

**University of California, Berkeley**  
**Policy Issued: March 2004**  
**Effective Date: April 2, 2004**  
**Revised Date: March 21, 2008**  
**Supersedes: None — New Policy**

## **Criminal Background Checks**

Responsible Executive: Nathan Brostrom  
Vice Chancellor, Administration

Responsible Office: Human Resources

Contact: For consultations about whether a staff position should be designated as sensitive, contact your Employee Relations Specialist, Recruiter, or Compensation Consultant at Human Resources, or the Academic Personnel Office for non-Senate academic positions

For questions about policy interpretation, the Office of the Assistant Vice Chancellor – Human Resources 642-9046 where staff will connect you to the person who can best answer your question.

For questions about the criminal background check procedure, contact the UC Police Department at 642-6760 between 8 a.m. and 3:30 p.m.

For questions about Department of Motor Vehicles Pull Notices, contact Fleet Services at 643-5770.

## **Policy Summary**

Criminal background checks are required for staff and non-Senate academic employees newly hired, transferred, promoted, reclassified, or reassigned to certain sensitive positions. They are not required for employees holding sensitive positions at the time this policy went into effect. The department is responsible for initiating the criminal background check. If the background check reveals a conviction relevant to the sensitive position, the individual may be disqualified from holding the sensitive position.

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## **Who Should Read this Policy**

- Vice Chancellors, Deans, Directors, and Department Heads
- Chief Administrative Officers and Management Service Officers
- Managers, supervisors, and anyone else hiring employees for positions that require a criminal background check
- Individuals holding or applying for positions that require a criminal background check

## **Why We Have This Policy**

To protect the campus community and its assets, the University needs to ensure that individuals assigned to certain campus positions (cash handlers, police officers, child care workers, and data managers with access to personal information, to name a few) have no history of criminal behavior relevant to their employment. Although this is no guarantee against criminal acts, it does reduce the likelihood of crime, and may reduce the campus's liability in the event a crime occurs. It also helps protect hiring departments from the possibility of lawsuits, which exact a heavy cost in time and morale, and from the cost of embezzlement (the University's Employee Dishonesty Insurance Policy has a deductible of \$1 million, meaning anything less than that is paid by the department).

The campus recognizes that its need to investigate employees' criminal history must be balanced with the need to protect those employees' privacy. University policy and state and federal laws recognize the individual's right to privacy and prohibit campus employees and others from seeking, using, or disclosing personal information except within the scope of their assigned duties.

## **Responsibilities**

### **Departments:**

- In consultation with the Human Resources, determine whether a position should be designated as sensitive and document that information on the Job Description. This includes career, limited, contract, per diem, student, and volunteer positions. For non-Senate academic appointees, the consultation should be with the Academic Personnel Office, and designation should be documented on the Permission to Recruit Form or the Exceptional Permission to Recruit Form.
- Make sure all recruitment information, announcements, and descriptions state whether a position requires a criminal background check.
- Initiate criminal background checks prior to the hire, transfer, promotion, or reassignment of individuals into sensitive positions, including reclassification.

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- Notify the individual under consideration for a sensitive position that an offer for any personnel action (employment, transfer, promotion, reclassification, or change in duties) is conditional on successful completion of the criminal background check, and that falsification of information submitted on University application materials may be cause for corrective action up to and including dismissal.
- Maintain confidentiality of any DMV Pull Notice Reviews.
- Pay a recharge to the UC Police Department for processing criminal background checks.
- Pay a recharge to Fleet Services for processing the DMV Pull Notice Reviews of employees who routinely drive University vehicles as part of their job. This is in accordance with Section III.C.5 of [Business and Finance Bulletin 46](#), “Use of University Vehicles.”

**UC Police Department (UCPD):**

- Conducts criminal background checks.
- Notifies departments whether an individual is suited for employment based on the results of the criminal background check.
- Provides the subjects of criminal background checks with a summary of their background check results, regardless of outcome, and informs them when a conviction disqualifies them from employment in a sensitive position.
- Maintains confidentiality of criminal background check results.
- Recharges departments for criminal background checks at a rate approved by the Recharge Committee.
- Serves as the Office of Record for files concerning criminal background checks.

**Fleet Services:**

- Upon request from the department, obtains a Pull Notice Review from the Department of Motor Vehicles (DMV) for employees who routinely drive campus vehicles on University business.
- Maintains confidentiality of DMV Pull Notice Review results.
- Recharges departments for DMV Pull Notice Reviews at a rate approved by the Recharge Committee.

