returned on an applicant, it is forwarded to the West Virginia Fusion Center.
 - 4. Felony and misdemeanor convictions will be considered on a case-by-case basis with regard to the effect they would have on the applicant's job performance. Factors to be considered when determining whether convictions have a connection

to the duties and responsibilities of the position include but are not limited to nature and gravity of offense(s), age at time of conviction, length of time since conviction, sentence imposed, rehabilitation received, specific prohibitions in State Code, and employment history before and after conviction. Should the Appointing Authority desire to proceed with the hiring of a contractual employee with a prior conviction, the applicable Assistant Commissioner or Chief of Staff shall be provided with the specific circumstances for consideration and approval.

- F. Applicants for contractual employment in BJS will also complete and sign the Authorization and Release for Protective Services Record Checks for Providers and Agency Personnel for Employment Purposes (**Attachment #4**) provided by the Department of Human Services, Bureau for Social Services. Responses will be returned to the human resource department of the facility or work unit. The Protective Services Record Check will also be completed anytime a contractual employee will also provide services in BJS.
- G. All prospective employees shall pass a pre-employment drug screening prior to being hired. All facilities and work units shall use the same testing procedures and panels for pre-employment purposes as determined by the Commissioner or designee. The drug screening will be conducted by designated DCR staff trained to conduct urinalysis (not the medical provider) who shall complete a Prospective Contractual Employee Drug Screening form (**Attachment #5**) and shall not be conducted until the applicant has been offered and accepted contractual employment. If the drug screening is positive, the presumptive positive sample is sent for confirmation testing by an agency-designated approved laboratory for a confirmed analytical result.
 - 1. The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the State. Accordingly, contractual applicants who possess a medical cannabis card shall not be selected for employment.
 - 2. In compliance with federal and State regulations, regarding alcohol, drugs, or controlled substances, including the provisions of the Drug-Free Workplace Act of 1988, reporting to work under the influence of a controlled substance (defined above) or illegal drugs is prohibited in the workplace.
 - 3. Employees are required to notify their employer and the facility/work unit human resource department of the use of a controlled substance or illegal drug, whether prescribed or over the counter, that may substantially affect the performance of job responsibilities and give rise to a safety issue.
- H. For applicants who currently or previously worked at another DCR facility or work unit, the superintendent or work unit supervisor/director as appropriate (or designee) shall contact the other facility or work unit for employment reference information.
- I. Background investigation files for prospective contractual employees not selected can be destroyed after two (2) years. Documents or records that are relevant to any official

investigation or litigation, whether underway or potential (on "Litigation Hold"), must be retained until the matter is resolved.

- J. Once the selected applicant has accepted employment and no later than the first day of employment, he/she must verify his/her identity and employment authorization by completing the U.S. Citizenship and Immigration Services I-9 Form. This includes citizens and noncitizens. The I-9 Form, and detailed instructions can be found on the U.S. Citizenship and Immigration Services website.
- K. In order to verify his/her identity and employment authorization, human resources staff will view the applicant's valid driver's license and social security card. These will not be copied. For contractual staff without a valid driver's license, a list of acceptable documents to establish identity are listed in the I-9 instructions.
- II. Contractual employees are required to report any citation or arrest or a change in their professional licensing status that occurs during the background suitability determination process or after they are employed to their employer and the Appointing Authority.
- III. In order to ensure the safety and security of the workplace, Appointing Authorities may terminate the security clearance of a contractual employee. The Appointing Authority or designee will subsequently complete a Recommendation to Ban in accordance with Policy Directive 129.04 and submit it to the Deputy Commissioner and their respective Assistant Commissioner or Chief of Staff.
- IV. Human Resources staff are responsible for maintaining confidential background investigation files on prospective contractual employees containing all documents required by this policy. When a contractual employee transfers or provides services at another facility or work unit, the background information will be shared with that facility or work unit.

ATTACHMENT(S):

- #1 Conditions of Contractual Employment
- #2 Background Investigation Applicant Authorization (2 pages)
- #3 Authority to Release Information
- #4 Authorization and Release for Protective Services Record Checks for Providers and Agency Personnel for Employment Purposes (**BJS only**) (2 pages)
- #5 Prospective Contractual Employee Drug Screening

APPROVED SIGNATURE: _____


Lance Yardley, Acting Commissioner


Date

DIVISION OF CORRECTIONS AND REHABILITATION

CONDITIONS OF CONTRACTUAL EMPLOYMENT

1. Satisfactorily complete drug-screening testing as required.
2. Prohibited from possessing a Medical Cannabis Card.
3. Character and suitability for employment verified through an agency investigation.
4. Successfully complete orientation and annual in-service training (if applicable).