**Human Resources/Academic Personnel Office:**

- Consults with departments to determine whether positions require a criminal background check.
- Consults with departments about policy interpretation.

**Criminal Background Check Review Committee:**

- Reviews only criminal background checks which reveal convictions and determines within seven days whether such convictions disqualify individuals from sensitive positions.

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## **Procedures**

### **CRITERIA FOR DETERMINING SENSITIVE POSITIONS**

The department and Human Resources (or the Academic Personnel Office, as appropriate) determine whether a position requires a criminal background check. Positions subject to criminal background checks typically involve one or more of the following responsibilities:

- Senior management of the campus (Senior Management Group);
- Care, safety, and security of people or property (includes sworn public safety officers, child care workers, camp counselors);
- Direct access to, or control over, cash, checks, credit card account information (includes cash handling or credit card acceptance positions);
- Authority to commit financial resources of the University through contracts greater than the Low Value Purchase Authority (LVPA);
- Control over campuswide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, Human Resource Management System [HRMS] and Payroll functional leads);
- Access to detailed personally identifiable information about students, faculty, staff, or alumni which might enable identity theft (includes student advisors, fundraisers, Human Resources and Payroll specialists)
- Possession of building master or sub-master key access to residences and certain other facilities, particularly laboratories (includes custodial services, Residential and Student Service Program employees);
- Regular operation of University vehicles as part of assigned job duties (includes transit drivers, delivery staff).

Performing a criminal background check does not relieve the department of its obligation to perform reference checks, conduct credit checks when appropriate, verify prior employment, obtain copies of licenses or certificates required for the specific position (with more extensive checks for police officers), and perform other checks.

Once it has been determined that a position requires a criminal background check, the department makes a note to that effect on the Job Description. The department also ensures that all recruitment information, announcements, and descriptions state if the position requires a criminal background check.

### **INITIATING A CRIMINAL BACKGROUND CHECK**

The department authorizes the UCPD to initiate a combined California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) Background Check concurrent with the personnel action (hiring, transfer, promotion, reclassification, or reassignment of job duties) of an individual, but no later than **five days** after a new employee's start date; continued employment in the sensitive position is contingent upon successful completion of both the DOJ and FBI background checks. When the individual is already an employee in the UC system, the

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criminal background check must be initiated and completed (including, when appropriate, a review and determination by the Criminal Background Check Review Committee of suitability for employment) before the individual can begin working in the sensitive position.

The department must notify the individual under consideration in writing that the offer for any personnel action (employment, transfer, promotion, reclassification, or reassignment) is conditional upon successful completion of the DOJ/FBI background check. The notification must include a warning that falsification of information submitted on University application materials is cause for corrective action up to and including dismissal. (See [Sample Letter.](#))

The combined DOJ and FBI background checks use fingerprints to look for criminal convictions through the Live Scan System. The Live Scan System transmits fingerprints electronically to DOJ databases in Sacramento, California for State of California conviction results, and to the FBI for a national criminal conviction check.

**CONDUCTING A CRIMINAL BACKGROUND CHECK**

1. The department completes Sections 1, 2, 3, and 4 of the DOJ/FBI *Request for Live Scan Service* and the *Employee/Applicant Release and Disclosure Form*. The *Employee/Applicant Release and Disclosure Form* is maintained in the department.
2. The department makes an appointment with the UCPD for the individual under consideration to complete the fingerprinting process.
3. UCPD fingerprints the individual and completes the *Request for Live Scan Service* form.
4. UCPD should receive the DOJ criminal background check information in three to seven days and the FBI information in approximately 30 days.
5. UCPD notifies the department if the results show no convictions so that the personnel action can be completed. If the results show that convictions exist, the results are forwarded to the Criminal Background Check Review Committee for further action.
6. UCPD provides the subject of the background check with a summary of the background check results.
7. UCPD recharges the department for DOJ/FBI criminal background checks at rates approved by the Recharge Committee. These rates are subject to annual review and may be modified in accordance with campus recharge policy.