AUTOMATIC REJECTIONS

1. False statements on any official application or employment document or during the interview process.
2. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution or has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse or has been civilly or administratively adjudicated to have engaged in such activity.
3. Failure to meet minimum requirements including pre-employment drug screening.

If the applicant fails to authorize, complete, or cooperate with the background investigation process, no background check suitability determination is made and there is no right to an appeal. Circumstances which constitute a discontinuance or failure to cooperate include but are not limited to:

1. Refusal to fully complete and sign a release and/or waiver.
2. Refusal to be fingerprinted.
3. Failure to respond within ten (10) calendar days to a request for any required information.
4. Failure to report a citation or arrest or a change in credentials or professional licensing status that occurs during the background check suitability determination process or after contractual employment.
5. Omission of required information pertaining to prior criminal convictions.
6. Disqualification or determination of ineligibility for reasons other than background investigation.

I have read and understand the conditions of employment as a contractual employee with the West Virginia Division of Corrections and Rehabilitation. I further understand that if I do not meet all of the minimum requirements listed above, I will not be eligible for contractual employment or if I am employed, my security clearance may be pulled.

Printed Name of Applicant	Signature	Date
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Printed Name of Witness	Signature	Date
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cc: Applicant

DIVISION OF CORRECTIONS AND REHABILITATION

Background Investigation Contractual Applicant Authorization

I, _____, do hereby affirm the information supplied by me on the employment application, during the interview(s), and all other selection processes is true and complete. I also do hereby acknowledge that I understand a background investigation will be made in the following areas:

- **Criminal History** – A criminal record check will be conducted utilizing N.C.I.C. and other sources, including fingerprinting, to ascertain whether there are criminal convictions which have a specific relationship to job performance. A criminal record does not automatically exclude an applicant from consideration for employment. Factors such as age at the time of offense, seriousness, nature of the violation and rehabilitation will be considered.
- Any other work-related area deemed necessary or appropriate as the investigation progresses.

The Division of Corrections and Rehabilitation reserves the right to verify any information provided on the employment application, during the interview, and any other information obtained during the selection process.

I understand that if I wish to challenge the accuracy and/or completeness of information provided by the West Virginia State Police, Federal Bureau of Investigation or other entities reporting information, I must appeal to the law enforcement agency or other entity providing the information.

I hereby declare that the answers to the questions on my application and related paperwork which I have completed, and any attachments to the same, are true, complete, and accurate to the best of my knowledge and belief. I understand that any misstatements of fact(s) or omissions may form the basis for not being selected for contractual employment or revocation of my security clearance after my employment, irrespective of when discovered.

I fully understand that the terms of this document must be satisfactorily met in order for me to maintain my security clearance. If any material misrepresentations have been made, I understand that I may be ineligible to apply for other positions.

DIVISION OF CORRECTIONS AND REHABILITATION

Background Investigation Contractual Applicant Authorization - Continued

Please complete and sign below. The form must be legible, and all fields must be **filled out COMPLETELY**. Furnished for the purpose of positive identification.

Name (Print full name. Do not use initials):

(First Name) (Middle Name) (Last Name)

Birth Date: _____ Social Security Number: _____

Gender: _____ Race: _____

Current Home Address (Give location address, as well as P.O. Box address and County):

List maiden name, all aliases, or names known by Print full name(s); do not use initials:

Driver's License #: _____ State: _____

Does name above match name on Driver's License? _____

Please list all addresses or the county(s) and state(s) of residences for past seven (7) years:

Printed Name of Applicant Signature Date

Printed Name of Witness Signature Date

**WEST VIRGINIA DIVISION OF CORRECTIONS AND
REHABILITATION
AUTHORITY TO RELEASE INFORMATION**

TO: Any person having knowledge of my conduct or activities, or any past or present employer, educational institution, law enforcement agency, or government agency:

I, _____, hereby authorize the Division of Corrections and Rehabilitation (DCR) and/or its agents, to conduct an appropriate background investigation of me and prepare a report which may be used as a factor in determining my eligibility for contractual employment or security clearance. I understand this report may include information from personal interviews about my character, general reputation, personal characteristics, and mode of living as well as public and private sources including, but not limited to, the acquisition of criminal records, employment records, school records, driving records, or abstracts, etc.

I authorize all persons who may have information relevant to this investigation to disclose it to DCR and/or its agents, and I release all persons from any liability on account of such disclosure.