**IF THE CRIMINAL BACKGROUND CHECK REVEALS CONVICTIONS**

1. A Criminal Background Check Review Committee consisting of the Assistant Vice Chancellor - Resources, the Associate Vice Chancellor - Finance and Controller, and the Chief of Police will be notified of all criminal background checks in which convictions are found. The Committee will review these reports and make final determinations regarding the suitability of individuals for specific positions. The Review Committee may recommend implementation of additional controls before a department can employ an individual with a conviction. The Committee will complete its review within seven days of receiving notification from DOJ/FBI.

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2. Only criminal convictions will be considered in determining an individual's suitability for employment. Detention and/or arrest without conviction do not constitute valid grounds for employment decisions and cannot play a part in the decision-making process. However, if an individual has a criminal case pending, his or her suitability for continued employment may be reviewed upon disposition of the case.
3. Certain types of convictions will automatically preclude hiring or promotion into a sensitive position. For example, individuals with convictions for theft, embezzlement, identity theft, or fraud cannot be hired into positions with fiduciary responsibilities. Convictions for child molestation and other sex offenses will automatically preclude an individual from employment that involves direct unsupervised contact with students, outreach programs, or access to residence facilities. Workplace or domestic violence, or other convictions for behaviors that would be inappropriate for specific jobs, may also be grounds for denial of employment. The above list is not inclusive, but is intended to illustrate the decision-making criteria.
4. In determining an individual's suitability for employment or change in job duties where the individual under consideration has convictions, the Committee will consider the specific duties of the position, the number of offenses and circumstances of each, and whether the offenses were disclosed on the application.
5. The UCPD will notify all subjects of the results of their criminal background check. If the results of the criminal background check preclude an individual from employment, transfer, reclassification, or reassignment of job duties on the campus, the UCPD will disclose to the subject the date(s) and the types of conviction(s) found in the criminal background check.
6. Copies of DOJ "rap sheets" do not have to be provided to the subject under the California Investigative Consumer Reporting Agencies Act (California Assembly Bill 655). Subjects of background checks are, however, entitled to receive a summary of the background check from the UCPD regardless of the results of the check. UCPD will provide subjects of criminal background checks with information regarding how they can obtain the same information directly from the DOJ.
7. UCPD will give written notice and the name of the agency that conducted the background check to the individual when employment is denied based on information received from the reporting agency, as required by the Fair Credit Reporting Act (FCRA), which also covers criminal background checks
8. UCPD will serve as the Office of Record for background check results.

**Web Site Address for this Policy**

<http://campuspol.chance.berkeley.edu/policies/BackgroundChecks.htm>

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## **Glossary**

**Building Master or Sub-Master Key Access:** Possession of a mechanical device, such as a key or card, allowing entry to all or many parts of a facility.

**Criminal Background Check:** A process by which an individual is fingerprinted and the California Department of Justice and Federal Bureau of Investigation use those fingerprints to determine whether the individual has a criminal history.

**California Department of Justice (DOJ) Rap Sheet:** A summary of an individual's criminal history maintained by the California Attorney General's Office.

**Department of Motor Vehicles (DMV) Pull Notice:** A record maintained by the California Department of Motor Vehicles listing a driver's vehicle-related accidents, convictions, failures to appear in court, and license suspensions or revocations.

**Low-Value Purchase Authority:** Permission for employees who have departmental authorization on file with the Berkeley Financial System Security Office or the Procurement Card program to make purchases on behalf of the department for equipment up to \$5,000 and other items up to \$4,999.

**Office of Record:** The office having responsibility for responding to information requests, meeting reporting requirements, responding to audits, and retaining records for specific types of data.

**Personally Identifiable Information:** Information that identifies or describes an individual, including but not limited to name, address, telephone number, family members, Social Security Number, credit card number, and personal characteristics that would make the individual's identity easily discoverable.

**Sensitive Position:** A job with responsibilities that can be criminally abused at great harm to the campus or members of the campus community. The Office of the President's criminal background check policy (Personnel Policies for Staff Members Policy 21.E) uses the phrase "critical position" to mean the same thing.

**Suitability for Employment:** Meeting or exceeding the criteria for a position.

**Systems Security Access:** Permission to use software and devices designed to protect an electronic system's integrity.

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**Related Documents:**

[Business and Finance Bulletin 46, "Use of University Vehicles"](#)

[Frequently Asked Questions](#)

Request for Live Scan Service Form (contact UCPD to request a copy)

[Employee/Applicant Release and Disclosure Form](#)

[Sample Letter of Conditional Employment](#)

[PPSM policy on background checks](#)