I acknowledge that I have carefully read and fully understand the provisions of this release. I further acknowledge that I was given the opportunity to consult with an attorney or any other individual of my choosing before signing this release and that I have decided to sign this release voluntarily and without coercion or duress by any person. This release sets forth the entire agreement between your organization and me, and I acknowledge that I have not relied upon any representation or statement, written or oral, not set forth in this document in executing this release. I hereby waive any privilege of confidentiality with respect to any such information.

I hereby further authorize that a photocopy of this authorization may be considered as valid as an original. Please provide the requested information within ten (10) days of the date of this letter so that I may receive further consideration for employment.

Signature: _____

Date: _____



**Authorization and Release for Protective Services
Record Checks for Providers and
Agency Personnel for Employment Purposes**

Please complete and sign below. The form must be legible, and all fields must be **filled out COMPLETELY**.

Name (Print full name. Do not use initials): _____
(First Name) (Middle Name) (Last Name)

Birth Date: _____ Social Security Number: _____

Current Home Address (Give location address, as well as P.O. Box address and County):

Please list all addresses or the county(s) and state(s) of all previous residences:

List maiden name, all aliases, or names known by Print full name(s); do not use initials:

Name of Agency who will receive results/verification of the protective services check:

Agency Address: _____

Agency Contact Information: _____

Type of Agency:

- ☐ Child Placing Agency (Potential employee)
- ☐ Residential Provider Agency (Including Psychiatric Residential (PRTF)/Intermediate Care Facilities (ICF))
- ☐ Emergency Shelter
- ☐ Child Care/Head Start
- ☐ Other _____

Certification:

Bureau for Social Services, 350 Capitol Street, B-18, Charleston, WV 25301

I certify that I have not committed any act of child/adult abuse or neglect, as determined by a civil or criminal proceeding or through an investigation by the WV Department of Health and Human Resources or through any like agency of any other state or country, or that I am currently being investigated for such except as stated below:

Authorization:

I authorize the WV Department of Health and Human Resources to conduct a background check on me which includes a search of Child Protective Services records, Adult Protective Services records, Youth Services records, Institutional Investigation Unit records and foster care provider records maintained by the Department. I authorize the Department to inform the person or agency named on the front of this form of the results of the background check, including any history I have had with Social Services. I understand that if I have an open CPS/APS investigation the protective service check will not be completed; the open investigation will be documented on the form and returned to the requesting agency. **I understand that a positive history of maltreatment in any West Virginia Department of Health and Human Resources protective services record will affect my becoming a foster care placement provider or employee of an agency that provides foster care services. I understand that any involvement I have had with the WVDHHR as a client or foster care provider will be evaluated and may also affect my becoming a foster care placement provider or foster care agency employee.** I release the WVDHHR and/or its agents in providing information pursuant to this authorization from any and all liabilities, claims or lawsuits.

Signature: _____ **Date:** _____

DHHR Office Use Only

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- ☐ No record of substantiated maltreatment was found.
- ☐ Records indicate that maltreatment occurred by the individual.
- ☐ Records indicate current open CPS, and/or APS investigation.

IF THIS CLIENT HAS ANY QUESTIONS OR NEEDS TO OBTAIN INVESTIGATION RECORDS, THEY MUST CONTACT THE FOLLOWING COUNTY:

COUNTY: _____

INTAKE/CASE #: _____

(DHHR Stamp or Signature of Authorized Individual)

(Date)

DIVISION OF CORRECTIONS AND REHABILITATION

PROSPECTIVE CONTRACTUAL EMPLOYEE DRUG SCREENING

Name: _____ Date _____

DOB: _____ Social Security Number (last 4 digits): _____

Applying for Position of _____

[1] Urine Sample taken on (Date/Time) _____

Name of Employee Receiving Sample _____

[2] Urine Sample tested by _____ Date/Time _____

[3] Preliminary Drug Screening Result: _____ Positive _____ Negative

[4] **If negative**, STOP – no further action necessary.

[5] **If positive**, urine sample submitted to agency-designated approved laboratory for confirmed analytical result.

[6] Specimen sealed in applicant's presence.

Applicant Initial _____ DCR Staff Initial _____

**(ATTACH TO THIS FORM A COPY OF ALL CHAIN OF CUSTODY FORMS
PERTAINING TO THIS SAMPLE)**

[7] Agency-designated approved laboratory results: _____ Positive _____ Negative

Signature of Employee Completing Form: _____

(ATTACH COPY OF RESULTS TO THIS FORM)

Prospective contractual employee notified of results by:

Signature of DCR Employee _____

Date/Time _____